

LEHIGH TOWNSHIP BOARD OF SUPERVISORS

Minutes of the October 26, 2021, Meeting

- I. CALL TO ORDER. The Lehigh Township Board of Supervisors held their second monthly meeting on Tuesday, October 26, 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: Cindy Miller
Mike Jones
Keith Hantz
David Backenstoe
Alice Rehrig

II. APPROVAL OF THE MINUTES

- A. Minutes of October 12, 2021. Keith Hantz made a motion to approve these minutes. Mike Jones seconded the motion. All voted aye. Motion carried.

Keith Hantz requested the recording of the minutes be kept in the event they are needed to memorialize the meetings, depending upon how things go.

- B. Minutes of October 19, 2021. Mike Jones made a motion to approve these minutes. Keith Hantz requested the minutes be tabled as he hasn't had the opportunity to review them yet. There was no second to the motion.

III. APPROVAL OF BILLS

- A. General Fund Checks 25262 to 25288. Keith Hantz made a motion to approve these bills. Mike Jones seconded the motion. Keith Hantz questioned if anything was done with the checks that were not approved at the last meeting. Alice Rehrig commented they are still being held because not everything has been finalized with the intersection. All voted aye Motion carried.

- B. State Fund Checks 1543 and 1544. Keith Hantz made a motion to approve these bills. Mike Jones seconded the motion. All voted aye. Motion carried.

IV. PLANNING RELATED ITEMS

- A. Extension of Time to Record Plan

1. Turkey Hill Land Development. The deadline for the recording of this plan is November 10, 2021. Brian Gasda was present to represent this plan via telephone conference call. Brian Gasda reported they have obtained NPDES approval for this project but are in need of a modification to the permit in order to include some of the off-site right of

way areas. These areas were not previously included as part of the permit when it was originally obtained for this project. They are expecting this approval either at the end of the year or in January. Due to some tweaking of the plan by Turkey Hill, they needed to reevaluate and adjust some of the stormwater management on the plan and resubmit to the Lehigh Valley Planning Commission. This approval was received last month. The biggest hurdle they have had is with PennDOT and dealing with the right of way. They previously provided all the right of way related documents, but because of the amount of time that has lapsed, they need to resubmit the documents to PennDOT. Part of the issue is Route 248 was resurfaced a few months ago and as a result of this, they are required to submit new driveway profiles and demonstrate the grades will still tie in. They had to resurvey these areas and then have it reapproved. They are very close to an approval and hope to have it shortly. From the Township perspective, they believe they are in pretty good shape from a plan perspective. They just need to finalize the required agreements. Turkey Hill would like to get the plan recorded, but it is his understanding that cannot happen until all the outside agency approvals have been received which is why they need the extension. He is requesting a six to eight month extension for recording. Turkey Hill would like to start as soon as they can in April for the next construction season which is in six months so he thought eight months may be more appropriate.

Cindy Miller questioned if there is any way to push PennDOT. Brian Gasda commented he can try, but it is difficult to get questions answered. Most times they are requiring you to submit through the electronic submission system which pushes the answer out by another 30 days. Turkey Hill is also asking them to push this. He too would like to get this off his desk and the intersection wrapped up. They will continue to try to move this as much as what they can.

Attorney Backenstoe noted there is no prejudice to the Township. It is their application based on a conditional approval. It is the outside agencies that are holding them up. It is not like they are not doing their due diligence. The only other option the Board has besides granting an extension of time to record the plan is to revoke their conditional approval.

Keith Hantz made a motion to grant an extension of time until June 30, 2022. Mike Jones seconded the motion. Mike Jones questioned if June 30 is necessary if they want to start construction in April. Attorney Backenstoe commented giving them an extension until June 30 doesn't mean that they couldn't complete everything sooner. It just means they

don't need to come back to the Board before that date. Jerry Pritchard questioned why not give them six months; put the deadline back on them. If they need more time, they will come back. Why are we letting them dictate our time? Attorney Backenstoe commented they are not dictating our time; it is their time. Jerry Pritchard commented it sends a signal that we want to get this done. Paul Nikisher commented he believes they may push a little harder if they have a shorter deadline. The Board can always give them the additional time later. All voted aye. Motion carried.

