

LEHIGH TOWNSHIP BOARD OF SUPERVISORS

March 25, 2025

- I. CALL TO ORDER. The Lehigh Township Board of Supervisors held their regular monthly meeting on Tuesday, March 25, 2025, 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
Janet Sheats
Mike Jones
David Hess
Jerry Pritchard
Attorney David Backenstoe
Alice Rehrig

II. APPROVAL OF THE MINUTES.

- A. March 11, 2025. David Hess made a motion to approve the minutes. Cindy Miller seconded the motion. Janet Sheats noted an addition to the minutes. On Page 14, 4 sentences from the end of the first paragraph where Cindy Miller had made a comment about people not coming to the Board, it should be added that Janet Sheats had stated that people can bring it up under public comment. She doesn't want to deter people from coming to meetings. All voted aye with the correction. Motion carried.

III. APPROVAL OF BILLS.

- A. General Fund Checks 28563 to 28605. Cindy Miller made a motion to approve these bills. Janet Sheats seconded the motion. Jerry Pritchard questioned if the lift that was purchased and the installation was for the new building. Alice Rehrig commented it was the used lift from Upper Macungie that was approved last year. Jerry Pritchard questioned if it was on site. Alice Rehrig confirmed it was on site and installed. All voted aye. Motion carried.
- B. State Fund Checks 1618 & 1619. Cindy Miller made a motion to approve these bills. David Hess seconded the motion. All voted aye. Motion carried.

IV. OLD BUSINESS

A. Maintenance Building

1. Vision Mechanical, Final Payment Request #12. Vision Mechanical is requesting the approval of their final payment request which is the retainer that is being held by the Township. They feel that the parts that are on order are part of the warrantee since that are replacements and shouldn't hold up the release of the final payment.

Mike Jones commented they had reached out to him because we are currently holding \$45,233.45. Cindy Miller commented the job has not been completed and the contract permits us to retain the five percent. This is what was agreed to when they entered into the contract. Mike Jones commented he understands the contract, but the claim is that it was a faulty part and it is covered under the warrantee. The replacement parts cost \$900 and the labor for installation is \$1,200. Mike Jones commented that when they spoke, he had told him that even though the parts are covered under the warrantee, we wouldn't release all of the retainer because if something goes wrong, that the Township ends up scrambling to pay for the repair. He suggested withholding one percent which is \$9,046.69 and he would bring it up at the meeting.

David Hess commented he agrees that we need to stick with the contract and retain the five percent until the job is complete. Cindy Miller commented we have already extended things. We told them it needed to be resolved by the end of February, then we extended it until the end of March and now we are being told it should be here next week, not that it will be here next week. Mike Jones commented it was a faulty part. Cindy Miller commented it should have been tested and ready to go by the end of the contract.

Jerry Pritchard commented we are holding \$45,000 on a \$2,100 part. If you are sitting on the contractor's end, wouldn't you think there should be some type of happy medium that we can work with. He understands contracts, but also understands the situation. He would consider releasing half of the amount.

Janet Sheats commented she is afraid of setting a precedence for other projects the Township may have. Will it be expected for future projects? Attorney Backenstoe commented his concern would be if the situation were to blow up and it ends up being that it is not just the \$2,100 part, and is something else or another problem such as a problem with the design and it ends up being a \$30,000 fix. If we give up our retainage, we are in trouble.

Cindy Miller made a motion to deny Vision Mechanical Payment Request #12 in the amount of \$45,233.45. David Hess seconded the motion. Jerry Pritchard questioned if we have a CO on the building. Alice Rehrig confirmed that there is a CO. Jerry Pritchard commented we are occupying the building yet denying the work that was done. He can understand the questioning of the release since we are able to occupy the building. Attorney Backenstoe commented he is not saying the building is not habitable; it is just that there is a problem and we just don't know the extent of the problem. There is a meeting in two weeks, if everything is complete, release it then. Linda Roman questioned if there is a reason being

given that he wants the release. He may have contractors or supplies he needs to pay for. Mike Jones commented he didn't state any specifics other than there was a faulty part and they are waiting for the part to come in. Jerry Pritchard commented he is probably looking at the time frame and the occupancy and saying look, I have a \$2,100 part and am owed \$45,000, can we find some type of agreement. Cindy Miller commented this was after all the finger pointing was done. They did not initially recognize the fact that there was a problem. They tried to blame someone else on it. That is why she believes that the entire retainage should be held. Janet Sheats commented if this is released and it is something larger and they walk, then we are left with problem. Cindy Miller, Janet Sheats, David Hess and Jerry Pritchard voted aye. Mike Jones was opposed. He felt a portion should be returned since they did the work and it is a warrantee issue, but he does understand the other points. Motion carried.

