

LEHIGH TOWNSHIP BOARD OF SUPERVISORS

April 12, 2022

- I. CALL TO ORDER. The Lehigh Township Board of Supervisors held their regular monthly meeting on Tuesday, April 12, 2022, 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
Phil Gogel
Mike Jones
David Backenstoe
Alice Rehrig
Mike Muffley
Frank Zamadics
Scott Fogel

Absent: Jerry Pritchard
Liz Amato

II. APPROVAL OF THE MINUTES

- A. Minutes of March 17, 2022. Phil Gogel made a motion to approve these minutes. Cindy Miller seconded the motion. All voted aye. Motion carried.
- B. Minutes of March 22, 2022. Cindy Miller made a motion to approve these minutes. David Hess seconded the motion. All voted aye. Motion carried.

III. APPROVAL OF BILLS.

- A. General Fund Checks 25667 to 25719. Phil Gogel made a motion to approve these bills. David Hess seconded the motion. Cindy Miller questioned the bills that were listed on the last page, identified as Plans Account. Alice Rehrig commented these bills are paid to Hanover Engineering from the Plans and Appeals Account for plan reviews. They are paid out of the developer escrow funds. All voted aye. Motion carried.
- B. State Fund Check 1553. Cindy Miller made a motion to approve this bill. Phil Gogel seconded the motion. All voted aye. Motion carried.

IV. PLANNING RELATED ITEMS

A. Plans for Approval

1. Latshaw Lot Line Consolidation Plan. David Lear was present to represent this plan. They have had a final review of the plan meeting the conditions of the Planning Commission recommendation and have submitted the prints and mylars to the Township Engineer for signature. Phil Gogel made a motion to approve the Latshaw Lot Line Consolidation plan. David Hess seconded the motion. All voted aye. Motion carried.

2. Donald & Mary Harris & Elk Holdings 2017, LP Lot Line Adjustment. Jonathan Shupp was present to represent this plan. This is a simple Lot Line adjustment. He received the comments from the Township Engineer, revised the plan and received a final review by the Township Engineer and submitted the prints and mylars for signatures. There are four waivers that are in need of approval. The waivers are being requested because of the simplicity of this plan and it being a lot line adjustment. The waivers were reviewed by the Planning Commission and were found to be acceptable.

It was noted that the agenda and the Planning Commission letter dated March 21, 2022, incorrectly state the name of the plan as Donald & Mark Harris and Elk Holdings. The correct name of the plan should be Donald & Mary Harris and Elk Holdings.

Cindy Miller made a motion to grant the waivers requested from SALDO Section 147-9.A.3, 147-9.A.5, 147-9.A.7, and 147-9.A.9. David Hess seconded the motion. All voted aye. Motion carried.

Cindy Miller made a motion to approve the Donald & Mary Harris and Elk Holdings 2017, LP Lot Line Adjustment plan. David Hess seconded the motion. All voted aye. Motion carried.

B. Extension of Time

1. J & T Enterprise LLC (Terry Vandling). The developer provided the Board with an extension of time until June 30, 2022. David Lear was present to represent this plan. This plan was previously submitted to the Planning Commission and there were outstanding sewage enforcement and engineering comments so the plan was tabled until they could work through the Sewage Enforcement comments. The sewer line was going through an environmental protection area of the soils where there was contamination of the soil. They rerouted the line around the area and have resubmitted the plan to Chris Noll, but they have not received the comments back. In addition to the Sewage Enforcement comments, there

were about ten engineering comments that need to be addressed which is why they are granting the extension of time. There also was a concern with the driveway and have been communicating with the owner to stone the drive all the way back. They are also looking at paving a greater portion of the driveway in the front, but have not yet had confirmation from the owner.

Phil Gogel made a motion to accept the extension of time until June 30, 2022. David Hess seconded the motion. Jay Dorsey, Jeannie Conners, and Lou Benedict were present to express their concerns with this project. Jeannie Conners questioned how many extensions the owner will get until this project is done. There is activity going on back there; there is still earth being moved around which they thought was prohibited because of the environmental problem. They heard equipment running this morning. David Lear commented he is not aware that there is any activity taking place, but he has not been to the site recently. Jeannie Conners questioned if someone can check what it going on back there. If there is an environmental problem, they need to know what is going on. Barry Haydt commented he received a letter from DEP about a week ago and they are angry because he didn't do anything he was supposed to do with the remediation at the site. They are monitoring what is going on. Lou Benedict of 4150 Wood Drive questioned why the Board keeps on giving him extensions when he doesn't comply with what he is supposed to do and he still hasn't satisfied the fines he was assessed. How many chances does he get? He just continues to do what he wants. He is warehousing another construction outfit. They are hauling equipment in and out. The Township is being way too nice. He was supposed to have this taken care of within 90 days and now we are at a year. Jeannie Conners questioned if this will be his last extension. Phil Gogel commented there are certain parameters that the Board has to follow. Lou Benedict commented he still owes the taxpayers for what he was assessed in court. This is the Township's money; the residents' money and they want it back. Attorney Backenstoe commented he paid his \$4,000 escrow and \$1,000 of the \$5,000 in fines for legal expenses. Cindy Miller commented the Township is caught in the middle because there is property rights that the State makes the Township abide by and at the same time, the Board understands the residents' concerns. Attorney Backenstoe commented he can file another contempt of court charge with the courts. DEP can go after him, the Zoning Officer can inspect for additional violations, and he can go to court with another injunction, but there is a lawful process that he is entitled to under the Municipalities Planning Code. The Courts did order him to file the plans, which he did. Even a simple subdivision can