V. OLD BUSINESS

- A. Cherryville Intersection. There was no specific update on the intersection other than Jim Milot is still push PennDOT to try to resolve this.
- B. 2022 Budget. Alice Rehrig provided the Board with a balanced budget for 2022. Since the memo she provided to the Board, she has received the quotes for Cinchona Road bridge and unemployment. The estimate that was received for Cinchona Road was \$128,500. Depending upon price fluctuations by spring, Mike Muffley assumed the pricing could range from a reduction of 10% to an increase of 15% which would equate to \$115,000 to \$147,000. The amount included in the budget is \$150,000. Any excess funding in the budget could be used towards road projects.

Even though the PSATS did not have an increase in their unemployment rates, the Township rate was reduced by over one percent which resulted in a budget savings of \$3,717. This additional savings was added to contingency.

Alice Rehrig provided everyone with a copy of a draft resolution for budget amendments. She wanted to be able to demonstrate to the Board that the areas of the budget where there were overages would be offset by other areas without utilizing unexpended capital. This resolution will be placed on the agenda for the next meeting.

Alice Rehrig also provided the Board with the September 30 financial statements for all the funds.

If the Board is in agreement, with the budget as presented, a motion can be made to authorize the advertisement of the budget for adoption.

Mike Jones made a motion to authorize the advertisement of the budget. Keith Hantz seconded the motion. All voted aye. Motion carried.

- C. Board Vacancy—Term Ending December 31, 2023. Keith Hantz made a motion to appoint Phil Gogel to the two year term expiring December 31, 2023. Mike Jones seconded the motion. Mike Jones commented after the meeting last week, Cindy Miller made the statement that this is going to high courts. What was meant by this? Cindy Miller commented if a decision cannot be made between the Board and the Vacancy Board Chair, it goes to the Commonwealth Court. That is the process. Keith Hantz commented after the Board of Supervisors, it goes to the Vacancy Board. Cindy Miller commented the Board has until October 28 to make a decision. If a decision is not made, it goes to the Vacancy Board and they have until November 11 to make the decision. If one is still not made, it would go to the Courts. David Hess commented he was glad that was cleared up because he received a call from Jerry Pritchard after the meeting and he basically said the same things. Jerry Pritchard commented that is the legal process for this. Keith Hantz questioned how Jerry Pritchard found out since he walked out of that meeting when he wasn't appointed to the two month term. Jerry Pritchard commented it is the system; that's how it works. Keith Hantz commented if you listen to what the Chairman said at the meeting, they weren't supposed to be discussing it with other candidates outside the meeting. Cindy Miller noted no one was discussing it. Jerry Pritchard commented he knew how this worked before coming to the meeting. If you do your homework, you would know how it works. Keith Hantz and Mike Jones voted aye. Cindy Miller was opposed as she stated before. She feels it would be circumventing the wish of the voters.

Cindy Miller wanted to thank Adam Raker for submitting his name for consideration; however, he did submit a letter withdrawing his name. In his letter, he did state his support for Bill Jones to fill the position. Cindy Miller then made a motion to appoint Bill Jones to fill the two year term. There was no second to the motion.

Mike Jones commented Cindy Miller chastised David Hess because he was related to the candidate that he and Keith Hantz nominated, but now she is nominating her relation. Cindy Miller commented the relation is Mr. Jones is her husband's step brother. He is not a blood relative. She was looking at the credentials of who applied. He has the planning experience, development experience, he's been involved, ran for office; he has it all.

Jerry Pritchard commented we are a democracy that votes for the people, but we don't seem to care about that.

The Board agreed to meet on Wednesday, November 3 at 7:00 p.m.