V. NEW BUSINESS

- A. Berlinsville Tennis Court. Jerry Pritchard commented a gentleman came to the Recreation Board requesting that the Berlinsville tennis courts be striped for pickleball in addition to tennis. He thought this was something for the Township to consider.

Cindy Miller questioned if the Recreation Board has made a decision as to what their recommendation is to the Board. Sandy Hopkins commented it was mentioned at the meeting, but there was no discussion or vote taken.

Paul Nikisher commented he thinks this is something that should be entertained; it wouldn't cost that much to stripe a court.

- B. Danielsville Tennis Court. Jerry Pritchard commented Sandy Hopkins, Frank Zamadics, and Bill Jones met with Mike Muffley at the tennis courts in Danielsville. After reviewing the site, it was determined that the tennis courts will need to be reconstructed. At the next meeting, he would like to discuss this further as far as costs and specifications since Mike Muffley will be attending that meeting.

Mike Jones questioned if they had also looked at the trees that are by the tennis courts. Jerry Pritchard commented they did look at them. The trees are actually hanging over onto the Township property. Once the fence is down for the tennis courts, the trees will need to be cut back.

Jerry Pritchard commented we will need to get cost estimates for milling the tennis court and putting it back down, replacing the fence, striping the courts, and cutting

the trees back. Cindy Miller commented Jerry Pritchard should work with the Rec Board and put an estimate and a proposal together that can be presented to the Board of Supervisors.

Mike Jones questioned if the basketball court was looked at. Jerry Pritchard commented the basketball court is not a problem. Mike Jones commented he did have a resident approach him about adding benches to the basketball courts.

Sandy Hopkins commented she and Jerry Pritchard were the only ones who heard what Mike Muffley had to say. She believes a hold needs to be placed on this so that the Rec Board can discuss it and then come back to the Supervisors with a recommendation as to what they think needs to be done.

Phil Gogel commented that there should be consideration given to using concrete for the tennis courts instead of blacktop. By using b decking and rebar with the proper thickness of concrete, you won't get cracking.

- C. Leases. When the payment of the Fire Tax came up, it was stated that the Board wanted to review all the leases. There currently are three leases that need to be reviewed. They are with LTAA, Blue Mountain Quarter Midget Association, and the Historical Society. Mike Jones commented he had already spoken with two of the three organizations and they have no issue with paying for the fire tax.

Cindy Miller noted the lease with the Quarter Midgets expired in April 2024. According to the lease, they are supposed to be paying real estate taxes, paying insurance, and all kinds of stuff. Did we ever have them pay anything? Did they pay taxes? Alice Rehrig commented up until the Fire Tax, the property was exempt from real estate taxes. Cindy Miller commented the lease also states they are supposed to get permission for any improvements to that property in writing. They cut down trees and we did nothing about that. Janet Sheats questioned if that wasn't rectified. Cindy Miller commented they said they would but the Board decided they didn't need to. Mike Jones commented everything that was cut down was cleaned up. Cindy Miller noted there are no new plantings.

David Backenstoe commented since the lease is expired, they are continuing on the previous lease and the Board could do another addendum unless the Board dislikes the entire lease and a new lease needs to be created. If there are some things that the Board wants to change, it can be done with an addendum. Janet Sheats commented she would like to see them covering the fire tax. That was the main issue. Alice Rehrig commented the tax will need to be determined since the Quarter Midget track

is part of the same parcel as the rest of the Berlinsville Park. Cindy Miller commented it could be prorated based on the leased area.

The Board questioned if the multiple parcels for the park could be combined into one parcel. Attorney Backenstoe commented he can work with Alice Rehrig on a consolidation, but in order to do it properly, a meets and bounds description should be provided.