take six to nine months and receive four or five extensions. This particular plan was complicated because of the sewage issues which needed to be worked out on the plan. It appears as though they have now worked them out. If they are that close to completing the plan and the Board goes to shut it down to stop him from moving forward, he will have a hard time winning that in court. The difference between this project and other projects where Townships were successful in obtaining an injunction and shutting something down or removing someone from property is that in other cases, the individual was actually doing something that the property was not zoned for the use to be done. In this case, the owner is permitted to have a home in the A/RR zoning district. He built the home prematurely, but it is a permitted use. Lou Benedict commented the Township has to assume some of the responsibility. In 2017, when the owner starting cutting down trees, he filed a petition before Liz Amato was even the Zoning Officer. They went three years with nothing. Attorney Backenstoe commented the owner was cited, fined, and went to the Magistrate, then to Court. It is a slow process. Lou Benedict noted that this has been going on for over a year and a half and things are no further than what they were. Attorney Backenstoe commented the plan is almost done and he still has to pay his fines. He is willing to go back to the Court and ask for additional fines if the fine is not paid. Steve Budihas commented he resides with Jeannie Connors. When they built their home 20 years ago, they needed to get permits, go to an engineer for septic, and did everything they were supposed to do, and have been paying taxes for 20 years. What is good for one, should be good for another. This guy is making a lot of racket back there and there are a lot of people going in and out. There are more neighbors than what is attending the meeting that are frustrated with this. Everyone feels the Township is not doing anything and keeps giving him extension after extension. Attorney Backenstoe commented the Township can call DEP again and the Zoning Officer can go out and look at the property. Cindy Miller questioned if the Board can deny the extension of time or will they be faced with another lawsuit if they do that. Attorney Backenstoe commented the Board could deny the extension and then the Owner could file suit with the court and the engineer would be testifying under oath that they are waiting for a review from the Township SEO. Attorney Backenstoe believes a judge would tell him if that is what you are waiting for, get it done so your plan gets approved. It would cost the Township a lot of money for the Court to tell him to get his plan done. Phil Gogel commented he understands the frustration, but the Township is confined by the law. The Board is in a box and they can't go too far out of the box

or out of the box at all, or they get their hands slapped. Cindy Miller commented the Township has to abide by the law. The Board is frustrated with this as well. They have been dealing with this for a while. Barry Haydt suggested the residents call DEP. They are really after him now because he brought tires into the site. Katherine Mack questioned if when he is taken to court, he will have to pay the costs associated with the filing. Attorney Backenstoe commented that is why he was ordered to pay the \$5,000. He will ask for additional fees this time, but there is no guarantee that the judge will order the fees. Paul Nikisher commented everyone in the area should be calling DEP. The more people who call, the better the results. Maybe that will help resolve the problem. All voted aye. Motion carried.

V. DEPARTMENTAL/ORGANIZATIONAL REPORTS

- A. Recreation Report. Patrick VanderPloeg reported the Rec Board has been working on plans with the Lions Club to refurbish the shed by Bryfogle Park. The cost of the material is expected to be \$6,000 which will be paid for by the Lions. This includes installing a new roof, steel siding, and paint.

The Rec Board has received some applications for field use. The Northampton Kids adult team will be using the Berlinsville field as their home field. They have been working on cleaning up the infield and getting it ready for the season.

While at the Berlinsville field, he did notice there is a jagged piece of metal sticking out from the swing set frame and requested the Public Works Department look at it to see what they can do to correct the issue so no one gets hurt.

They are planning on opening the refreshment stand for two upcoming high school games.

The outfield has been fertilized and home dugout roof replacement work to be done by township maintenance.

The first baseline fence to be replaced by ABE Fence.

The dog park entrance has been reseeded and will continue to be closed through the end of April. Phil Gogel suggested adding some stone to the dog park areas where the dogs are tearing up the grass. Patrick VanderPloeg commented the entrance areas are where the problems are occurring which is why they are giving the grass a chance to come back.

Yoga Classes at Danielsville Park were expected to begin, but weather has not been cooperating.

