

LEHIGH TOWNSHIP BOARD OF SUPERVISORS

Minutes of the February 23, 2021, Meeting

- I. CALL TO ORDER. The Lehigh Township Board of Supervisors held their regular monthly meeting on Tuesday, February 23, 2021, at 7:00 p.m. The meeting was held at the Lehigh Township Municipal Building, 1069 Municipal Road, Walnutport, Pa. 18088. Chairman Cindy Miller called the meeting to order with the pledge of allegiance and roll call:

Present: Phil Gogel
Keith Hantz
Mike Jones
Cindy Miller
David Backenstoe
Jim Milot
Phil Malitsch
Alice Rehrig

Absent: Mike McGonigle

II. APPROVAL OF THE MINUTES

- A. Minutes of February 9, 2021. Keith Hantz made a motion to approve these minutes. Mike Jones seconded the motion. All voted aye. Motion carried.

III. APPROVAL OF BILLS

- A. General Fund Checks 24621 to 24656. Keith Hantz made a motion to approve these bills. Mike Jones seconded the motion. All voted aye. Motion carried.
- B. State Fund Check 1525. Keith Hantz made a motion to approve this check. Mike Jones seconded the motion. All voted aye. Motion carried.

IV. PLANNING RELATED ITEMS

A. Extension of Time

1. 527 Graystone Drive, LLC Lot Line Adjustment Plan. No one was present to represent this plan. The developer provided the Board with an extension of time until June 12, 2021. Cindy Miller commented the Board had previously stated that they were going to require representatives to be present when the extensions of time were being requested and they have been getting away from this requirement and believes they should start enforcing that requirement again. Phil Malitsch noted this plan is relatively new and was only before the Planning Commission on one occasion and has submitted for their March 8 meeting. The main issue with this plan was that the septic locations were not known or depicted

and the Planning Commission was also concerned that there was no secondary testing. With this being a lot line adjustment, you would want to know where the septic systems are before you move the lines. They are also working on acceptable wording for a waiver regarding the secondary testing requirement. Since this plan expires on March 12, 2021, Attorney Backenstoe suggested the extension of time be accepted through March 31, 2021, and then require someone to attend the next meeting to discuss extending it beyond this date.

Mike Jones made a motion to accept an extension of time until March 31, 2021. Phil Gogel seconded the motion. All voted aye. Motion carried.

V. OLD BUSINESS

A. Cherryville Intersection. Cindy Miller commented more trees have been removed from the site so we are seeing progress at the intersection. There is also a change order for the project that needs to be discussed.

1. Change Order #1. The contractor submitted Change Order #1 in the amount of \$34,371.45. The change order is the result of a change in the scope of work by having the contractor remove and relocate two light standards and sign on the Amey property. Jim Milot commented when PPL did their final walk through after their design was laid out, they noticed that because of the height of the parking lot lights and the light on the Amey's sign, they would be in violation of PPL standards. Most likely they are currently in violation so any relocation of the utility poles would require this to be corrected. Initially, he asked PPL to have their contractor amend their contract to do this, but they were not able to do so. He then obtained additional quotes from other sources to make sure we had good competitive pricing. What is before the Board is the lowest quote for doing this work. The quotes went as high as \$42,000.

Cindy Miller commented we knew initially that the project was going to go to the Amey's sign. Then, she believes, the right of way was extended down the Amey's property. Jim Milot commented the project ended up being extended down the front of the Amey's property. As part of the project, the Township is required to reconfigure the access to the Amey's project. The Township got drug into this because PennDOT expanded the project linearly. The utility poles would have had to be relocated regardless. Because of the angle of tying the relocated poles back into the existing poles at Amey's, the violation of the light height becomes a greater issue.