VI. NEW BUSINESS

- A. Board Vacancy--Term Ending December 31, 2021. After reading the minutes, Mike Jones questioned if the Board wants to fill the position. He thought it was agreed they wouldn't fill the position. Cindy Miller commented she had said in the last meeting we are supposed to fill it, but by the time we go through the whole process, we could run out of time. To her, we have two people who ran for election. Why would we not consider giving one of those people a head start and put them on the Board now? To her this is logical and makes sense. Mike Jones commented you wanted one person and last meeting he got mad and left because he didn't get what he wanted. Jerry Pritchard commented he didn't want to be a part of Phil Gogel's carnival. He was not appointed to the Board, so he left and went home.

Cindy Miller questioned what harm there is in putting one of the two people from the election on the Board. There is nothing major on our agenda other than the vacancies. We are basically done for the year. Mike Jones commented the budget still needs to be adopted. Cindy Miller noted the budget has been authorized for advertisement and all the Board needs to do is come in and vote on it.

Paul Nikisher questioned if the public understands what Cindy Miller is trying to say here. She would like to fill the position with one of two people who will be sitting here starting in January. Cindy Miller commented why not give them a head start to start looking at the budget and reviewing things and getting ready so they are prepared for coming in January. Paul Nikisher commented another question would be why wouldn't you want to do this?

Cindy Miller made a motion to appoint Jerry Pritchard to fill the two month term. She knows the rest of the Board will not agree and wants to know why. Mike Jones commented he just said why—he stormed out of the meeting. Cindy Miller commented that is not a reason, it's an excuse. You two are conspiring—why do you not want to put someone on the Board. Keith Hantz commented as far as he is concerned, we can let this vacant. We've been working with four supervisors all year. Cindy Miller commented based on that, why appoint someone to the two year term; we're working with three members. Keith Hantz commented that is two years, not two months. You just said the only thing we are working on is the budget. Three or four Board members can pass that. Cindy Miller commented right now we need a unanimous vote. She doesn't see an issue with getting the budget passed with three members or four. The fourth person wouldn't even know what is in the budget. Keith Hantz commented depending upon the individual, they would know. Cindy Miller commented they wouldn't understand

how the line items in the budget were developed. Why not give the new people a head start? Keith Hantz commented you just got done saying they won't understand what is going on so why should we make them vote on something they don't understand. Cindy Miller commented maybe they wouldn't vote. Jerry Pritchard commented he understands numbers. Mike Jones commented on the 12th, we all agreed why fill it with three meetings to go. Kristin Soldridge commented just because Jerry Pritchard got up and stormed out, it shouldn't be held against him. Everyone gets hot headed at times and walks out of a meeting when they don't understand or agree with what is going on. Why wouldn't you put someone who was voted on, in the seat so they can get their feet wet and then be prepared and then pick up as a functional Board going forward. Keith Hantz commented it was just said that the only thing the Board has left to discuss going forward is the budget. Kristin Soldridge commented it doesn't matter if there is a big thing or not. What happens if something does come up? What are you going to do then? You don't know what the future is. If something does come up and everyone does not agree, you are in the same position you are now. It just makes sense to fill the remaining two months of the term with someone the residents voted in in the primary, which is who they wanted. Whether you agree with the Township residents or not, they picked and one of the two candidates should be the one to fill the position. Keith Hantz commented he would respectfully disagree. Jerry Pritchard commented you are respectfully disagreeing with the voter. Keith Hantz commented he is not disagreeing with the voters. They voted and Jerry Pritchard will be coming into office in January. Kristin Soldridge questioned what the opinion would be if David Hess were nominated by Cindy Miller. Mike Jones commented he wouldn't agree because then that would create a vacancy on the Vacancy Board. Kristin Soldridge commented maybe things should be switched. Maybe there is a conflict of interest at this point. Keith Hantz commented it doesn't matter if it is Jerry Pritchard or David Hess. For the two months, we don't need the fifth Supervisor. There was no second to the motion.