- B. Public Works Report. Frank Zamadics reported he would like to get the road projects for this year out to bid. Based on the effects of the winter weather and the wear and tear of the traffic, he would like to do an overlay on Indiantrail Road. It has been 17 years since there was any type of surface treatment. The freeze, thaw, and rain over the winter have created a lot of problems on the road. As funds permit, he would like to start working on overlaying Cottonwood Road. He is proposing to do that road in sections with the first section being from Route 946 to Beech Road or Teel Road. He also has a list of roads that are in need of significant repair work where the Road Crew would mill out the bad section and repair it, along with several pipe projects. Cindy Miller questioned if Frank Zamadics still wanted to do Indiantrail Road knowing the Jaindl project will be coming in at some point. Frank Zamadics commented when the Jaindl's were contacted, they had indicated that they would not be tearing up length of the road; they would be going across the road at one section. There was no objection to placing Indiantrail Road and Cottonwood Road out for bids.
1. Truck Engine Replacement. Frank Zamadics provided the Board with two quotes for the replacement of the engine in the 2008 Truck. The lowest estimate was from Cherryville Service Center at a price of \$14,455. He tried to obtain a third estimate, but that company was too busy to get the truck into the shop. The engine replacement would be the quickest way to get a truck back in service. He will not be able to get quotes for a new chassis until July and a new vehicle would most likely not be delivered for another year. The only concern with replacing the engine is that it is a 2008 with 93,000 miles. Phil Gogel questioned if Frank Zamadics checked with Horwith Trucks for the engine repair. Frank Zamadics commented this truck is a 550, not one of the large trucks. He does believe it is in the Township's best interest to get this truck back on the road. In the winter, it puts more fatigue on another truck that is not set up to plow roads, and in the summer, they use this truck for patching and smaller jobs. The vehicle that they have been using is the same vehicle that pulls the mower trailer. It is expected that the engine will take approximately six weeks for delivery. Once it arrives at Cherryville Service, they will get the truck in. Cindy Miller questioned which account the funds would come from. Alice Rehrig commented it would be part of the capital purchases. When the budget was developed, it was expected that this truck and the two pickup trucks would be replaced. Cindy Miller

made a motion to have Cherryville Service Center replace the engine in the 2008 Ford Truck at a cost not to exceed \$14,455.37. David Hess seconded the motion. All voted aye. Motion carried.

2. Summer Help. Applications have been received for Summer Help and he would like to discuss them with the board in a brief Executive Session.

Katherine Mack noted there are three roads listed on the website that are listed for repaving. Will this be done or is the website not up to date. Alice Rehrig commented the website is not up to date. The roads listed are from last year's projects. Katherine Mack questioned if there is not a long range plan for road improvements. Cindy Miller commented there is a three year plan they look at and it gets updated as needed. Frank Zamadics commented the projects can change depending upon the effects of the winter.

- C. Zoning Report. The Zoning Report will be on the April 26, 2022, agenda.
- D. Police Report. Chief Fogel reported March was a relatively quiet month for the department. They did traffic enforcement in various areas of the Township, including Route 946 in the Danielsville area, Berlinsville, Walnut Drive South of Route 248, Route 145 throughout the Treichlers area, Bark Drive, and Maple Drive.

On Saturday, April 16, at 1:00 p.m. the Department will be assisting the Fire Company with the escorting of the Easter Bunny in the Easter Bunny Parade throughout the Township. They will be starting at the Fire Company and ending at Becky's Drive-In. The route has been posted on the Facebook page.

Patrick VanderPloeg questioned what was found out about the pistol shoot that the Department was trying to put together. Chief Fogel commented the insurance company had no objection to the event.

Adam Ash commented that he is seeing a lot of DUI reimbursements listed on the bill ledger and wondered how the checkpoints went. Chief Fogel commented the reimbursements were not from DUI checkpoints, but from PLCB or PTS (Aggressive Driving) funded traffic details. The Township typically receives the funding for the events a few months after it occurred. That past two months were not as busy with DUI arrests as what November and December were.

Paul Nikisher questioned if the Department is now fully staffed. Chief Fogel commented, yes, the Department is fully staffed, with both officers and cars. The last new car has not yet been put in service because they are waiting on the

molded back seat to come in. The car cannot be put into service without that seat because you would have to pull the cage and remove all the wiring once the seat arrives. Hopefully, the seat will come in shortly.

Linda Roman questioned if there was a recent breakdown with one of the cars. Chief Fogel commented there was a radiator problem with one of the cars. It is something that the Maintenance Department can take care of. Thankfully, it was nothing major.

E. Fire Company Report. There was nothing to report.

VI. OLD BUSINESS

A. Cherryville Intersection. Attorney Backenstoe reported he has been working with the Attorney for Turkey Hill and prepared an improvements agreement, maintenance agreement, and a stormwater bmp agreement. They have drafted a cost estimate which needs to be amended mainly because some of the PennDOT costs were included in the cost estimate for the Township required improvements. Once all of these are finalized and they obtain a letter of credit, they will be able to record the plan and move forward with the project.

Alice Rehrig reported there was a site meeting with PennDOT this afternoon. There were three handicap ramps that were in question. The curbing and ramp at the existing Turkey Hill will need to be replaced by the contractor. Initially, PennDOT was requiring a cheek wall or railing in that general area where the wooden posts currently exist. Instead of having to replace the railing, PennDOT will allow them to be pulled and have the area backfilled with ground creating a 3:1 slope. The ramp across Route 248 on the Bodish property will need to be replaced. They may be able to keep the curbing as long as it has the proper depth after the ramp has been replaced. If the proper depth cannot be maintained, that curbing will also need to be replaced. The ramp on the Blue Mountain side of the property will be able to remain in its current state. Cindy Miller questioned why there are issues with the ramps. Alice Rehrig commented there are portions that do not meet the ADA slope requirements. Mike Muffley commented there are also areas that do not meet the requirements for distances or spaces between the push buttons and the ramps. Cindy Miller questioned if the contractor shouldn't have been aware of this when he was doing the work. Mike Muffley commented the repairs are on the contractor. David Hess questioned who was inspecting the project. Mike Muffley commented it was PennDOT. Phil Gogel commented PennDOT never passes projects on the first time. They are always getting people on the handicap ramps. Cindy Miller questioned if PennDOT will give it their final blessing when the work is done. Alice Rehrig commented they should be. In addition to Melissa Maupin, there were other individuals from the PennDOT