Cindy Miller questioned if this is what Amey's really want, to have these older light poles and signs taken down and relocated. Jim Milot commented he has been out there a number of times and has spoken with Jason. He asked them what the best option was for them. Did they want to get new lights? He did explain to Jason that from the Township's perspective, we could only contribute in-kind. Jason told him he has a lot of plans for the site going forward, but he is not ready and cannot invest in new lighting or new equipment at this time. Cindy Miller commented when the grant was worked on, there was money budgeted for the replacement of the sign because we thought that may be a possibility. What we didn't know at the time was that the lights were going to have to be removed. Jim Milot commented he also went to the sign to verify that the lights were operational and creating good lighting for the site, and they are. He asked if they wanted to have new facilities installed with our contribution being the cost of what it would take to relocate them, but he said no. He met with him twice. He showed him the layout of what PPL would permit. When Jason looked at it, he said if the lights have to be moved, he didn't want it to look haphazard and if it could be laid out so that everything would be an equal distance from the roadway so everything would be symmetrical. He showed him that layout and he agreed because he did tell him that we were not going to be doing this twice.

Cindy Miller commented the Township would be putting out \$34,000 and she knows that they will be coming into the Township with future plans regarding the property. She understands what he is saying, but to her, it doesn't make sense to put all this money out and then have the lights and sign torn down. She was just trying to find out if there is an alternative. Jim Milot commented the Township also needs to be careful because this project is being funded by grant money so it would need to be some type of in kind scenario. He tried to make this as straight forward as he could with coordination with Jason from Amey's Garage. Fortunately, they have been very good to work with and amenable to what is going on. He does believe they will have a very nice entry area once the project is done. With them being symmetrically aligned, they will most likely be able to use the foundations if they do replace the lights in the future.

Cindy Miller questioned the cost from the contractor to move the foundations if the fixtures are going to be reused again. Jim Milot commented the costs are higher because it is electrical and there is trenching involved, and conduit. There is also a lot of unknowns with

replacing existing facilities. It becomes more labor intensive and tedious compared to just bringing in new equipment and putting it on a foundation. Cindy Miller questioned what would happen if the lights were to break when there are being moved. Jim Milot commented that would be on the contractor to replace it. Phil Gogel commented he believes there needs to be a cap on the change order, not that they come back and say there are additional changes or issues, such as if they were to hit something that was buried underground. He does believe that these costs seem excessive, so there needs to be a cap to get the job done and that is it. We are not going to keep paying for them to come back with change order after change order. They took on the project and it is up to them to get the job done in the price they quoted. Phil Malitsch commented that electric work through the two utilities in the area has become significantly more expensive over the last 12 to 18 months because they are now requiring all their primaries and secondaries to be placed in conduit rather than direct bury. This is resulting in the linear foot prices to almost double plus the labor to pull wires.

Cindy Miller questioned why PPL couldn't include it with their contract. Jim Milot commented that technically, this is not part of their system. It is just a violation of their requirements, putting it back on the property owner.

Jerry Pritchard questioned the wording on the contract and who puts the contract together. This work should have been built into the contract. Jim Milot commented the contract and specs were based upon the standard engineering and architectural documentation that is required, but there is no way for them to place a limitation on unknown underground facilities that no one is made aware of. A contractor is not going to take responsibility for that and if they would, the contract prices would skyrocket more than what they already did. Jerry Pritchard questioned if they will be coming back with change order after change order for this project or at this point will you be able to go forward with the site and have no more change orders. Jim Milot commented the idea is not to have change orders. Cindy Miller commented this change order was required because the scope of work changed after the bid specs were done. PPL came out after the bids were done and required something to be relocated that we had not intended to relocate. Phil Malitsch commented no one likes change orders, but they did say there will be some. If they hit a soft spot out there, there will be a change order. That is not something that a contractor would have foreseen when they priced the contract.

Cindy Miller commented the reason she is being a stickler about the change orders is because this project is being funded by a grant and there is only so much money available to work with. Jim Milot commented he is hopeful that there will not be an excessive amount of change orders, but they do happen. They did have some contingencies built into the contract so they did have that pricing ahead of time for items like bulk excavation, rock removal, additional concrete and items of that nature. This was a highly specialized scenario that there was no accounting for with contingency.

Cindy Miller commented PPL is telling us to relocate these poles. What happens if we do come across something that doesn't allow us to put these poles where PPL is telling us to put them. Jim Milot commented the Township has some flexibility. PPL didn't tell the Township where to put the poles; they told the Township where not to put them. The poles can be moved around laterally or further into the site. Right now, what they did was take the closest pole, based on the off sets, add an extra foot for some breathing room, then line the rest up from that pole to create the symmetry that Amey's asked for.