Kaz Kotlow, Woodland Drive, commented it is interesting to him that previously the only concern on this issue was that it was not on the agenda; not that you were opposed to filling that position. Now you are saying filling the position has no merit. To him, it seems like you are using the last time as an excuse because it was a procedural issue. It doesn't make any logical sense if you have a position open. Giving someone the access to the information they need to make the decisions is a good governor for everyone. What is the harm to the Township? You can argue there is minimal gain, but what is the harm? Keith Hantz commented there is no harm either way, but why put someone on if the only thing we need to do is vote on the budget. Why put someone in a position to vote on something they don't understand. Last meeting, this item was not on the agenda

and this Board has always stayed by if it is not on the agenda, there is no discussion. He wasn't going to give his opinion last meeting because it was not on the agenda to even discuss. Tonight it is on the agenda and his opinion is that it is not needed. Kaz Kotlow commented it is curious that at every turn your opinion is oddly to overturn the elections or get in the way of the election. Keith Hantz commented the first Monday of January, David Hess and Jerry Pritchard will be sitting on the Board as a Supervisor as long as they are sworn in. That is how the voters of Lehigh Township voted. Kaz Kotlow also noted that if it goes your way, Phil Gogel will be in as well and the voters did not pick him to come back in during the election. That may be a bad decision and we may all hate ourselves six months from now, but it is clear what this process will be used for if we get that outcome. It will look very much like a desire to avoid the outcome of an election and the voters do not really matter. Keith Hantz commented the two individuals who were voted in are going to be on the Board. No one thought Mike McGonigle would pass away. Everyone thought he would still be sitting on this Board come January. The two people whom the residents voted for will be here in January. Kaz Kotlow commented as an incumbent, Mr. Gogel was not chosen to be one of those two people. That is a statement from the electorate. Keith Hantz commented he was the third highest vote. Kaz Kotlow commented that doesn't matter. Keith Hantz commented it does because we have to fill Mike McGonigle's spot. Kaz Kotlow commented you can turn the logic however you want, but he believes most voters are going to ask themselves, Did you vote for him? I didn't vote for him. The voters said they wanted to go in a different direction, but now, if it comes down this way, the Board is going to do whatever they want to do because it's what the Board wants to do, not what the voters want to do. Clearly, they wanted a new direction and bringing someone back onto the Board is not a new direction and the message will be that you don't really care about the outcome of the elections. Keith Hantz commented he never made that statement. Anyone can call him to talk about it. Kaz Kotlow commented the actions speak louder than the **words**.

Barry Haydt commented if someone is going to be appointed for two months, he would think you need to advertise it. Cindy Miller commented by law, it does not need to be advertised and to advertise it to fill a position for two months is a waste of taxpayer money. Barry Haydt questioned why the Board advertised to fill the vacancy of Mike McGonigle. Cindy Miller commented the vacancy is for two years. She requested it be advertised to give people in the community the opportunity to apply. They didn't have to. They could have just appointed someone, but she looks at the voters and the community. She represents the community. That's what everyone needs to remember. They are here to represent the community. She is not here to represent herself; she does not have a

personal agenda here. Barry Haydt questioned if there is a law or practice that requires it be advertised. Cindy Miller commented there is no law which requires the vacancy be advertised. It was just something she thought should be done as a courtesy to the community for anyone who would want to apply for it. Attorney Backenstoe confirmed that according to the law, you do not need to advertise. It generally has been the practice of the Board, but it is certainly not a legal requirement.

Katherine Mack commented she has a scenario about the three candidates. If the election were reversed, and Jerry Prichard and Phil Gogel won, would you be appointing Mr. Hess to fill the two year vacancy. Mike Jones commented he would because he came in third place. Keith Hantz commented he would also be willing to appoint him. He gives credit to anyone who wants to run for a position in the Township. Katherine Mack commented if the situation were reversed again and Mr. Hess and Mr. Gogel won, you would be appointing Mr. Pritchard. Keith Hantz commented he would if he was the third vote getter. Mike Jones commented he would still feel the same way regardless of how you flipped it around. Cindy Miller commented you can't look at it that way. There were two seats. That is who the voters chose. Anything after the two seats is a total assumption as to how the voters feel about the election. Keith Hantz commented he would disagree with Cindy Miller and agree with Mike Jones that this would be what the voters wanted. If there would have been three openings, that would have been the third person. Cindy Miller commented there were two, not three. If there would have been three, you may have had ten people run for office. You just don't know.