office who handle the accessibility issues, and they were asked if this was okay and they indicated they were in agreement. Mike Muffley commented there are minor adjustments that need to be made to the plans and then the contractor needs to complete the work. Cindy Miller questioned if the contractor was going to be paying the engineering fees. The Township shouldn't be paying for this. The Township has already paid one time for the work. David Hess commented he agrees. Phil Gogel commented he thought we were out of funding for the intersection because when he brought up temporarily lining the pavement, there was no money for that. Cindy Miller commented we are out of money. It should be on the contractor to correct this. Alice Rehrig noted the engineering expenses have exceeded the quote by \$900. She will let Jim Milot know the Board's position on this.

B. Maintenance Building. There was no additional information on the project.

VII. NEW BUSINESS

A. Resolution 2022-13, Records for Disposal. This resolution is before the Board to authorize the destruction of financial records that the Township is no longer required to keep for the years 1993 through 2005. Phil Gogel made a motion to adopt Resolution 2022-13. David Hess seconded the motion. All voted aye. Motion carried.

B. Letter of Resignation—Recreation Board. A letter of resignation has been received from Jodiann Heck resigning her position on the Recreation Board. The Board would need to fill her remaining term until January 2024. Cindy Miller made a motion to accept Jodiann Heck's letter of resignation. Phil Gogel seconded the motion. All voted aye. Motion carried.

Mike Jones commented he has a concern after reading the letter of resignation. There always seems to be a problem with the same person. Why is he allowed to attend our meetings or be involved? Phil Gogel commented if they are a resident, you can't deny them the right to come to a meeting. If we all resigned because of a little pressure, there would be no one on our Boards. There always is a little pressure. Mike Jones commented this has been going on for almost 10 years. Attorney Backenstoe commented without additional details, it's hard to make a determination, but if someone attending a meeting is being that nasty and inappropriate, you can ask the police to come. If they are that bad and inappropriate you can ask them to leave. You can't ban them from attending a meeting. Mike Jones questioned if you can ban someone from using our fields. Patrick VanderPloeg commented he doesn't believe we are at the point where he needs to be banned, but if he does act inappropriately, he will be dealt with as necessary.

David Hess made a motion to advertise the vacancy of the unexpired term ending January 2024. Phil Gogel seconded the motion. All voted aye. Motion carried.

- C. Meeting Minutes. Cindy Miller requested this be placed on the agenda. At one of the Supervisor meetings, it was discussed that draft minutes are not to be given out to the public or anyone until the minutes are approved by the Committee or the Board. At the point where they are approved, they become an official record. At the Comp Plan meeting, there was someone in the audience who had a copy of draft minutes and were reading them from their phone. The only way that person had those minutes was from someone on this Board. Phil Gogel questioned if something that they said was incorrect. Cindy Miller commented it has nothing to do with whether they were correct or not with what was said. The fact of the matter is that the minutes were released to someone before they were made official. The Board has been told about that in the past. They were told that no minutes should be given out to anyone until they are adopted and official because there could be changes in the minutes and now there are minutes out there. Phil Gogel questioned if something was said that was not true. Cindy Miller commented it doesn't matter. Phil Gogel commented it does matter because it gives a lot of merit to what you are saying. Cindy Miller commented you are deflecting what the point is. The point is minutes were given out by someone on this Board. Phil Gogel commented he gave them out because they were not marked confidential. Cindy Miller commented it doesn't matter. Phil Gogel commented those were Planning Minutes; he is on the Board of Supervisors. There was a request made for information for the betterment to understand how the planning and the Comp plan was going to take place. He gave all the information he had to an individual who requested it. If something was incorrect, then you may state that it is incorrect. Nothing was marked confidential. He understands that our minutes should be, but not necessarily are, because anyone can attend the meeting and get them first hand. Anyone could have attended that Planning meeting and got that information first hand. Anyone in the room or Township can do a right to know request, even the day after, to hear the audio tapes. As long as it is factual and correct information, he doesn't see an issue with it.

Attorney Backenstoe commented the question of giving out minutes before they are approved usually comes to him from a member of the public. He usually tells them the Board does not have to give you the minutes. The Board could give them, but they do not have to give them. The reason is, under the Right to Know Act, they are not an official record until they are approved by the Board. It makes sense because things may be in the minutes which are inaccurate or incorrect and someone may want to correct them in a meeting. Once the correction is made, there is a motion to approve the minutes and they become public record. Phil Gogel is right, anyone can come to the meeting, record the meeting, video tape

Supervisor Minutes
April 12, 2022

the meeting, take shorthand or whatever you want to do. The comment from the public is usually "I want a copy of the minutes as soon as they are drafted." The Board then looks at him and asks if they have to give them a copy and he says, no you don't because the Right to Know Law doesn't require it until after they are approved because it is only then that they are official.

