

LEHIGH TOWNSHIP BOARD OF SUPERVISORS

June 11, 2024

7:00 p.m.

I. CALL TO ORDER. The Lehigh Township Board of Supervisors held their regular monthly meeting on June 11, 2024, at 7:00 p.m. The meeting was held at the Lehigh Township Municipal Building, 1069 Municipal Road, Walnutport Pa. 18088. Chairman Mike Jones called the meeting to order with the Pledge of Allegiance and roll call.

Present: Cindy Miller
David Hess
Janet Sheats
Mike Jones
Jerry Pritchard
Attorney David Backenstoe
Alice Rehrig
Mike Muffley
Liz Amato
Scott Fogel
Frank Zamadics

II. EXECUTIVE SESSION. The Chairman announced the Board met in Executive Session prior to the start of the meeting to discuss personnel matters. No action was taken.

III. SWEARING IN OF POLICE OFFICERS. District Judge Robert Hawke was present to administer the Oath of Office to the newest officers of the Police Department. Both officers have just recently graduated from the Allentown Police Academy which is six months of training to give them the basics of performing the duties of a police officer. They will now continue learning the specifics of doing the job in Lehigh Township through a three month Field Training program. These officers are the first officers to be sponsored by the Township to attend the Police Academy.

Collin Haupt, will have the identifier of 4725, is from Palmerton and a graduate of Lehighton High School and Lehigh County Community College. He also studied at Lackawanna Community College and Kutztown University to continue his education in Criminal Justice Sciences. He enjoys baseball, golfing and fishing.

Richard Houser, will have the identifier of 4726, is from Catasauqua and is currently residing in Lehigh Township. He is a graduate of Catasauqua High School. He has a strong enthusiasm to hit the ground running. He enjoys football, baseball, and track and field.

IV. APPROVAL OF THE MINUTES

A. Minutes of May 28, 2024. David Hess made a motion to approve these minutes. Janet Sheats seconded the motion. Cindy Miller noted clarification should be made on Page 9, under public comment, when Lou Benedict was questioning the removal of trees so that it is clear that he was referring to Mr. Vandling, not himself. She also noted Mr. Schneck's name was spelled incorrectly. All voted aye. Motion carried.

V. APPROVAL OF BILLS.

A. General Fund Checks 27814 to 27841. Janet Sheats made a motion to approve these bills. David Hess seconded the motion. Jerry Pritchard questioned if the bills pertaining to the Fire Company were coming out of the fire tax. Alice Rehrig commented the Township pays the bills from the General Fund and then is reimbursed from the fire tax. Cindy Miller questioned how much money was currently in the fire tax fund. Alice Rehrig commented the only tax collection report that she received was for the month of February. Based on that report, there was \$49,000 collected in fire tax funds. Without any additional reports, the amount of money that is owed to the fund is unknown. All voted aye. Motion carried.

B. State Fund Checks 1597 & 1599. David Hess made a motion to approve these bills. Cindy Miller seconded the motion. All voted aye. Motion carried.

VI. PLANNING RELATED ITEMS

A. Plan for Approval

1. Timothy Pitts Lot #5 Land Development. David Lear was present to represent this plan. David Lear commented they are seeking conditional preliminary/final plan approval. The plan was recommended for approval by the Planning Commission almost a year ago. They didn't want to submit the final plan to the Board of Supervisors until they received outside agency approvals in the event the plan would have to be changed. They did need to tweak the plan because of a change in the wetlands. They have now received their NPDES permit and water permit to extend the Northwoods water into this plan. They are about 99 percent complete with the PennDOT HOP. The only item outstanding is an agreement to show that Northwoods will be maintaining the roads since they will be private. He also believes they are close to having their newer module complete. They ran into some hiccups with the presentation of the module that was previously approved by the Board. These are the only two outstanding items and they will not affect the outcome of the plans. Mike Muffley commented the plans are good. Everything is outside agency approvals and administration in nature. DEP has given some trouble both on the part of the Township and the Developer. They are currently in the process of resolving the items. Once the outside agency approvals and the developer's agreements are completed, the plans will be ready for recording.