Cindy Miller questioned if there is some type of site plan so that we know where the septic is and all the utilities are on the site. Jim Milot commented he does not know if there is a site plan, but it is his understanding that all the utilities are located to the rear of the site, but he doesn't have the exact locations. The lights will still be located within the parking area and Amey's were agreeable to having the lights relocated.

Cindy Miller questioned if the Board would want make a motion to authorize the change order with an amount not to exceed. Jim Milot commented the change order is a lump sum based on quantities so it could possibly change slightly, hopefully some of the quantities can be shaved from the costs. Phil Gogel commented his greatest concern is that the contractor may dig up some type of oil barrel since the property has always been a garage. Jim Milot commented he believes there is pollution liability coverage built into the contract.

Mike Jones commented the change order has four new light foundations and the removal and reset of only three poles. Jim Milot commented the contractor considered the resetting to be the entire sign structure, but the sign is on two foundations.

Cindy Miller questioned if there is a way that the Township could say that if when they relocate the poles and there are underground contaminants, it would be up to the property owner to take care of the remediation. Jim Milot commented he would believe it would fall back on the property owner. Just because the Township were to discover it, doesn't mean that the Township is liable for it. Attorney Backenstoe commented if there is some issue with contamination underground, he doesn't see how it would be the Township's problem, but he is not the judge.

Phil Malitsch suggested a sketch of where we are going to be placing the poles be given to the property owner so he understands where they will be located. Jim Milot commented he has already provided the owner with a sketch with dimensions based off of the existing facilities to show them exactly where the pole will go.

Jerry Pritchard questioned if there is something where the property owner will be signing off indicating that they accept the location where the poles are being located to. Cindy Miller commented the Township could do this.

Mike Jones made a motion to approve Change Order #1 in an amount not to exceed \$34,371.45 with the understanding that in the event there are any environmental issues that come forth as a result of the work, the Township is not responsible or liable for the remediation, it will be the responsibility of the owner and/or lease holder, and to have Mr. and Mrs. Amey as the property owners and lease holder sign the plan accepting the relocation of the light poles and sign. Keith Hantz seconded the motion. Paul Nikisher questioned if the property owner would be willing to sign off on this. What is something were to happen when they dig the foundations. Attorney Backenstoe commented the Township is only asking the property owner to sign the plan accepting the location of the poles. All voted aye. Motion carried.

Attorney Backenstoe commented it should be noted that during the time period when the Township was having difficulty obtaining the right of way from the Bodish property, Mr. and Mrs. Amey have always been cooperative and continue to be willing to work with the Township to do the right thing for the Township and the project.

- B. Maintenance Building. There was no specific update on the project. Alice Rehrig noted that she did notify the architect that the Board approved their proposal for

the redesign of the building and provided Phil Malitsch with a sketch of the final design of the building and notified him that he should coordinate the completion of the site plans with the architect. Phil Malitsch commented he will hold off on the site plan until he gets a final layout from the architect.

- C. Resolution 2021-4, Establishing Fees for Zoning and Building Permits. This is the same fee schedule that was before the Board at the last meeting with an additional category being added for Agricultural Accessory Buildings used for agricultural storage purposes on operating farms. The flat rate for this type of building would be \$150. Phil Gogel wanted to verify that this category and fee would reduce the rate for permits for farms. Mike Jones commented it would because it is a flat rate rather than having the fees increase as the size of the building gets larger.

Mike Jones made a motion to adopt Resolution 2021-4. Keith Hantz seconded the motion. All voted aye Motion carried.

- D. Proposed Ordinance 2021-2, Bed and Breakfast Criteria. Attorney Backenstoe commented he had reviewed the ordinance and finds it to be acceptable. A lot of the language from the short term rental ordinance has been added to this ordinance such as requirements, licensing, permit and fees. A lot of the regulations are consistent with the short term rental ordinance. The ordinance would be ready for advertisement if the Township wants to move forward with adopting the ordinance in accordance with the MPC which would include notifying the Lehigh Valley Planning Commission, the Township's Planning Commission, and advertising for two successive weeks. He did notice that there was a memo from Dave Shulman indicating that the Planning Commission recommends adopting the ordinance and that the Planning Commission's comments from January 11 be incorporated into the ordinance. Attorney Backenstoe commented he does not know if those comments were incorporated. Alice Rehrig commented she received the final draft of the ordinance from Attorney Corriere on January 25 so he most likely would have incorporated those changes into this draft.