Cindy Miller questioned if LTAA is providing the \$1 per year as specified in their lease. Alice Rehrig commented she does not receive that payment on a regular basis. Cindy Miller questioned if they are maintaining the property like the lease states they are supposed to. Mike Jones commented they are not mowing the grass. They are taking care of it to the extent of having a spring day and the fall day. Beyond that, the Township is mowing it. Cindy Miller questioned why we have a lease if we are not going to hold people accountable to the lease. Why is the Township maintaining the property? Alice Rehrig commented the only thing the Township does at the park is the mowing. The Township does not trim the weeds or maintain the stands. Cindy Miller commented she hears when we are hiring summer help and sometimes from Public Works that they are busy with the parks and don't have enough time. Maybe they would have more time if they were not maintaining parks that they are not required to be maintaining and be able to focus on the parks that are our responsibility. Jerry Pritchard commented he would agree. There is no reason the parents cannot help with mowing the park that the kids play at. Janet Sheats commented it could be added to the lease that they either do the work themselves or pay the Township for doing the work.

David Backenstoe questioned when the lease expires. Cindy Miller commented it is a 99 year lease and expires in 2072 with the option to renew it for another 99 years. David Backenstoe commented they can still be held accountable to the conditions of the lease. Cindy Miller questioned if the Township has been asking for the \$1 each year because other wise we could be in trouble for not mandating the payment. There is a letter from legal indicating they reviewed the lease and it stated we need to require the \$1. We are not honoring the lease. Attorney Backenstoe commented the bigger issue than the \$1 is that they have not been maintaining the property. That is a breach of the lease. Janet Sheats commented that it is written in the lease that if the conditions of the lease have not been met, then the lease shall terminate.

Janet Sheats questioned how it switched from LTAA maintaining the property to the Township taking care of it. Alice Rehrig commented sometime in the early to mid-80s, the Township started mowing the property. Then in the 90s, the Board decided to put the grass mowing out to bid and the LTAA property was included in the bids

and the Township paid it. Outsourcing the mowing was a nightmare, so the Board brought it back in house. At one point, the Township did all the aspects of maintaining the grass, including trimming and weed whacking. A few years ago it was switched to the Township just doing the mowing. Whether or not the Township should be doing the mowing has been discussed several times.

Attorney Backenstoe suggested a letter be sent to LTAA indicating that it has been brought to the Township's attention and in accordance to the terms of the lease, they are to be maintaining the property. Pursuant to Section 6 of the lease, it is a breach of the lease and therefore it is a forfeiture under the terms of the lease. We ask that this be rectified immediately and confirm in writing that you will be fully maintaining the property. Cindy Miller questioned if an addendum to the lease should be done since we are telling them we want them to pay the fire tax. David Backenstoe commented an addendum could be done for that but he would still recommend sending them a letter.

Mike Jones questioned if there is anything in the lease about LTAA paying property taxes like there is in the Quarter Midget lease. Cindy Miller commented there is nothing in the lease. The lease with LTAA is completely different from the one with the Quarter Midgets. Janet Sheats commented she would prefer to see the same type of lease between all the different parties rather than the menagerie that we currently have.

Mike Jones questioned if a new lease could be done since they technically have breached the lease. Attorney Backenstoe commented there could be a question as to whether or not it was consensual, but you could indicate that because they breached the lease, you would like to enter into a new lease agreement.

Mike Jones questioned who maintains the land for the Historical Society. Alice Rehrig commented she thought the Township did the mowing, but wasn't sure. Cindy Miller thought the Historical Society did the mowing, but they did lose a lot of members and is not sure what is going on today. Linda Roman commented the Township is mowing the grass over there.

Janet Sheats commented she would like to see the 99 year leases done away with and that the leases not be more than five or ten years. Cindy Miller commented the Board also needs to watch as to how short we want to make them because the organization could turn around and say they no longer want the lease and then it comes back on the Township and the Township now has to maintain everything.

Attorney Backenstoe suggested the Board think about what terms they want in the leases and discuss this again at the next meeting.

The area of property that is included in the lease with the Quarter Midgets was in question. The lease indicates that there is 2.6 acres included in the lease. Cindy Miller questioned if there was creep in the area that is being used. Mike Jones commented when he quickly looks at the area on his phone, it looks like it is 4.3 acres that are being used. There also have been some improvements made to the land that the Board was not aware of. Janet Sheats questioned if there are any taxes on the building portion that is on the track. Alice Rehrig commented she doesn't know how the taxes were calculated. Attorney Backenstoe commented if there is any portion of the Township property being leased for commercial purposes and a profit is made, the property becomes taxable. Cindy Miller questioned how this would work with the farmland that the Township just recently leased to a farmer. Attorney Backenstoe commented that area would become taxable because it is not being used for municipal purposes. Janet Sheats commented this lease needs to be redone regardless. Jerry Pritchard commented he thinks a cost of the tax should be determined.