Cindy Miller made a motion to grant this plan conditional preliminary/final plan approval subject to the Township Engineer's letter dated April 6, 2023, the Lehigh Township Planning Commission letter dated April 20, 2023, and the Cowan Associates letter dated April 3, 2023. Jerry Pritchard seconded the motion. Linda Roman questioned what the hiccups with the plan were in reference to. David Lear commented they were mostly clerical issues within the DEP approval process. All voted aye. Motion carried.

B. Engineer's Report. Mike Muffley did not have anything additional to report. The June Planning Commission meeting was canceled since there were no new submissions.

Cindy Miller wanted to thank Mike Muffley for the email he sent regarding the two House Bills that would affect housing requirements. The bills did pass the Local Government Committee and are now on the House floor. She is imploring residents to contact the legislators and put pressure on them to vote against these two bills. These two bills will definitely impact local zoning. House Bill 1976 pertains to commercial zoning. A developer will be permitted to build multifamily dwelling within a commercial zoning district regardless of our zoning. House Bill 2045 pertains to any zoning district which permits single family dwellings. A developer will be allowed to build duplexes, triplexes, and quads on any lot that is zoned for a single family dwelling. Not only will this impact the type of housing, but it will impact our infrastructure, public water and public sewer. How will all of this be paid for? Attorney Backenstoe also noted he also sent a letter to Zach Mako voicing his displeasure with the bill on behalf of the Township. The reason that this is so bad for the Township is that this law would pre-empt the Township zoning. Over the years, the Board has created zoning ordinances and a comprehensive plan, working close with the community to zone in a fashion which is appropriate for what people in the Township would like. These two bills will take that away from the residents and the Township and they will no longer be able to say where duplexes and triplexes can go. They will be able to go anywhere a single family dwelling is allowed, whether you like it or not.

VII. DEPARTMENTAL/ORGANIZATIONAL REPORT

A. Recreation Report. Sandy Hopkins reported the Blue Mountain Fish and Game sponsored a basket raffle for Furry Feet Rescue and the Recreation Board. The event was a success. The Blue Mountain Fish and Game is working on the final financial report.

B. Public Works. Frank Zamatadics reported the Public Works Department is currently working on the road list in preparation for the oil and chip project.

Cindy Miller questioned what “paved Walnutport” on the report was. Frank Zamadics commented the Department assisted Walnutport with paving a blacktop pad for bleachers. In turn, Walnutport will most likely be providing the Township with trucking support for when they are doing the blacktop repairs on Almond Road.

C. Zoning Report. Liz Amato reported there were 45 new permit applications received, 50 permits issued, and 19 new complaints in May. The Zoning Hearing Board heard two cases in May. One was for an appeal of enforcement and a special exception which was approved. The second was for a solar farm use variance that was denied. The Zoning Hearing Board also met last week due to a conflict in the solicitor’s schedule. That hearing was for a variance from steep slope construction standards for a new home which was granted. There was also a special exception and variance which was continued to another hearing date which will be next Thursday. In addition to this hearing, there will also be another hearing for relief on a front yard setback for a pole building. An application was also received for a cell tower use variance and a claim of exclusionary zoning for eliminating it from the A/RR zoning. She also has received an application for a hearing in July.

There are no updates on the Solar Farm for the McBride property. They did grant a time extension through August.

D. Police Report. This year, National Night Out will be held on August 6. The theme this year will be A Night in the Country. There will also be a mechanical bull ride.

Detective Matt Enstrom will be retiring on July 9. The Department is planning on escorting him to his home around 5:00 p.m. Detective Enstrom has had an accomplished career and been there every step of the way when needed.

1. Draft Ordinance reducing speed on portion of Mulberry Drive. Chief Fogel reported they have received a lot of complaints regarding speeding in this area of Mulberry Drive between Long Lane Road and Laurel Drive. This stretch of roadway has some curves, elevation changes, and is relatively narrow. It is also all residential through the area. He and Sergeant Henry drove the roadway and both agree that it could be considered to be a residential zone and could be posted as 25 miles per hour as permitted by the Vehicle Code. Initially, the Department wanted to do a speed study on the road; however, there is no place they can set up the speed trailer because of the deep swales. They would have to do the manual speed timing which would take a relatively long period of time because the traffic volume is limited because most of the traffic is to the homes of the people who live in the area. The reduction of the speed limit would give them the ability to go in there and periodically do speed timing. Currently, the roadway is unposted making it 55 miles per hour. Attorney Backenstoe noted the Vehicle Code does

permit the posting of neighborhoods at 25 miles per hour without a traffic study; however, he would recommend confirmation from the traffic engineer.