Phil Gogel commented then the answer is no harm done. Attorney Backenstoe commented it is not illegal to give a draft of the minutes to someone, but the Board does not have to give them out prior to them being approved.

Cindy Miller commented Katherine Mack has been asking for draft minutes at the meetings and the Board has told her no. So why are we telling her no? Attorney Backenstoe commented that is the policy. Phil Gogel commented if Katherine Mack would ask him for the minutes, he would give them to her. He feels that she is a competent person and could understand right from wrong. He feels different about the Board minutes because he likes to review them. That is why he does a right to know request to get the audio tapes. He has a file. Anyone who wants to hear a voice recording of any of the minutes starting mid last year, he has them. He would be happy to make a copy of them for anyone who wants them. That way they can look at the minutes and listen to the tape and see how they reflect upon one another. Sometime they are not exactly the same. They won't mesh. They are streamlined.

David Hess questioned if the Board needs to make a policy that they need to be approved first. Attorney Backenstoe commented to his knowledge, the Board has never issued drafts of the minutes until after they were approved and they become an official record because there sometimes when things are misstated, not what you said, or you want to straighten out to make it clear. Sometimes two people may disagree on what the proper minutes should be and in the final approved minutes it reflects the two different inputs. Mike Jones questioned if it is something that is decided by each Board or is it a general blanket. Attorney Backenstoe commented the general law is that they are not an official record until they are approved, but if this Board said to him that they want to change the policy and as soon as Alice Rehrig has the draft minutes done, we want to start giving them out, the answer is yes, you can do that. David Hess questioned if there is an official policy on this. Attorney Backenstoe commented all he can say is time and time again in all the years he has been here, when someone from the public questioned if they could have the minutes before they were approved, the various members of the Board over the years have asked if they had to give them, the answer has been no, not until they are approved. If the question is, can we

Supervisor Minutes
April 12, 2022

give it to them, the answer would be yes, you could. Mike Jones questioned if this is something each Board can decide. Attorney Backenstoe commented it could be.

Marc Kercksmar commented the statements of the minutes not matching the recording is an argument to not give them out until they are finalized. In addition, they are not posted on the website until they are approved. If draft minutes are going to be handed out, wouldn't the draft minutes have to be uploaded to the website the next day, and the updated after they are approved? Attorney Backenstoe commented he has seen it happen many times where a resident wants the minutes. Board after Board that he has represented have made it a practice of not handing out the minutes until after they are approved. The law doesn't require it and there is a good reason for it, as discussed. The January meeting minutes are formally approved in February. A resident comes to the March meeting and says I read the January minutes that were approved in February and I take issue with it, and indicates that this page and this paragraph are completely wrong and inappropriate. I didn't say what they are saying. I said this. It is then noted in the new March meeting minutes, correcting the prior minutes so there is a record.

Phil Gogel commented there is a way of correcting it. When he made the statement, he was referring to the Supervisor minutes. Planning Commission is sending the minutes to the Board. When he gets them, he look at it as it is pretty much an open record. There is nothing that says it is confidential. He shouldn't be getting the minutes if they don't want to release them.

Barry Haydt questioned why the tapes and the written minutes don't mesh. Attorney Backenstoe commented the Secretary is a human being and not a stenographer. He's seen this question come up before. For years, when he was the Solicitor for Upper Mount Bethel, the minutes were so contentious that an entire meeting was spent over approval of the minutes. They would have to adjourn the meeting after three, four, or five hours, and then the very next night come back and do the rest of the stuff. They were so contentious that they had a stenographer for years and paid a lot of money. The minutes were stenographically recorded and every word and utterance was recorded. Barry Haydt commented it would seem that the tape would be the correct version. Attorney Backenstoe commented rather than having it stenographically recorded, you have Alice Rehrig who is a human being who does her best to capture the sentiment of the comment which is required by the statute. She is only supposed to record the sum and substance of the statements and motion. She is not supposed to record word for word. So, if you say why is there a word for word presentation on the tape and why is it paraphrased in the minutes, it is because

that is what Alice Rehrig and every other secretary in the entire state is supposed to do, unless you would want to hire a stenographer which would cost a lot of money.

Katherine Mack commented she believes the minutes that were read at the meeting on the 6th were proposed to set up a person on the Board. What she thinks should have happened at the meeting on the 6th was that the Planning Commission should have been sitting at the table with the Board of Supervisors. The Supervisors knew as much about the plan as what some of the people in the audience did. Some Board members are very new, other are not. Cindy Miller is the only one who serves on both Boards. That meeting should have had the Planners up front. They should have been the ones answering the questions. It shouldn't have been Cindy Miller who had to bear the burden of all the questions and all the answer at the meeting. She believes the issue raised in the minute was the result of the way the meetings fell. Usually, the Planning meetings are somewhere before the Supervisors meeting. Cindy Miller had to go back to the Planners, propose to them what the Board approved, then come back to the Supervisors again and you were caught with a time frame which was too short to do the things you would have liked to do. She doesn't know that people understood that there was timeframe that was different where there was a Supervisors meeting, Planning meeting, then another Supervisors meeting. The Board seems to be tongue tied. She knows Phil Gogel did his homework on a lot of the lots that he was concerned about, but some of the Board didn't have a lot of input because you didn't create that plan. It should have been the Planners who were there. Phil Gogel commented the consultant should have had answers. He was very lacking in answers. Katherine Mack commented when it comes down to those minutes, the minutes were used in a way that insighted some bad feelings.