Cindy Miller questioned what the correct amount of insurance to be required should be. Most of the leases say \$1 million, but that is nothing today. She is not concerned with the amount with the Historical Society. LTAA there is a bit of concern because a child could be injured, but with the Quarter Midgets, she believes there is a greater likelihood of someone getting hurt racing the cars. Mike Jones noted LTAA has been sued a few times.

Monica Brown questioned if the payment of the \$1 is what makes the lease binding. Attorney Backenstoe commented the term "intending to be legally binding" is what makes it binding and it can be done without the dollar, but the dollar is a nominal consideration to make it an offer of acceptance. The lack of payment of the dollar is not reason alone for breach of a lease.

Mike Jones commented the Quarter Midgets don't have a lease so it would be on a month by month basis. Janet Sheats commented if there are going to be changes made, now is the time to make them. Attorney Backenstoe suggested the Board iron out their thoughts on a new lease and then get the direction at the next meeting to wrap things up.

Mike Jones commented the Board really can't touch the Historical Society since their lease is current. Cindy Miller commented she would like to see an addendum added to the lease to cover the cost of the fire tax. Janet Sheats suggested Alice Rehrig reach out to the Historical Society and let them know what the cost of the Fire Tax is and go from there.

Janet Sheats made a motion to authorize the Manager to send a letter to LTAA as discussed, indicating they are in breach of the lease. Cindy Miller seconded the motion. All voted aye. Motion carried.

Katherine Mack suggested a reminder or a bill be sent to all the leases at the beginning of the year for the dollar that is owed. Cindy Miller commented she does not know if it is the Township's responsibility to send them a bill or if it is their responsibility to just come in and pay it. It should be their responsibility. Katherine Mack commented the Township Office is the consistent item. The Boards on the other organizations can have turnover and they may not even read the lease. Janet Sheats noted when you lease an apartment, the landlord does not remind you when your rent is due. Cindy Miller commented it is still their responsibility and people need to be responsible.

Monica Brown questioned whose responsibility it is to know when the leases are due. Mike Jones commented it is everyone. Mike Jones commented the leases were in 10 year increments starting in 1998. Cindy Miller commented she questioned it last year and was told it was due this year. Phil Gogel commented the standard is monthly once the lease expired. Cindy Miller commented in the Historical Society lease there is no notice required for discontinuing the lease. They don't need to give any type of notice if they wish to discontinue their lease. It would be nice to have notice in the event they choose to not continue with the lease.

- D. Railroad Beds. Alice Rehrig provided the Board with maps showing the location of the railroad beds that are currently owned by the Township and the fire tax associated with them. After reviewing the railroad bed locations and the amount of fire tax associated with them, the Board determined they would retain ownership.
- E. Resolution 2025-3, Enacting a Burning Ban. As a result of the dry weather and the ongoing fire at 375 Cherryville Road, there has been discussion with the officers of the Fire Company regarding a burn ban and as a result of those discussions, Alice Rehrig enacted a burn ban on March 23, 2025. In order for the ban to continue, the Board would need to adopt the resolution. Cindy Miller made a motion to adopt Resolution 2025-3. Janet Sheats seconded the motion. Cindy Miller noted the Fire Department has to be exhausted after the Mountain Fire and the fire on Cherryville Road. Paul Nikisher questioned if there was an update on the fire on Cherryville Road. Brian Krische commented the residents in the Treichlers area will most likely see flames this evening. They have a strategy in place to try to control the fire. They have already dumped 500,000 gallons of water onto the fire, but it is so deep into the ground. Because of how compacted everything is, the best attempt at putting it out will be to let it burn to the surface. Rick Hildebrand commented there are four foot

diameter trees that have been stacked about 80 feet from the ends of the slope and then there is mulch and debris packed around them. It is difficult to get the water to the area it needs to go and there is not a piece of equipment that can get on the slope so there is no digging it open. They have scratched a line around the fire and continue to monitor it and are managing the best they can. There is a criminal investigation that the police are handling. It is a very complex situation. Rick Hildebrand also noted that the ordinance does not require any additional action by the Board for the ban to cease. All voted aye to adopt Resolution 2025-3. Motion carried.