Mike Jones made a motion to authorize the Manager to advertise Ordinance 2021-2. Keith Hantz seconded the motion. All voted aye. Motion carried.

VI. NEW BUSINESS

- A. Proposed Zoning Map Amendment. Keith Hantz questioned what the thought was behind changing the zoning for this area. Cindy Miller commented they are trying to make it more consistent. It is currently zoned VR and everything around it is A/RR so the Planners were looking to make it consistent and to fall into

compliance with the comprehensive plan they are working on. Keith Hantz questioned what impact this will have on the existing properties, particular in Beil Circle. Cindy Miller commented the main impact will be the area of Locust Drive and Route 248. They are trying to make more sense of how areas are zoned. If it is VR, you can have high density housing; in A/RR, you cannot.

Keith Hantz commented the setbacks are different from VR to A/RR. Some of the lots in the Beil Circle area are small to begin with. Will we be stopping someone from being able to put up a shed? Phil Malitsch commented in A/RR the side yard set back is 15' and the rear yard is 10'. In VR, the side yard set back is 15' and the rear year is 5'. In both districts, you would need to be out of any drainage easements. The overall maximum lot coverage is 20% in A/RR and 35% in VR. The coverage would be greater in VR because the lots are typically smaller so you would need a greater percentage. It is not a huge impact, but any change in zoning districts will affect any lot in the area if they want to do something further to their property. Shouldn't the property owners be made aware of what the Township is planning on doing?

Cindy Miller commented the Planners are trying to limit the high density housing. They are trying to listen to what the community is asking for and staying with single family housing. Phil Malitsch questioned why the larger pieces couldn't be rezoned and absorbed into the adjacent A/RR district and leave the existing neighborhoods the way they are. Most likely you wouldn't have someone come in and tear down all the homes in the neighborhood. Keith Hantz commented he agreed with changing the zoning for the undeveloped areas and not having high density, but does not believe it is fair to the existing lots to create additional restrictions with a zoning change. Why not keep it to just the larger lots or do you need the whole area to rezone? Cindy Miller commented no, they were just trying to make it more sensible and compliant by making it A/RR versus VR because it is residential. They don't want people coming in, in the future, and putting in VR uses. They want to keep it as A/RR uses. Keith Hantz commented he understands that for the larger lots, but not the existing lots that are under an acre and can't be further subdivided.

Phil Malitsch commented the VR district allows half acre lots with water and sewer. There is only water available to a small number of properties at the northern end of the area on the map. Some of the lots look like they could be close to an acre, but others are definitely under an acre. Cindy Miller commented when you look at the lot at the corner of Cherry Road and Cherryville Road, she questions how they were able to build there. It is not an acre lot. Attorney Backenstoe commented if there is an existing undersized lot in a residential area, it can be built upon. Cindy Miller commented the entire back yard is a sand

mound. Tom Galloway commented that lot was created back in 1955. At one point, the three lots were owned by one individual and he eventually sold off the lots to the left and right of his house.

Phil Malitsch commented he has randomly pulled up some lots on the County website. The first lot he pulled up on Goldenbell was .75 of an acre; there are some lots that appear to be smaller, but others are larger. A lot on Azalea Drive was .96 acre. Beil Circle has a lot that is .4 acre. Mike Jones commented Beil Circle and Cherry Road have smaller lots. Phil Gogel commented it may be best to carve out Beil Circle from the rezoning.

Randy Braun questioned if there were any vacant lots that are under one acre that are affected by the zoning change. Cindy Miller commented there are no lots under one acre that are vacant. Mr. Braun commented the only affect would be if an existing homeowner wanted to put up a shed, they would either need to be 5' further from the property line or come in for a variance to put it closer. Mr. Braun and Mr. Galloway didn't see what the big deal would be to have someone either stay an additional 5' feet from the property line or get a variance. Keith Hantz commented the variance is \$750, almost as much as a shed. Cindy Miller questioned how many people would actually be putting in a shed. We are going off, what if? Keith Hantz commented he can't see charging just one person an extra \$750 to put in a shed when they can do it now without a variance.