Kaz Kotlow commented flipping the names around does not come out the same. Phil Gogel was an incumbent so he is a known quantity to the voters. By him not specifically being reelected, it is a very different message than someone from the community campaigning and you are not sure if that person will do the job or not. It is more of a judgement on where they think the Board is going and that they felt it needed to go in a new direction. This open third position is not vote for your top three; it was vote for who you want to be in office. It is in the vein that you should make your choices to fill the open seat now that there is a choice.

Mike Jones questioned what he should be telling the people who have talked to him who did vote for Phil Gogel. Should it be "Too bad for you?" Kaz Kotlow commented if Phil Gogel wants to run for election again, they could vote for him then. Mike Jones commented you are basically saying these residents opinion doesn't count. Kristin Soldridge commented it is not that those people didn't matter, it just that their candidate didn't get the most votes. You're not supposed to be doing a personal agenda for residents. If five residents want Phil Gogel and

ten residents wanted David Hess and ten residents wanted Jerry Pritchard, are you going to just be favoring those five residents versus the rest of the Township. Kaz Kotlow commented the very clear indication is that there was an election and the voters chose who they wanted to represent them in the future and then the Board is going to turn around and say, well no, we are going to add someone who is specifically not chosen by the voters. Keith Hantz commented it is not like that at all. We are in the need of a third supervisor because of a death. It is not like they created a position that was never here. Kaz Kotlow commented it is abusing the process. He personally is hoping there is a new County Executive who cares about election integrity and the will of the voters and will look into the malfeasance that is going on here.

Kaz Kotlow questioned if there is anything that automatically excludes a Supervisor from voting on something or issues where they have a financial interest or a potential for a financial interest. Cindy Miller commented there is. It is definitely an ethics violation.

Jerry Pritchard commented he bet the last two incumbents, Darryl Snover and Phil Gogel. You can do what you want; he is still going on the Board. If you believe in the democratic process, then let's let it happen. Lets not circumvent it. We are circumventing. For what? He just bet two incumbents. How did he do that? People want change; change for good. If he brings bad, throw him out in six years. Keith Hantz noted that Mike McGonigle bet Jerry Pritchard after Jerry Pritchard beat Darryl Snover. Come November 2, he will go to the poles and we will see. Do a write in or whatever you want, he is not understanding this process. It is like the voters don't count. There are 20 or 30 people in this room, but there are 10,000 voters. Go get them; see what they do.

Kristin Soldridge commented there are nine Northampton County voting machines that are in the process of being decertified because the machines are not accurate. Judge Brobson recently agreed and approved a ruling to move forward with investigation into voter integrity to the Northampton County machines along with the machines down in Philadelphia County. She is throwing that out there because there is a possibility that votes could have been switched and if votes were switched, it could have potentially changed the outcome of prior elections. Not that it will have any impact on anything going forward, but there is that possibility.

Randy Braun commented he believes the Board should have five members and they should do everything they can to get at least another Board member on the Board. Right now, you are at the bare minimum, which is three. If one member gets sick and you are down to two, you can't vote on anything. The budget could

come up next meeting, and it would not pass. Kristin Soldridge commented that was her point earlier. You don't know what the future may bring. It would be wise to appoint someone to keep the Township functioning and working. It makes sense to appoint someone who will be coming onto the Board in January. Phil Gogel could have stayed on the Board to complete his term if he didn't resign to get appointed to Mike McGonigle's position. At this point in time, for the Board to remain functional, someone should be appointed to fill that two month position. Whether they know what's going on or not, that is the chance you take. If it goes to Northampton County Court and the Court approves someone, depending on who it is, that person may not have any idea as to what is going on. Then you are stuck back in the same spot of having to do the same things all over again. At least if you appoint someone for two months, the Township can get on with what they need to get done.