- F. Manager's Report. Alice Rehrig reported the Municipal Authority has contracted with Advanced Rehabilitation Technology to line 28 manholes in the Danielsville area. They mobilized yesterday so people will be seeing some activity around manholes in the Danielsville system.
1. FEMA Generator Grant. Alice Rehrig requested approval from the Board to submit for a generator grant through FEMA. The actual funding of the grant has not yet been determined, but the application is available on the website. Janet Sheats made a motion to authorize the Manager to apply for the FEMA Generator Grant. Jerry Pritchard seconded the motion. Mike Rehrig commented the Emergency Backup Generator is definitely needed for the Emergency Operations Center. The last couple of times that the EOC was activated, it was during tropical storms and power was lost. Without power, there is no internet, phones, or the ability to charge equipment. It becomes a concern as to how long batteries will last. All voted aye. Motion carried.

Cindy Miller commented she saw an email about LTMA applying for a grant. Alice Rehrig commented that grant application will be coming before the Planning Commission. Cindy Miller commented she specifically questioned LTMA in a meeting if they were going to be applying for any additional grants and was told no. Phil Gogel questioned if she was referring to the Jaindl project or the Municipal Authority's projects. Cindy Miller commented she took it to be for the Jaindl project, but it doesn't really matter. When LTMA applies for grants, it comes under Lehigh Township and goes against the Township if LTMA gets grants. The legislators look at it and say Lehigh Township got this amount of money in grants, but don't realize that the Township and the Municipal Authority are two different entities. When LTMA gets the grants, the Township gets knocked out. She has been tracking it for the past several years. Phil Gogel commented he doesn't believe that the Authority was aware of that. Alice Rehrig commented the grant that LTMA is currently applying for is specific to water and sewer. Cindy Miller commented it doesn't matter; they are still seeing Lehigh

Township. Attorney Backenstoe commented that once an authority is formed, they become an entity of the Commonwealth. Cindy Miller commented she wants to support LTMA, but the grants that they are receiving are for the benefit of development by a private individual, which she does not agree with. She does not believe private entities should be getting big grants. She has watched companies come into the Lehigh Valley, promise they are going to create jobs, do this and do that, get grant money from the State, then don't come through and end up pulling out after the term of the grant agreement and end up leaving. Phil Gogel commented the one thing with the Pennsville Facility is that it is in poor condition. The upgrade will help the Pennsville area with their sewer system. Cindy Miller commented she was under the impression that the grant was for a new plant that was being designated for one development. Phil Gogel commented the end result is that the one new system will handle everything for Pennsville. Initially it was going to be two plants, but it has not been decided that there will be one master plan and the old plant will be decommissioned after the new one is up and running. The new plant will handle the current residents needs as well as the new development.

John Knobloch questioned if it would be beneficial to change the name of the Municipal Authority so that it is more readily differentiated from the Township. Attorney Backenstoe commented the name cannot be changed once the Authority has been incorporated. It is an entity of the Commonwealth and no longer that of the Township.

John Knobloch commented the military has a DRMO site and the Township may be able to obtain a generator at no cost through them.

- G. Solicitor's Report. Attorney Backenstoe reported he received an email regarding a mistake that was made by the Roman Catholic Diocese. In 2008, they did a subdivision but improperly indexed the tax parcel numbers. The plan erroneously included the cemetery property with Tax Parcel H2 17 15, when it should have been part of the main church parcel, H2 17 14. They did a deed of correction and then sold the vacant land, but the cemetery remained with Parcel H2 17 15. The cemetery needs to remain with the church parcel. The County will not let the church reidentify the cemetery parcel without authorization from the Township. Attorney Backenstoe commented he provided the information to Mike Muffley and he didn't see an issue since it was simply putting the correct tax parcel number on the cemetery. Janet Sheats made a motion to authorize Attorney Backenstoe to correct the property at St. Nicholas Catholic Church. Cindy Miller seconded the motion. All voted aye. Motion carried.

