

LEHIGH TOWNSHIP BOARD OF SUPERVISORS

March 26, 2024

- I. EXECUTIVE SESSION. The Board met in Executive Session prior to the meeting to discuss personnel. No action was taken.
- II. CALL TO ORDER. The Lehigh Township Board of Supervisors held their second monthly meeting on Tuesday, March 26, 2024, at 7:00 p.m. The meeting was held at the Lehigh Township Municipal Building, 1069 Municipal Road, Walnutport Pa. 18088. Chairman Mike Jones called the meeting to order with the Pledge of Allegiance and roll call.

Present: Cindy Miller  
David Hess  
Janet Sheats  
Mike Jones  
Attorney David Backenstoe  
Alice Rehrig

Absent: Jerry Pritchard

- III. APPROVAL OF THE MINUTES.  
A. Minutes of March 12, 2024. Cindy Miller made a motion to approve these minutes. David Hess seconded the motion. All voted aye. Motion carried.
- IV. APPROVAL OF BILLS.  
A. General Fund Checks 27616 to 27656. Cindy Miller made a motion to approve these bills. David Hess seconded the motion. All voted aye. Motion carried.
- V. OLD BUSINESS  
A. Maintenance Building. David Hess questioned if the project is still on schedule. Alice Rehrig commented from the contractor perspective they are; PPL is not scheduled to do the final connection until April 29.
1. Vision Mechanical, Payment Request #7 (retainer). Vision Mechanical has requested the Board reconsider reducing their retainer from 10 percent to 5 percent. Alice Rehrig commented she is still standing by her previous concerns and doesn't feel the retainer for this contract should be reduced. She noted the unanswered questions have not yet been resolved. Janet Sheats commented she would agree it should remain at 10 percent. This matter was tabled.
  2. Bracy Construction, Payment Request #9. Cindy Miller made a motion to approve Payment Request #9. Janet Sheats seconded the motion. Alice Rehrig noted this payment request was to reduce the retainer from 10 percent to 5

percent. She has no concerns with this contractor. Cindy Miller questioned if Bracy Construction was responsible for the issues with Vision Mechanical. Alice Rehrig commented Vision Mechanical is a separate contract. The issues that are occurring are between the plumbing contract and the electric contract. The Board felt they should retain 10 percent for all contractors. Cindy Miller withdrew her motion. This item was tabled.

3. Bracy Construction Payment Request #10. Cindy Miller made a motion to approve Bracy Construction Payment Request #10 in the amount \$162,099.58 for the work completed less the 10 percent retainer. David Hess seconded the motion. All voted aye. Motion carried.
  4. Billitier Electric, Payment #6. Cindy Miller made a motion to approve Billitier Electric in the amount of \$43,510.50. David Hess seconded the motion. All voted aye. Motion carried.
- B. 2007 Ford Pickup Replacement. It is expected that Upper Macungie Township will be awarding Lehigh Township the bid for the 2017 pickup truck at their next meeting on April 4. With this being the case, Alice Rehrig suggested holding off on putting a bid in on the 1996 Fire Company brush truck.

Janet Sheats questioned what the amounts of the bids were that were offered on the truck at Upper Macungie. Alice Rehrig commented it turned out our bid was the only bid. There were three parties interested in the truck. One was just an inquiry that never went anywhere; the other stated they were going to submit a bid which needed to be in by March 22, but never actually sent in a bid. Our bid was \$31,295. We should be able to pick up the truck any time after April 4.

## VI. NEW BUSINESS

### A. Ordinance for Discussion

1. 2024-2, Recreational Marijuana requirements. This ordinance can either be tabled if the Board needs additional time to review the ordinance or it can be authorized for advertisement for adoption. Alice Rehrig commented there are two sections that she believes need to be clarified. They are on Page 2, Section C, and on Page 3, Section J, it is referring to Chapter 94. The Township does not have a Chapter 94. It may be referencing a State Statute. Attorney Backenstoe requested this Ordinance be tabled to give him additional time to review the ordinance. Janet Sheats made a motion to table this motion. David Hess seconded the motion. Paul Nikisher questioned if it is too vague to discuss. Mike Jones commented it is not vague, there are certain sections that need to be clarified. All voted aye. Motion carried.

- B. Approval of Settlement Agreement and General Release regarding Jessica Edwards vs. Lehigh Township and Chief Scott Fogel. The Board had before them a proposed Settlement Agreement and General Release with regard to the legal action that Jessica Edwards filed against Lehigh Township and the Township Chief of Police, Scott Fogel. Throughout this pending litigation, the Township has been represented and has acted in accordance with the Township's Insurance Company and the attorney appointed by the Insurance Company, who has represented the Township and the Chief throughout this litigation, Attorney Patrick Boland. Upon the considered advice of the Township's Insurance Company and Attorney Boland, the Township and the Chief of Police have agreed to settle the claim filed by Jessica Edwards. The terms of the settlement are as follows: Jessica Edwards shall receive a full and final settlement amount of \$1,750,000.00; Of that total settlement sum, the Township shall pay \$275,000.00. Based on the terms of the Settlement Agreement, the Township cannot offer any further comment on the settlement at this time.