Tom Galloway commented the down side to having different zones next to each other is that it gets confusing to enforcement. Having VR next to ARR, you need to pick and choose which one is which. He owns a property at 609 Cherry Road. It's a half-acre and his shed is 5 feet from the line. He knows it is in violation. If someone says something, he will drag it and move it five feet over. The lots that are already established will not be getting pools and pole buildings because they are not big enough. If someone wants to put up a shed, it could be small enough on a piece of property to just move it. It not a big deal. It's not like they would be putting in foundation under the shed. It does get confusing for the residents because the property next to him is zoned differently than his property.

The Board agreed to table this until the next meeting.

- B. Recreation Mini-Grant Application. The Recreation Board is looking to apply for the Get Outdoors Mini-Grant for equipment for the dog park. It is a matching grant and they would be utilizing the Recreation Funds as the match. The equipment they are looking at would be agility equipment where the dog owners

could work with their pets to go through the equipment. There is no application fee to apply for the grant. The grant amount would be \$3,000 with an additional \$3,008 being matched from the Recreation Fund for a total project of \$6,008.

Phil Gogel made a motion to authorize the Recreation Board to move forward with the Mini-Grant application. Mike Jones seconded the motion. All voted aye. Motion carried.

- C. Manager's Report. Alice Rehrig commented the Fire Company has asked for the Board to consider the reimbursement of \$27,000 for the Fire Police Vehicle. When they purchased the vehicle, the Township had provided \$50,000 and indicated that if the finances held out, they would pay the balance of \$27,000 either at the end of 2020 or the beginning of 2021.

Cindy Miller questioned if there was a response regarding the Board's request to meet with them. She would prefer to meet with the Fire Company and go over everything before releasing funds from the account so that there is a clear understanding of what they are asking for. This is the second request for money. Keith Hantz commented the Board did give them the indications that there would be a possibility of giving them the remaining balance. She understands that the Board said there was the possibility, but that is why she wants the meeting so she has a clear understanding of what they are asking for. Keith Hantz commented he believes the Fire Company plans on attending a meeting to meet with the Board rather than just meeting with one or two Supervisors.

Keith Hantz made a motion to approve providing the Fire Company with the balance of \$27,000 for the Fire Police Vehicle. Cindy Miller questioned if they understand that every time they request funding, it comes from that account and where the account stands at this point. That is why she wants to meet with them. Mike Jones questioned how much was in the Fire Truck Fund. Alice Rehrig commented there is \$37,000 in the fund and the 2021 allocation of \$139,000 in the budget. Phil Gogel seconded the motion. Mike Jones commented he is alright with providing the funds as long as they realize when it's gone, it's gone. Cindy Miller commented the other meeting they came in looking to work on ordering another truck, but there is not enough money in the account for that truck. She doesn't have a problem with giving them the money, but she wants everyone on the same page to understand how much is in the account and where they are, not that it is stated the Township won't let them order the truck. There are reasons why. It's not that we don't want them to. Keith Hantz questioned if it was explained to them how much is in the account. Alice Rehrig commented when the President contacted her about the purchase of the Fire Police Vehicle, she told him that by taking the money out of the account, it will drain it down that it won't