Janet Sheats questioned if there were a lot of incidents in this area. Chief Fogel commented there really haven't been any crashes. It is mostly traffic complaints of running the stop sign at Steven Lane and Mulberry, speeding through the area, and people getting cut off in certain instances. There have also been a lot of near misses.

Mike Jones questioned if a three way stop would be beneficial in the area. Chief Fogel commented it may help; however, a traffic study would definitely need to be conducted by an engineer. This would not be something that the Department would be able to do.

Cindy Miller questioned if the speed limit really needed to be reduced down to 25 miles per hour. Rick Hildebrand commented this is a tough area. He would believe that 25 miles per hour would be an appropriate speed for that section. Frank Zamadics also noted there are a lot of pedestrians in that area.

Janet Sheats made a motion to authorize proceeding with reducing the speed limit on Mulberry Drive between Long Lane Road and Laurel Road subject to the traffic engineer confirming that posting the roadway at 25 miles per hour is appropriate without conducting a traffic study. Jerry Pritchard seconded the motion. All voted aye. Motion carried.

- E. Municipal Authority Report. No one was present from the Municipal Authority.
- F. Fire Company Report. Rick Hildebrand reported they have been helping out with various community events, including helping the police with their movie night. They have other events planned, one of which will be in conjunction with K9 Cash at Blue Mountain Fish and Game.

They are in the process of getting their tanker repaired. Because of the age of the transmission cooler, they will need to have it manufactured which means the tanker will be out of service for six to eight weeks.

VIII. OLD BUSINESS

- A. Maintenance Building.
 - 1. Billitier Electric, Payment Request #8. Cindy Miller made a motion to approve Billitier Electric Payment Request #8 in the amount of \$7,107.00. Janet Sheats seconded the motion. Jerry Pritchard questioned what work is remaining on their

contract. Alice Rehrig commented they are currently completing the work that was included in the change orders that were approved last month. All voted aye. Motion carried.

2. Bracy Construction, Payment Request #13. Cindy Miller made a motion to approve Bracy Construction Payment Request #13 in the amount of \$ 12,225.31. David Hess seconded the motion. Jerry Pritchard questioned what work they had remaining. Alice Rehrig commented they have completed all their work and they are currently working through their punch list items. The only money we are now holding is their retainer which won't be released until the project is finalized. Janet questioned when the project is expected to be finalized. Alice Rehrig commented the last remaining item to be installed is the transfer switch for the fire suppression system. That is expected to be delivered on June 24 and then installed. Once that is completed, they can call for their final inspections. All voted aye. Motion carried.
3. Livengood Excavators, Payment Request #6. Cindy Miller made a motion to approve Livengood Excavators Payment Request #6 in the amount of \$251,000.56. Janet Sheats seconded the motion. All voted aye. Motion carried.
4. Shannon A. Smith, Payment Request #10 Cindy Miller made a motion to approve Shannon A Smith Payment Request #10 in the amount of \$17,142.30. David Hess seconded the motion. All voted aye. Motion carried.

B. Ordinance 2024-2, Amendment to Zoning Ordinance for Regulating Recreational Marijuana. Attorney Backenstoe commented this ordinance was prepared and recommended by the Planning Commission. This ordinance is considered a trigger ordinance in anticipation that the State may legalize recreational marijuana at some point. This ordinance would not become effective until such time as the State legalizes recreational marijuana. Senate Bill 473 of 2021, Act 94 which proposes to permit adult use cannabis and proposes to have cannabis business establishments where cannabis would be sold. The importance of having an ordinance like this in place is that if the state law passes and marijuana becomes legal, you want to have zoning in place to regulate it and not be in the position where someone can claim exclusionary zoning because you don't have it as an allowed use in any zoning district and they could be entitled to that use. If the Township waits to see if the legislation will pass and then adopt the ordinance, you run in to the possibility of getting involved with the pending ordinance doctrine. The pending ordinance doctrine says for zoning issues, if an ordinance is pending and someone submits a permit subject to the contents of the pending ordinance, they must comply with the

pending ordinance; however, the pending ordinance doctrine does not apply to a subdivision or land development plan. If either of those plans are submitted, they would fall under the adopted ordinances that are in place at the time of submission.