Janet Sheats made a motion to accept the Settlement Agreement and General Release as prepared and recommended by Attorney Patrick Boland. Cindy Miller seconded the motion. Bill Hart commented he would expect the Township's insurance rates will go up next year. Paul Nikisher questioned where the money is being pulled from. Attorney Backenstoe commented a large part of the claim was for lost wages and the Township insurance only covers \$50,000 of that portion of the claim. This is the insurance coverage that was offered to the Township. The actual claim was for several hundred thousand of dollars. While the insurance company is paying the entire claim, they are looking to the Township for reimbursement on a portion of the lost wages portion of the claim. This is why the Township has to pay a portion of the claim after Alice Rehrig negotiated with the insurance company. As to where in the budget the money would come from, he can't answer that. Cindy Miller commented the Board is not able to answer that this evening. Paul Nikisher questioned if, because of the amount of the claim, she was in the right. Is paying out that amount of money some admission of guilt? Attorney Backenstoe commented the Township is not admitting any liability under the terms of the settlement agreement. Paul Nikisher questioned if there will be more information coming out about the details of this. Cindy Miller commented the Board cannot discuss this case other than stating where the money will be coming from. Paul Nikisher questioned if adjustments will be made so this doesn't happen in the future. Wendy Kleintop questioned if this could be appealed. Attorney Backenstoe commented this cannot be appealed. The settlement was at the recommendation of the insurance company and their attorney. Bill Hart commented that he would hope that a payout of this amount would bring about some type of change and not business as usual. Kim McGonigle questioned if Ms. Edwards could sue the Supervisors as a board or separately. Attorney Backenstoe commented that was already done. She filed an action against the

Township and the Chief. Kim McGonigle questioned if the Supervisors are covered so they can't get sued now. Attorney Backenstoe commented the agreement acts as a full release of the Township from any further action. All voted aye. Motion carried.

- C. PSATS Resolutions. A copy of the resolutions that will be voted upon at the PSATS Conference was provided to the Board. If there are specific resolutions that the Board does not agree with the recommended stance of PSATS, they will need to contact Cindy Miller prior to the convention so she has direction on the voting.
- D. Manager's Report. A request was received from Northampton County that the Township provide a letter of support to them as they request funding for the repair of the County owned bridge on Cedar Drive. It is the oldest bridge in the County and they are looking to rehabilitate the bridge. Cindy Miller commented she hopes they are not planning on doing the work while the bridge is closed Indiantrail Road. Alice Rehrig commented the County is planning on requesting funding through Senator Casey's office through the 2025 appropriations. There was no objection to providing the letter of support. Rick Hildebrand questioned what the design of the bridge will be. Alice Rehrig commented they are rehabbing the bridge. It will remain as a single vehicle bridge.

Alice Rehrig provided the Board with a cost estimate for repairing and improving the access drive to the new maintenance building to support the type of traffic that it will have. It would extend the blacktop that is included in the project and take it out to Municipal Road to make it a perpendicular access from the roadway. This item will be on the next agenda.

- E. Solicitor's Report. Attorney Backenstoe did not have anything additional to report.
- VII. PUBLIC COMMENT. Katherine Mack commented she was asked to recuse herself at the Zoning Hearing that took place last week. It came down to the fact that she supposedly filed a complaint against the Kleintops. This is totally false. There is a policy on the website which says in order to file a complaint, all complaints need to be in a written form with the complainant's name, address, and nature of their complaint. She never did that. Mike Jones commented there have been repeated emails and phone calls to the Zoning Officer questioning over and over if she has done anything about certain properties. That is a complaint if you are constantly emailing and looking for information regarding issues. Katherine Mack commented she did not speak with the Zoning Officer regarding the Kleintops. She contacted the business on Route 946 because she had large trees taken down and one of the Kleintops answers at the place on Route 946, so she said to the Zoning Officer that she thinks there is a connection. The one on Route 946 is a legal operation that was approved by Jeff Bartlett. It was stated that she made the complaint at the Ad Hoc meeting. She went through the minutes of the

Ad Hoc meeting and there is nothing listed in the minutes. Cindy Miller commented the minutes of the Ad Hoc meeting reflect the discussions of the recommended changes to ordinances. The discussion of a complaint made at the meeting wouldn't be in the minutes. She was at the meeting where the complaint was made and the discussion took place. There were other witnesses to the complaint being made. Mike Jones commented if you don't want something to be looked at as a complaint, then don't call the Zoning Officer and let her know about all the infractions that you saw at different residents' properties. Katherine Mack commented the policy on the website states the complaint must be in writing. Cindy Miller commented she has already discussed this with the Zoning Officer. It has been addressed. Janet Sheats commented she believes that when someone makes a complaint to the Police or Zoning, they still have a duty to act regardless of whether or not it is a formal complaint. Cindy Miller commented it has been addressed and all future complaints must be done in writing and she also believes there should be more added to the policy in regards to who can make the complaint.

Barry Haydt commented the Ad Hoc meeting shouldn't have anything to do with the Zoning Officer. If it is not for complaints, then she shouldn't be taking the complaint. Phil Gogel commented if you follow your own rules, there won't be a problem.

Barry Haydt commented the whole zoning meeting was an embarrassment. The Zoning Hearing Board was supporting the Zoning Officer in her actions. There were also three supervisors in attendance and the Zoning Hearing Board. It got to the point where they were called them communists. The Zoning Hearing Board shouldn't be called names. The Board agreed that name calling shouldn't happen.

Patty Ingles from the Time News commented her editor sent her a text and is asking the following questions that were sent to her via email, but doesn't know who they were from: Why is the Chief still employed? There was some type of problem she was told to address to Cindy Miller, if she remembered accusing Bob Gogel of wasting tax payer's money fighting a grievance and costing the Township money. Who is responsible for filing the grievance? Cindy Miller commented she doesn't understand the question and is not sure what is being asked.

- VIII. EXECUTIVE SESSION. The Board went into Executive Session to discuss personnel matters. Upon returning from the Executive Session, Cindy Miller made a motion to hire Neil Morris of Offit Kurman as special labor counsel. David Hess seconded the motion. All voted aye. Motion carried.
- IX. ADJOURN. David Hess made a motion to adjourn. Cindy Miller seconded the motion. All voted aye. Motion carried.