cover the engine that is scheduled. Keith Hantz questioned how the \$50,000 that was given to them would have helped with the purchase of a \$850,000 truck. Alice Rehrig commented the balance that was in the account plus the schedule laid out in the plan would have been enough to cover the \$750,000 truck that was in the plan. Cindy Miller commented every time something is taken out of the account unexpectedly, it affects the savings for the large piece of equipment that we had scheduled in 2024. The \$77,000 was an unexpected purchase. She understands why they purchased the vehicle, and that was okay, and she knows they are upset about pushing off the purchase, but the money may not be available when they want to purchase the truck. Phil Gogel commented they would be a separate aspect. Keith Hantz is right in that during the budget process, the Board agreed to allocate a certain amount of money and then going forward, if the money was there, we would provide the remaining funds. Mike Jones commented, the money is there. Cindy Miller commented she doesn't have a problem giving them the money. She doesn't want to hear in two years from now that Lehigh Township is not giving them the money. The reason that the money will not be there for the truck is that they keep coming in and asking for money for smaller vehicles and we keep withdrawing funds to pay for these other vehicles. She doesn't have a problem with that if that is what they want, but don't come back to the Board in two years and say why don't you have the money because you said you would save for it in the plan. There is only so much money that goes into. Keith Hantz commented the Township missed an entire year's payment of \$145,000 into the truck fund. Cindy Miller commented that was because the capital improvements for every department, including Fire, were pushed back by a year because of not knowing how much money would be available. Contributions and purchases were pushed back across the Board for all departments. This is why she wanted to have a meeting with them because she would prefer to discuss this when someone from the Fire Company was present. Keith Hantz commented Roger Spadt was planning on being at tonight's meeting but he got called to a fire. It's best if they come to the Township meeting so the residents can hear what the Fire Company's needs are. The volunteer fire company does a good job, and the problem the Township would have is when they stop volunteering. Cindy Miller commented she agrees and is not trying to take anything from the Fire Company. Jerry Pritchard commented if the truck is not being purchased until 2024, he would think over the next three years, the \$27,000 would be able to be replenished into the account. Cindy Miller questioned how much the truck was expected to cost. Alice Rehrig commented the Township has planned on \$750,000 in 2024. The price that the Fire Company just provided to the Board is \$850,000 and moved the purchase date from 2024 to 2023. Cindy Miller commented when you take \$27,000 for this, and then another \$50,000 for that, over time it depletes the account. Phil Gogel commented the Board did agree that they would give them the \$27,000 when this was discussed.

Cindy Miller commented she doesn't have a problem with that, she just would like them to come to the meeting and talk about things. Jerry Pritchard commented there is three years to figure out where the money for the truck would come from. You need to figure out how to get the money. Keith Hantz commented they will be contacting Alice Rehrig to be placed on the agenda for discussing the new truck. Phil Gogel commented the Board gave the Fire Company their word during the budget meetings and he believes in honoring that request. All voted aye. Motion carried.

Alice Rehrig also announced the redesign of the new website has been completed and will be going live within the week. She provided a brief overview of the website on the screen.

Keith Hantz noted it was listed in the Manager's report that a decision hasn't been received regarding the Police arbitration yet. Is there an expected time frame for the decision? Alice Rehrig commented the 45 days should take us to approximately March 15.

1. January Financial Reports. There were no questions regarding the financial reports.

D. Solicitor's Report. Attorney Backenstoe commented he reviewed the Chief's recommendations for establishing criteria for shooting ranges. While the State is very pro-second amendment, he does believe there are some criteria that the Board can regulate and will have something for the Board for the next meeting.

The first hearing on the short term rentals took place and after hearing and presentation, the Zoning Hearing Board did uphold the Cease and Desist that was placed against the property. The written decision will be coming shortly. There was also a hearing scheduled for the Longacre property, but unfortunately that had to be continued into March. The tentative reschedule date is Monday, March 29.

VII. PUBLIC COMMENT. Randy Braun commented a year ago there was discussion about obtaining additional microphones. Did anything ever become of that? Alice Rehrig commented that was one of the purchases that was pushed back as part of the Capital Improvements Plan. Randy Braun commented he participated on the phone a few times and it was horrible. Cindy Miller commented eventually, the phone will be going away. At some point it will be in person meetings only. Phil Gogel commented the problem with the remote meetings is that when it runs through the computer, the computer is on one side of the room and you may not be able to hear the other side of the table. Cindy

Supervisor Minutes
February 23, 2021

Miller commented it is difficult to have the remote meetings. Sometimes people can't hear things properly. She's noticed this in some instances where the press wasn't able to report things accurately.

- VIII. EXECUTIVE SESSION. The Board went into Executive Session to discuss a Collective Bargaining Agreement. No action was taken.
- IX. ADJOURN. Phil Gogel made a motion to adjourn. Mike Jones seconded the motion. All voted aye. Motion carried.