This ordinance tries to anticipate that the use could become legal by the State and regulates it within the municipal boundary. It establishes it as a special exception use in the Industrial Zoning District only. It provides for a definition of a cannabis business establishment and dispensing organizations. These definitions pretty much mirror what is in the State act. If in fact the State does pass the law to allow this type of use, the use will become permitted by special exception in the Industrial Zoning District. There are regulations about the size, the use, minimum lot sizes, parking requirements, ingress and egress, different aspects of cannabis growth, and other types of regulations. It is an extensive ordinance which is consistent with the current ordinance and special exception regulations for other similar uses. Attorney Backenstoe wanted to make it clear that the Township is not adopting an ordinance to make marijuana legal. What you are doing is having a trigger ordinance which would only come into effect allowing this use. If the State law never goes into effect, then this ordinance would never come into effect.

Janet Sheats questioned if the two acre requirement on Page 7, 3A should actually be five acres. Attorney Backenstoe commented it could be; however, the five-acre requirement and the two acre requirement are for two different uses. The two acre requirement is only for the dispensary use.

Cindy Miller made a motion to authorize the Manager to send Ordinance 2024-2 to the Lehigh Township Planning Commission and the Lehigh Valley Planning Commission for comment and advertise the ordinance for adoption. Janet Sheats seconded the motion. Paul Nikisher questioned if Attorney Backenstoe is recommending that this ordinance be adopted. Attorney Backenstoe commented it is completely up to the Board. It is a proactive action in the event that this does become a State law. There would immediately be a regulation in place which is nice. All voted aye. Motion carried.

IX. NEW BUSINESS

- A. Ordinance 2024-3, Amending Parking Requirements for Medical Marijuana. Cindy Miller made a motion to authorize the Manager to send Ordinance 2024-3 to the Lehigh Township Planning Commission and the Lehigh Valley Planning Commission for comment and advertise the ordinance for adoption as long as there are no changes from the Solicitor. David Hess seconded the motion. Attorney Backenstoe commented he did not have any concerns with the ordinance. Mike Muffley commented when the initial medical marijuana ordinance was adopted, the parking requirements for those facilities was excessive. This ordinance brings the parking

requirements more into alignment with what would actually be needed. You want to have adequate parking for the use without creating unnecessary impervious cover that requires stormwater that could negatively impact the Township. Part of the problem when the original ordinance was adopted was the lack of traffic studies and information available for this type of use. Katherine Mack questioned if the parking requirements will apply to all the different components of medical marijuana. Mike Muffley commented the parking requirements are broken down by each use. All voted aye. Motion carried.

B. Rezoning Request for Merkle Property, Tax ID J2 7 15. Jere Schneck was present to continue the discussion regarding his request to have this parcel rezoned from GC to A/RR. Mr. Schneck provided a letter to the Board explaining this request. The property is in an estate and has been on the market for eight years. They have been unsuccessful in finding a purchaser to develop this property commercially. Other parcels in this area are zoned A/RR.

Attorney Backenstoe commented if the Board is in agreement with this change, a draft ordinance would need to be prepared, sent to the Planning Commission and Lehigh Valley Planning Commission for their review, then advertised for adoption. The Board may want to consider asking the applicant to pay for the costs associated with the zoning change since it is a request of a private individual so that the cost of this is not borne by the taxpayers. Attorney Backenstoe commented he wouldn't expect the costs to exceed \$1,000. Mr. Schneck commented he would not have an objection to paying for the costs associated with this change.

Cindy Miller made a motion to approve the rezoning request of Parcel J2 7 15 from General Commercial to Agricultural/Rural Residential, authorize the preparation of a draft ordinance and call costs to be borne by the property owner. Jerry Pritchard seconded the motion. All voted aye. Motion carried.

C. Resolution 2024-13, Establishing GPS Vehicle Tracking Policy for Township Vehicles. Cindy Miller made a motion to adopt Resolution 2024-13. David Hess seconded the motion. Attorney Backenstoe commented he feels the resolution is a good resolution and many Townships have a resolution similar to this. His only question is if the policy was run past labor counsel because there may be questions about the resolution since there are disciplinary ramifications if it is not followed. Cindy Miller commented labor counsel already has reviewed it. All voted aye. Motion carried.