Cindy Miller requested a legal update pertaining to the events at the fire at 375 Cherryville Road. Attorney Backenstoe commented he received a call from Alice Rehrig around 11:00 a.m. or 12:00 p.m. on Sunday indicating that there was a fire due to excessive dumping and it was becoming a nightmare for the fire company because of an under burn and the dangers associated with it and the Fire Company is requesting assistance with removal of the ground from the under burn. Would this be an emergency under the Second Class Township Code? He said it was a bit of an odd situation because it was on private property, but if lives could be in jeopardy, then yes, it would qualify and an emergency expenditure could be made to the Fire Company to assist them. He then also received a call from Mike Jones regarding the same thing and had the same conversation. This morning he spoke with Mike Jones and things had changed and the Fire Company was considering having Grace Industries come in and do some work by adding a road to access the fire. At this point, as solicitor, his concern is whether or not it is an emergency because this is private property and the Township doesn't have a right to enter upon private property to rectify issues on private property. The Township does have the right to support the fire company and anything that does get done must go from the Township to the fire company because that is authorized by the Second Class Township Code. He was also questioning where DEP was on this, what kind of code issues were there, what kind of criminal issues may there be, is there a property maintenance code that would establish this as an emergency because as a Township, you are not allowed to enter upon someone's property and do all kinds of work. Then there was a question of if the money is spent, will the Township get the money back. The Township would not necessarily get the money back. While it makes sense that you should be able to get it back, to put it in legal terms to initiate a lawsuit to get the money back would be difficult to do. If there was some ordinance or statute that was violated and the Township got an injunction because the owner didn't rectify the problem, then he believes you could go after them for that or if the property owner said, yes, Township, we will enter into an indemnification agreement with you, let you on the property to do what you need to do, indemnify and hold you harmless, and agree to pay back all the expenses. He has also heard recently that Leo Livengood looked at the area and said it was too steep and unstable to put heavy equipment on the hillside. So, then there was discussion about running pipes to get the water to the area it needs to be in.

Cindy Miller questioned if this were to go criminal, would there be a right to restitution. Attorney Backenstoe commented if there were criminal charges and the party was convicted, then he would believe that the Township would have a claim for restitution.

Janet Sheats commented one of the concerns by the Fire Company has been not being able to bill the residents. Article II, 11-8 under Chapter 11, Fire Department, states the Fire Company can bill for a hazardous material incident as are recoverable under

the Hazardous Material Emergency Planning and Response Act. If DEP determines it to be hazardous, then the Fire Company would be able to bill. Janet Sheats had DEP and Northampton County Emergency Management back at the fire today and Amy Faulch of DEP had advised to not just let it burn, but so far, no one has been able to come up with a plan to extinguish the fire or how to fund it.

Rick Hildebrand commented the initial call was for a brush fire, but it is not really a brush fire, but a stump and log pile on a 60 percent slope. There has been dumping going on for many years. The dumping has actually spread onto the neighboring property which is where a portion of the fire is burning. Over the course of 2 to 3 days, the Fire Company has put 500,000 gallons of water on the fire and it is still burning. Because of having to haul the water to the site, it became a multi-company event. The adjoining property owner had indicated they made complaints to the Township, but when reviewing the file, it was primarily for burning. The location has been known for frequent burning of waste from commercial operations. The Fire Company has been trying to find ways of getting the fire out, but the only way would be to have a machine come in and pull it apart, but the machines don't have enough of a reach to get down the slope. Because the area has been filled over time, there is not a good base for equipment to make a road to go down to the fire. One contractor says, no way would I put equipment on the area and another contractor says I do this all the time and there is no way of knowing who is right. It does raise the question as to whether there is an emergency contingency of any type to handle these off the wall situations if something goes awry. After being at the fire for four days, they are unable to continue to get people to be at the fire scene. As of this afternoon, they came up with an idea to set up a sprinkler system to act as a measure to prevent it from spreading, but they were told that the Township cannot pay for anything on someone else's property. It is \$800 worth of garden hose and sprinklers and they are getting pushback. The fire is far from out; it will be burning for weeks. Attorney Backenstoe commented the Township can pay the fire company. The Township can financially back the fire company. The Township is not permitted to perform work on private property.

Cindy Miller questioned if it is possible to create a perimeter around the fire and just let it burn. Rick Hildebrand commented that is what they are currently doing, but they don't have the people available to watch it to make sure it doesn't go beyond the perimeter when there is increase fire danger and high winds like today. This is why they want to build the sprinkler system. Jerry Pritchard questioned if other fire departments could assist on a rotation basis. Rick Hildebrand commented they beat the neighboring departments pretty hard over the weekend.

Cindy Miller questioned if there is any liability to the Township with the people living there in the camper and refusing to move out. Rick Hildebrand commented they have been advised to move out. If they choose to stay, then it is on them.

Attorney Backenstoe commented when he authorized the spending of funds on Sunday, it was based on an emergency setting and imminent danger. Today, he was hearing about bringing in contractors for the smoldering fire which is not something that presents an imminent danger. When there is no imminent danger, the Township cannot provide supplies, employees, or contractors to private property. The Township can be held liable because they are going onto private property. The Township can, however, fund the fire company. Rick Hildebrand questioned if the same type of liability to carry through to the fire company because they need to enter private property every time there is a call or emergency. Attorney Backenstoe commented it is different for the Fire Company because they are authorized by law to enter onto private property to rectify a fire. The Township as a municipality is not authorized per statute to enter onto private property. That is not to say that if there is a horrific situation, and the Township has to do what they have to do.