Kim McGonigle questioned if the Board would have to appoint Jerry Pritchard or David Hess. Could she put her name in? Cindy Miller commented anyone can apply. It's up to the Board if they want to open it up. To be honest, it is nice that you want to volunteer. The fact of the matter is there are two people sitting here who are waiting to come onto the Board. Why would we not put one of those two people on the Board now. Phil Gogel commented she is an American Citizen and a Township resident; she should be able to put her name in. She should have the right to submit her name like what was just stated. Cindy Miller commented it would be up to the Board if they want to take applicants. The Board can just appoint someone. The Board is not required to advertise or take applicants. Even for the two year position, the Board could have just said, who do we want here? Instead, they opened it up to give people the opportunity to apply for the two year because it is a longer term. It doesn't make sense for two months, but the Board can do what they want. Phil Gogel questioned if you are now saying you don't want anyone there. Cindy Miller commented she is not saying anything. The other two members said they don't want anyone. She doesn't have a problem. Mike Jones commented it is in the minutes that you didn't want anyone. Phil Gogel commented he can see what you are trying to do. Cindy Miller commented she is not trying to do anything. She just wants to get appointments done for this community so that we can move forward as a functional Board. That is her goal. We have been dysfunctional for a year to two years whether people want to admit it or not. We have been dysfunctional in that we have had to cancel meetings; have not had quorums; people playing games and not coming to meetings because they didn't want to vote on things. It's been ridiculous. All she is asking is for this community to have a full Board that is functional and people on it who want

to work on it, not for a personal agenda, but to get things done for this community. That is what the voters look for and why we are here as representatives.

Kim McGonigle commented what Mike Jones said is making Cindy Miller look wishy washy. He said it is in the minutes from two weeks ago that you weren't going to fill it and now tonight you are preaching that you want to fill it. Cindy Miller commented she did try to fill it a week ago. Kim McGonigle commented but two weeks ago, you said you didn't want to. Cindy Miller commented last week she made a motion to fill it and was told she couldn't because it wasn't on the agenda. So, she said fine, she accepts that. If the minutes say she didn't want to fill it, she can change her mind. She is just trying to fill a position.

This matter was tabled.

Jerry Pritchard requested his name be pulled from consideration of the two month term. He doesn't want to be a part of this carnival and be labeled to him in the public. He wants nothing to do with this.

- B. Manager's Report. Alice Rehrig reported she will have a request for a waiver of the well and septic isolation distance at an upcoming meeting. She has received the information from Chris Noll, but this particular request will be slightly different because it will be effecting a neighboring well in addition to the property owner's well. Once they receive a letter from the neighbor indicating they understand the septic system will be closer than 100 feet to their well and they have no objection to it, the request will be placed on the agenda.

Keith Hantz questioned if the new Public Works employee has started. Alice Rehrig commented he will be starting on Monday, November 1.

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

- VII. PUBLIC COMMENT. Kristen Soldridge questioned if it rains on Friday, will Trick or Treat be rescheduled for another night. Cindy Miller commented it is rain or shine. **The Manager stated Trick or Treat has always been rain or shine.**

Paul Nikisher questioned the status of the Maintenance Building. Cindy Miller commented the bids came in over budget so it was tabled. Mike Jones commented it is like Adam Raker previously stated, the bid packages are complete so all that needs to be changed is the date to rebid it in the future.

Supervisor Minutes
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Katherine Mack commented on the scenario that was offered to the Board earlier and it was stated that if the situation was reversed, you would still appoint the third candidate. Why would you open it up to the public and say come forward and let us know why you want to be on the Board for two years. It seems to her, that you already had it sewn up as to whomever that third person was. Keith Hantz commented that is not the case. If the names were switch around, you don't know if the other individuals would have put their names in for consideration. Katherine Mack commented it just seems to be a slap in the face to everyone else who applied.

- VIII. ADJOURN. Mike Jones made a motion to adjourn. Keith Hantz seconded the motion. All voted aye. Motion carried.