D. Manager's Report. Alice Rehrig reported the property at 450 Walnut Drive has finally transferred ownership. Once everything settles through the County, we should

receive payment for the liens we have against the property. Based on the paperwork that was received regarding the hearing on the sale, it would appear that we will be getting full payment of our liens.

Alice Rehrig also heard back from the RACP grant program regarding all the payment requests that she has submitted. They will be recommending that the Office of the Budget release \$2,008,844 to the Township. We should be receiving that in four to six weeks.

1. Traffic Light Controller. During one of the recent storms, the controller for the traffic light at Route 145 and Blue Mountain Drive was struck by lightning and damaged beyond repair. The cost to replace the controller is \$5,352. Alice Rehrig asked for the Board's thoughts on whether a claim should be submitted to insurance. We have a \$1,000 deductible and the controller is at least nine years old and the insurance company would most likely depreciate the controller. Cindy Miller made a motion to authorize the repairs of the traffic light controller up to an amount of \$5,352. David Hess seconded the motion. All voted aye. Motion carried.
- E. Solicitor's Report. Attorney Backenstoe reported he sent a letter, as requested by the Board, to Representative Mako voicing the Board's displeasure with the House Bills.

1. Draft Lease Delps Park Farm Field. Attorney Backenstoe prepared a draft lease for the 20 acres at Delps Park. It describes the property, acreage, tax parcel, excludes certain areas that are park. The term of the lease is for one year. Farming practices must be in accordance with Chapter 102 regulations and Northampton County Farmland Preservation. It also prohibits the use of biosolids. In other leases that he has done, the farmer makes one single annual payment rather than monthly payments. Generally, the payment is due around October of each year. They would provide insurance naming the Township as additional insured and indemnify and hold the Township harmless.

Cindy Miller questioned if the two one year renewal options were included. Mike Jones commented it was to be a one year lease with two additional one year options to renew. Attorney Backenstoe commented he did not have that spelled out. He included option language which can mean a variety of things. The Board would like to see two additional one year renewals with 90 days' notice and the Township would have the option to cancel the lease with one year notice. Attorney Backenstoe will draft language to this effect.

Paul Nikisher questioned if the property is currently being farmed. Mike Jones commented he believes crops were planted. Janet Sheats commented the lease wouldn't go into effect until next year.

Jerry Pritchard made a motion to put the 20 acre farm field at Delps Park out to bid. Janet Sheats seconded the motion. All voted aye. Motion carried.

Alice Rehrig had also prepared the advertisement for the lease and a spec sheet that farmers could request so that they know what is expected of them when leasing the property and developing the price they want to bid per acre. She will also need to talk to Frank as to what he feels would be the best area for the farmer to enter the field. It was suggested that a statement be added to the spec sheet that the lease would be for one year starting in March with the option to renew for two additional years unless terminated by the Board according to the lease. It should also be stated that no biosolids are permitted. The statement regarding the possibility of park development taking place and the area to be leased may be reduced will need to be clarified. Attorney Backenstoe will provide some language.

X. PUBLIC COMMENT. Katherine Mack commented recently the zoning advertisements were published in the Express Times and was wondering if that was now going to be the publication of choice. It does state that the ads must be in a paper of general circulation and doesn't believe that it is of general circulation in the Township. Alice Rehrig commented the Township generally uses the Home News, but because it is a weekly newspaper, there are situations where it just doesn't work and the Express Times are used as a backup. Katherine Mack commented she felt the Morning Call would be a better choice for the Township. The Board stated the Morning Call was more expensive for advertising. Attorney Backenstoe confirmed that the Express Times is an acceptable paper for advertising for the Township. Cindy Miller noted that the advertisements are also on the Township website.

Katherine Mack questioned if an engineer has been hired for the park plan. Cindy Miller commented it needs to go to bid and the Board is still reviewing the specs.

Katherine Mack commented the two Bills pertaining to housing were discussed at the School Board meeting and how that could impact the schools and the need for additional schools. She told them that they need to be planning for this at least five years in advance. She also noted that Kristin Soldridge wants to see a finance committee set up and hopefully they will open it up to the general public as well.