Adam Ash questioned if by not releasing the minutes before they were approved, does it create a precedence that may open the Township up to some type of lawsuit. If you disenfranchise someone that can't get legal representation to represent them, and by Phil Gogel giving the minutes to the Lorah's they were able to get legal representation to do what they needed to do for their business. They were afforded an opportunity to proceed with avenues that other citizens of the Township were disenfranchised by in not having the same opportunity. Wouldn't that open the Township up to a lawsuit possibly? Attorney Backenstoe commented he wouldn't think so. Mike Jones noted that the Lorah's were not the ones with the minutes. Phil Gogel commented the Lorah's were reading from the Comp Plan which was in open forum anyway. The maps and plan are published. Anyone who has a vested interest in something, and they know someone is trying to potentially take advantage of them and reduce the value of their property, they should have all the information that is afforded to them that is public knowledge.

Supervisor Minutes
April 12, 2022

When you say you should withhold information, that is pretty bad. You don't want to withhold information from anyone, especially if you are going to try and change something on them. That is more against the law than giving them information. When a lawsuit is brought against you, you need to give them all information. Adam Ash questioned then why are the minutes not released as soon as they are given to the Board. Mike Jones commented they are not released because they are not official or public record. Adam Ash commented if the Board has been holding the minutes for the last 20 plus years, why would you give them to someone else. The comment was made you need to treat everyone equally. Phil Gogel commented he is talking about Board minutes. He is not on the Planning Commission. The Planning Commission meeting minutes were emailed to him and someone made a request to him for information on the Planning Commission meeting that was had. He gave all the emails and information he had to this individual so they could read up on things and know where they want to go with it. The Planning minutes are posted on the website.

Cindy Miller commented that these minutes in particular were only received by the Planners two days prior to the meeting. Phil Gogel questioned why they were not marked confidential. Cindy Miller commented she did not send out the minutes. Phil Gogel commented he got the minutes from Lori Lambert. Why don't the Planners have some type of criteria? Cindy Miller commented the Board, the Planners, any type of committee have always been told the draft minutes are not an official record. The Planners only received those minutes two days before the meeting, if they even read their emails at that point. Most of the people in the room were unaware. She received an email questioning what minutes were being talked about. Phil Gogel commented we need to go back to the statements that were made and whether they were correct or not. Cindy Miller commented it doesn't matter. The point she is making this evening is that draft minutes were given out and the Planners did not have the opportunity to review them. They were not approved minutes. The fact of the matter is you gave out minutes before they were even approved. Phil Gogel commented your not admitting that the statements were true; it's giving you the opportunity to change them. Cindy Miller commented, no, she did not. Katherine Mack just explained what happened. The Planners had their meeting, the Board made a decision, she told the Planners what it was, then we had a Board meeting and everything changed. You are sitting there making constant accusations at her the entire night which were totally untrue. Phil Gogel commented we are talking about the minutes and were they accurate the way they were stated. Cindy Miller commented the minutes were accurate, but when it went back to the Board, it all changed. Phil Gogel commented if they were accurate, then there was no harm done. Cindy Miller commented the harm that was done was they were given to someone who intentionally used them in a meeting to go after her. That is what

went on. Phil Gogel commented that is not the case; he believes that person was just trying to be informative. Cindy Miller commented no, that is not true, but her point is what are we going to do with minutes. Mike Jones questioned if each Board will have their own rules. Cindy Miller commented the Planners will not want the minutes given out before they are approved. Phil Gogel questioned if the minutes will be true and accurate or will he need to get copies of those tapes as well. David Hess commented each Board will have to have a policy. Attorney Backenstoe commented he has never been involved with a Board who would issue the minute before they were approved at a meeting. He is not saying it couldn't happen, he just never saw it with any of the boards he represents or Board he had to appear before. If it is something the Board wants to do, he doesn't believe it is illegal. He's just telling the Board what the practice is and why they are not official. They are not a public record under the right to know until they are approved. Phil Gogel commented he believes we need to schedule a larger gap between any comp plan meetings and Planning meetings. They shouldn't be that close together. Mike Jones commented that is just how the dates worked out. Cindy Miller commented it wouldn't have been a problem. The minutes should not have come up during the meeting because they were not approved. That is the answer. Phil Gogel questioned if they were true and correct. Mike Jones commented he believes each Board should set their own policy. He is only one person, but he thinks things should remain the way they are for our minutes. Phil Gogel commented anyone has the right, even the day after the meeting, to do a right to know request to come in and listen to the audio tape. He doesn't know what the harm is that was done if it is true and accurate.