Rick Hildebrand questioned if there is some type of emergency declaration that the Township can do when there is a situation that needs the additional resources of the Township or other services. Cindy Miller questioned if there should be a resolution or ordinance that can be put in place outlining what the Township can do. Attorney Backenstoe commented the Second Class Township Code is clear that Township's can't enter upon private property and do improvements or work. Having said that, when there is potential peril when you have to do what you need to do. When there is life at stake, you take what actions you need to. He doesn't know if you can create a set of criteria for every circumstance that comes up. There are situations in life that come up that are so overwhelming or horrible that the Township is going to act because they have to for the benefit of livelihood, property, and the community. If there is time, then it should be brought to the Board. The Township funding the fire company has always been authorized under the Second Class Township Code.

Jerry Pritchard questioned how the funding would work because the Fire Company doesn't necessarily have the money up front. Attorney Backenstoe commented there is no specific case law, but in his opinion, if the fire company comes to the Township saying they need a certain amount for a situation, you can give them the money with a good faith estimate.

Janet Sheats commented the fire company provided a list of supplies that are needed to mitigate the fire. While some may say there is no emergency, she will differ and believes it is still an emergency. Does the Board still need to vote on this? Attorney Backenstoe commented when he received the call on Sunday, he was authorizing the

Board to get a quorum over the phone to fund the fire company. When the information becomes available to him on the day of the meeting, then vote on it at the meeting. The Township is authorized to give money to the fire company. If the meeting is a week away, then hold a special meeting. You only need 24 hours notice.

Cindy Miller commented she didn't find out about the whole situation until later. Her recommendation is that when a situation comes up, the Board receive a text rather than an email. Let everyone know to be prepared for the phone call. The communication with the Board needs to be better.

Janet Sheats questioned what needs to be done to get a mitigation system approved since it is not on the agenda. Attorney Backenstoe recommended a motion be made to amend the agenda.

Janet Sheats made a motion to amend the agenda for the authorization of funds for the fire company for the fire at 375 Cherryville Road. Cindy Miller seconded the motion. Mike Jones questioned what it would matter now because they can purchase the items and submit a bill for reimbursement. Attorney Backenstoe commented it would be up to the Board whether or not they want to authorize the expenditure. All voted aye. Motion carried.

- H. Fire at 375 Cherryville Road. The Fire Company provided the Board with a list of materials that would be needed to mitigate the fire at 375 Cherryville Road. The estimated cost of the material is around \$800. Rick Hildebrand commented he walked the site and determined how much hose and sprinklers will be needed to try to contain the fire. The Fire Company already has the pump and port-a-pond.

Cindy Miller questioned if she were to make a motion to authorize up to \$1,000 for the supplies that are needed, would that be adequate. It was suggested that the amount be increase to \$2,500 in case something else was needed.

Cindy Miller made a motion to authorize up to \$2,500 for the supplies to mitigate the fire at 375 Cherryville Road. David Hess seconded the motion. Paul Nikisher questioned why place a limit on the amount. Mike Jones commented they are only looking for \$800. Janet Sheats commented as long as there are no issues or nothing happens, it will be plenty. If there is an issue, an emergency meeting can be called. All voted aye. Motion carried.

Linda Roman commented if the ground is saturated, will it become unstable. Rick Hildebrand commented they already had Norfolk Southern out to look at the site because of the rails and they didn't have a concern. The Fire Company will continue to monitor the site. Cindy Miller questioned if we are moving forward with a police

investigation regarding criminal charges. Alice Rehrig commented there is an open investigation by the police regarding the fire. Monica Brown questioned if the railroad below was the only property that would be affected if the fire continued to burn. Rick Hildebrand commented he doesn't expect the fire to travel outside the box they have it in; however, if there are no people around and the weather conditions and fuel load make it get going again. There is time and distance that would help. There are paths that it could take, but it wouldn't be like the wild fire they had on the mountain. There is also helicopter support available if it becomes an actual brush fire. Cindy Miller questioned where DEP was on all of this. Rick Hildebrand commented that since we were looking for resources and assistance, DEP basically said we need to exhaust our local level, up it to the County level, and if the County cannot help, we have to bump it up to PEMA, which is where we currently are at. The only thing they had to offer was the contractor which helped with the Stine farm and the massive stump fire. They worked with a company that set up sprinklers and hauled the water and managed the fire on site. This fire is similar, but still different. Cindy Miller questioned if DEP was concerned about the runoff getting into the river and cleaning it up. Rick Hildebrand commented they were made aware of what was taking place and showed them pictures and they didn't have a concern with what they saw. The Fish and Boat Commission also said it wasn't an issue. Neither agency felt it was at a level requiring any type of action. Janet Sheats commented they also said something about it being questionable as to whether there should be a disaster declaration.