She had brought it up at another meeting that the ordinances on our website are not up to date. There are ordinances from 2023 that are not included in the actual Chapter 180

Zoning. It has been eight months since the ordinance was adopted and it is still not codified. Alice Rehrig commented that the ordinances are codified once a year. The quote for codifying the 2023 ordinances was signed and sent in. We are waiting for them to go through the publication process. When an ordinance is adopted, it is sent in and uploaded as new legislation. To have the ordinances codified after each ordinance could get costly. The Board commented they could look into codifying the ordinances twice per year. Katherine Mack commented if you want people to use the website it should be as up to date as possible.

John Knoblach commented he has a 5.8 acre lot in a development. With the new Bills that are proposed, does that mean that if he sold his lot to a developer, they could knock his house down and build a quad. Attorney Backenstoe confirmed that scenario could happen under the proposed Bills.

John Knoblach questioned if the payment of \$275,000 for the insurance claim will affect any of the basic services of the Township or cause a tax increase. The Board commented that it would not affect either the services or the taxes.

Paul Nikisher commented he thinks it would be helpful if there was a white board with important information such as the Bills that are under consideration so that people could be familiar with them.

Katherine Mack questioned when the monitors will be installed in the meeting room. Cindy Miller commented grants were applied for and we are waiting for the outcome of the grants. Katherine Mack commented with the adoption of the resolution, it would have been nice to see it on the monitor so that the public could comment on it.

Lisa Neff, Bunker Hill Lane, purchased the property about two years ago and is continuing to have problems with her taxes. There have been delinquent notices coming in previous owner's name. She has been to the County and spoken with the Tax Collector and it doesn't seem to get resolved. In December, she received another letter that her real estate taxes were overdue. She sent in payment and now just received a certified letter from the County that they weren't paid. She got a letter from the Board of Supervisors that was in the previous owner's name that the taxes were not paid. She was told just send a check for what is on the bill she received in December. She did that and was now told that the checks from December were just cashed two weeks ago. She was told this by Mary Louise Trexler. She gave Mary Trexler another check two weeks ago and it still is not cashed. Mary Trexler also told her that she was supposed to be getting a letter from Northampton County that everything has been cleared up, but she hasn't received that yet either. Ms. Neff commented she doesn't know what else to do. It has been a nightmare since she purchased the house. They have been paying attorney fees and penalties. Cindy Miller commented as a Board, they have contracted to have a

forensic audit conducted on the tax collector because the Board hasn't received reports from the tax collector since February of last year, and February of this year. The Board has no idea how much was paid or who didn't pay. Next week the Board is expecting to receive the final report from the auditor with the results of the audit. At that point, the Board can move forward with whatever they need to do. They have tried talking to the tax collector and tried working this out as best we can. The office is fielding numerous calls every day. The tax payers are being told it is the Board or it's the Township. It is not. The County has also told this to residents who have called them. This is not the case. The Tax Collector is an elected position. The only one who can take care of this is Harrisburg. The only way you can get rid of an elected official by state law is that they either resign or are impeached by the Congress of the State. Jerry Pritchard commented the Board has put a lot of time into this. People question what the Board is doing. In order to go through the process in Harrisburg, it won't happen overnight. The Board is on the public's side. They are public servants. Mary Louise Trexler has been a fixture in this Township forever. Unfortunately, the Board either has to go through the process or something. The Board too is in a dilemma. Attorney Backenstoe commented the removal process is quite cumbersome. You would have to file articles of impeachment with the local legislature. Then you need to have a full trial in front of the full Senate and then the Governor must approve the removal. It is an incredibly cumbersome and complicated process. Jerry Pritchard commented the Board keeps hoping for the best, but it doesn't happen. Lisa Neff commented her per capita bills are also a mess. She obtained the moving permits she was supposed to. Janet Sheats commented the Board has respect for Mary Louise Trexler and hopes she does the right thing. They too have taken a lot of heat over this, but there is nothing they can do physically to fix this.

Linda Roman commented that it states on the tax bill that if you don't receive your bill you are to call the tax collector. How will you know who to call if you don't even receive the tax bill? Cindy Miller commented she believes that statement is mandated by the state to be printed on every bill.

- XI. EXECUTIVE SESSION. The Board met in Executive Session to discuss personnel matters. No action was taken.
- XII. ADJOURN. David Hess made a motion to adjourn. Cindy Miller seconded the motion. All voted aye. Motion carried.