Marc Kercksmar questioned if someone makes a right to know request, would they get the minutes prior to them being approved. Phil Gogel commented you can come in and get a tape. Mark Kercksmar commented if someone cannot get the minutes through a right to know request without them being approved, then you, as a Board member, representing the Township should not have given them out. Whether they are correct, incorrect, or match the tape, is doesn't matter, he is just saying procedurally, if he submits a right to know and cannot get a copy of the minutes, then any Board or Committee member should not be giving them out. He would highly suggest adding watermarks or notes on the document indicating they are not approved. That may be the simplest thing as opposed to a Township Board or Planning Board creating a policy, although one shouldn't really need to be created. This way there would be a draft/confidential marking on them until they are posted on the Township website. His point is if the public cannot get a copy until they are official, any board member should not be giving it out to the public. Phil Gogel commented it is not illegal. They can give them out. If you request a copy of them from him, he could give them to you. Mark Kercksmar questioned why was Katherine Mack told no when she asked for a copy. Phil

Gogel commented if she would have called him, he would have asked her what she needed. Katherine Mack commented her request was to have them on the table for the night of the meeting. She wanted to have them on the table, marked draft, so she could look and see what the Board was approving that night. Phil Gogel commented he doesn't have an issue with that. The night of the appointment, they were there. If you are going to do it for one night for certain things or put it out there for one person, then no, treat everyone the same. He has no issue treating everyone the same and giving the minutes out like that. Phil Gogel commented people can also come in and get the audios. There is no issue with that. Cindy Miller noted the Planning minutes were marked "draft".

Linda Roman questioned how the Board received the information. Phil Gogel commented he received them by email. Linda Roman commented we are living in the world of technology. In this day and age of technology, you have to understand there is no privacy when it is sent from this person to that person. It doesn't matter if it is draft or approved. We no longer have that privileged privacy whether it is a board or an attorney or anyone else. The CEO of the company has already stated we should not expect privacy. Cindy Miller commented she is not looking for privacy. Linda Roman commented she understands, but once it is sent as a text or email, there is no privacy. Attorney Backenstoe commented he would disagree. When an attorney has a privileged communication with his client and emails it, it is privileged and there is an expectation of privacy and it shouldn't be disclosed.

Cindy Miller commented she will take this back to Planning as the liaison and ask them how they want to handle their minutes as to the draft format and whether Lori Lambert should be including the Board of Supervisors when she sends out the minutes. Phil Gogel commented they should be marked confidential so the Board knows. Cindy Miller commented they shouldn't have to be marked confidential if they are marked draft and the Planners have not approved the minutes. Phil Gogel commented he hopes the minutes will match the tapes when they are finally approved.

- D. Manager's Report. Alice Rehrig noted the conditional use hearing for the Timothy Pitts Manufactured Home Park will be held at 6:30 p.m. before the next Board of Supervisors meeting.

Alice Rehrig participated in a PSATS Town Hall meeting regarding the American Relief Funding. The new rules for the funding take effect April 22 and one of the requirements of the funding, is that an annual report must be submitted by April 30. As part of this report, the Township has the ability to take advantage of a one time blanket loss of revenue feature. In taking advantage of this opportunity, it

will lessen our reporting requirements and relax the restrictions on what we can and cannot do. The specific restrictions are still applicable, but it will give the Township more flexibility as to what they can do with the funding. The annual reports will be required until all of the money has been spent.

A date needs to be selected for the Comp Plan workshop. Alice Rehrig will find out dates when Charlie Schmehl and Attorney Backenstoe are available and circulate them to the Board and Planning Commission. Alice Rehrig also wanted to confirm that the Board did want letters to go out to everyone whose parcels are identified on the map as potentially changing. The Board agreed this should be done. Alice Rehrig commented the dates for the meeting will be towards the end of May or beginning of June to give enough time to get the letters out. Phil Gogel commented he believes that if a property is being changed to commercial and there is a residential property next to them, they should also be notified because of noise concerns.

Phil Gogel commented he doesn't believe the Board ever voted on the noise ordinance. He knows they authorized it to be advertised, but he doesn't believe they hammered out the final draft. Alice Rehrig commented she has been working with Attorney Backenstoe. It will be advertised for adoption at the first meeting in May.

E. Solicitor's Report. Attorney Backenstoe did not have anything additional to report.

VIII PUBLIC COMMENT. Adam Ash wanted to commend Cindy Miller on the great job she did at the Comp Plan meeting and having the answers that she had and everything she did for both the Planning Commission and the Board of Supervisors. He appreciates the work on both parties. As far as the meeting stuff goes, he would like a copy of all the Executive Session material the Board gets. Phil Gogel commented that is supposed to be confidential, but unfortunately at a prior meeting this year, things were put on the agenda that were said in Executive Session which was a very bad thing and very distasteful. Yes, they are supposed to be confidential, but since that was not adhered to, he doesn't feel he has to adhere to that so, yes, if he had tapes, he would gladly tell you. Adam Ash commented if every Board member of the past 20 years has followed the policy of waiting until the minutes are approved, then he thinks it is poor form for Phil Gogel to release them without at least reaching out to the Planning Commission when it is marked draft. It wasn't about serving the citizens, it was about doing a political ploy and smearing another person. Phil Gogel commented Mr. Ash is putting words into his mouth; he sounds dumb. Someone made a request for information and he gave it to him so he could be better prepared for the Comp Plan meeting. Adam Ash commented Phil Gogel sat up front at the meeting and said you said this and you said that in the meeting

Supervisor Minutes
April 12, 2022

minutes that were previous to something else that changed the statement. Phil Gogel commented he is being accused of something but not being told what he said. What statement did he make that was incorrect? Adam Ash commented he stated that the minutes were altered after the fact were used as a political ploy. Phil Gogel commented he wants to see the evidence of what he is being accused of.