Rick Hildebrand questioned if there is something that can be enacted to declare an emergency. If an emergency is declared, then the bidding requirements are not required. Mike Jones commented if the fire company is making the expenditure, then there wouldn't be any bidding requirements. Janet Sheats commented she thinks moving forward, it would be better to have some type of verbiage so that we don't need to have this discussion again and trying to figure it out moving forward. Alice Rehrig commented PEMA has a standard declaration of emergency that is typically used when the Township is looking for funding from weather related events. She could use some of that declaration and expand upon it and set up limits as to what can be done and work from there. Mike Rehrig commented there is an immediate declaration of disaster from PEMA which can be enacted and then it goes through the Board of Supervisors as a resolution at their next meeting. It basically states the Township has surpassed their local resources and then it can move up things up to the County and State. Cindy Miller questioned what County's response was to this. Rick Hildebrand commented they came out. He spoke with their Coordinator who is Todd Weaver. Their conversation was basically about who they used for the Stine Farm and some other stuff. The conversation was around the time when we were not able to get DEP to come out and look at things until Monday, and he made some calls and they came out. They have more resources towards hazardous materials, generators,

lighting, some emergency facilities and items like the command center that was used during the mountain fire. They can also elevate things up to PEMA. Once it is elevated to PEMA, PEMA has additional resources available. The problem with what we are dealing with is that there is nothing in anyone's inventory to deal with this type of situation.

Cindy Miller questioned if the property owner has been around. Rick Hildebrand commented the party where most of the fire is burning has been around. The individual who was there was representing his mother who is currently out of state. The other property owner who did the dumping seems to be evading the area.

Janet Sheats questioned where things were in zoning with the camper being used as a residence. Alice Rehrig commented all the zoning related notices have been sent out.

- VI. PUBLIC COMMENT. Zach Szoke commented he has done some research and it turns out that he won't be able to assume any financial responsibility for trying to move things along with the preservation process. He also questioned if everything was still on track for begin on the agenda for April 22. Mike Jones commented it will be on the agenda. Cindy Miller commented she will expecting that someone does research on the parcels in the Township and report back which parcels will qualify for preservation. Zach Szoke commented there are approximately 8,000 acres that are currently not in preservation. It is about a quarter of the Township. Zach Szoke also questioned what the process would be to go to the Zoning Hearing Board to discuss changes in the zoning with regard to residential development. Cindy Miller commented over the past year, an ad hoc committee has been going over the zoning ordinances and making changes and working with a consultant. The next meeting will be hopefully in April, although they are almost done with the zoning aspect. The next step will be to have the Township Engineer work with Zoning and Admin to update the SALDO. The final review of everything will be before the Supervisors. The ordinances wouldn't go to the Zoning Hearing Board. Attorney Backenstoe commented amending ordinances is a legislative act and not something that would go before the Zoning Hearing Board. Katherine Mack noted that when the zoning changes are complete, there will be public hearings held.

Paul Nikisher commented the residents need to come out to support the Fire Company for their fundraiser coming up on Saturday.

Paul Nikisher also questioned what the status is for the fencing in Berlinsville; he saw there was a JV game going on. Jerry Pritchard commented he spoke with Devin from DNS. The poles and hardware will be delivered next week and the fence will be installed in two weeks. Cindy Miller questioned if JV games are being played without the fence. Mike Jones commented there is temporary fencing. Cindy Miller commented we were

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told that we are charging \$1,500 for the season. She thought it was varsity. Is JV being charged anything? Alice Rehrig commented there are 10 JV and 10 Varsity games being played and charged \$75 for each game.

VII. EXECUTIVE SESSION. The Board went into Executive Session to discuss matters pertaining to Collective Bargaining. No action was taken.

VIII. ADJOURN. Janet Sheats made a motion to adjourn. David Hess seconded the motion. All voted aye. Motion carried.