Marc Kercksmar questioned who he would go to if he wanted minutes from the Supervisors meeting. Would he go to the Supervisors or the Secretary? It would be the Manager or Secretary. Wouldn't the Planning Commission be the same thing? A manager or secretary. Cindy Miller commented the Planning Commission has an administrator. Marc Kercksmar commented then the policy would be to get them from the Administrator. Phil Gogel commented that is not the policy. People can obtain information from any Board member. Mr. Kercksmar commented if the minutes were from the Planning Commission, you as a Supervisor should have been saying, I'm not on the Planning Commission, let me get in touch with the people who are on the Board. Phil Gogel commented the Supervisors always help members of the community. That is what they are here for. If someone wants information, they will get it for them and give to them. Mr. Kercksmar said there are proper channels that the public has to go through. Phil Gogel indicated that was a proper channel; as a resident you can contact me. Mr. Kercksmar commented when he asked who he would go to to get the minutes, he was directed to the Secretary. Phil Gogel commented you were directed, but you can contact him or any Board member and ask. You are trying to twist things because you are a friend of one Board member, just like Adam Ash, to make him look bad. You are trying to pin him down, and you are wrong. Mr. Kercksmar commented he is not tied to anyone on the Board. He would like to think we are all friends. Phil Gogel commented if information was requested of him, he would gladly provide it, so don't try to twist it.

Katherine Mack commented she was unable to attend the conditional hearing and understands they have 45 days to make their decision. She understands they were approved and wonders if there were any conditions. Mike Jones commented one condition was that the events have to end at 11:00 p.m. and the other condition was they needed to notify the Police when there is an event. Katherine Mack noted there could be an event every day of the week. Cindy Miller commented there was no one in the audience who objected to anything. Katherine Mack commented when you are doing zoning, you don't need objectors. The Board has the authority as a sitting body to have conditions. Now Mr. Lorah is protected by Zoning, by what you did there. He can do something every day of the week. She knows that people didn't come because they were afraid of repercussion. She said that at the meeting; she knows the Board received a letter from an unknown citizen and that person didn't want to say anything because she was afraid of repercussions. She really enjoys living in this Township; she has been here for 50 years. She hates to see this bickering that goes on. People don't want to come and speak their mind because they are afraid of their neighbors. You are not getting along on

the Board, so why would neighbors get along. The Board had the power to give Mr. Lorah conditions. Maybe the Board should have understood zoning a bit more. You don't need objectors to set conditions for the benefit of the Township. You know people have complained about the noise and not being able to sit on their porch for weekend after weekend. You had the power and didn't use it. Paul Nikisher commented the Lorah's are farmers and have good common sense. They are not there to abuse the privileges that they have. He also believes it is a good community thing for all the residents. You are never going to please everyone but the majority of the people are okay with it. Katherine Mack commented she understands they are farmers and the uses are part of the General Commercial area. She knows the community does enjoy them, but there is a portion of the community that also doesn't. Zoning protects them. At the April 6 meeting, a relative of Mr. Lorah said they didn't want to have a car dealership in my neighborhood; I'm zoned a certain way. Zoning offers a protection for the people who live in certain areas. Yes, that is General Commercial, but there is a surrounding area that is not. She hopes this doesn't become an every weekend thing, just because of the neighbors. Hopefully we receive more tax money out of it. Perhaps we should have a recreational tax to get tax money or a fire tax because if you are in an accident, they will be there. She also believes that one of these days you will have to raise the taxes. She hears what the Police Chief says about his cars that need repair, she hears what road maintenance says about roads that need to be done and we can only do so many at a time. One day, the Board will need to say to Joe Public, the taxes have to go up and maybe the Board will have the guts to do that. She doesn't know, but it has to be done at some point in time.

Marc Kerksmar questioned if the Board plans on revisiting the hours of the yard waste center on a Saturday and having them start earlier in the day. The Board asked this be put on the agenda for the next meeting.

Mike Jones read the letter that was received from an anonymous resident who was afraid of retribution. The letter was dated June 29, 2020. The letter was imploring the zoning officer's investigation of several properties in the Township. Concerns raised in the letter were properties on both sides of Route 145 in the area of Three Mile Lane are lined with junk, and the junk is growing by the day. There is also a property on Blue Mountain Drive, the site of the house explosion, that is growing with junk. This individual believes the once Beautiful Lehigh Township is rapidly deteriorating. The people who live here should take the initiative to keep it beautiful. Cindy Miller commented she thought the Zoning Officer was working on Route 145. Alice Rehrig commented that property has gone to the Magistrate. Cindy Miller also noted she believes that the Zoning Officer is also working on the Blue Mountain Drive property.

Supervisor Minutes
April 12, 2022

- IX. EXECUTIVE SESSION. The Board went into Executive Session to discuss personnel issues. No action was taken.

- X. ADJOURN. David Hess made a motion to adjourn. Cindy Miller seconded the motion. All voted aye. Motion carried.