

LEHIGH TOWNSHIP BOARD OF SUPERVISORS

Minutes of the September 28, 2021, Meeting

- I. CALL TO ORDER. The Lehigh Township Board of Supervisors held their regular monthly meeting on Tuesday, September 28, 2021, at 6:00 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
Cindy Miller
Mike Jones
David Backenstoe
Alice Rehrig

Absent: Keith Hantz

Prior to the start of the meeting, Cindy Miller offered a prayer in memory of Supervisor Michael McGonigle who passed away on Monday, September 27, 2021.

- II. 2022 BUDGET. The Board discussed the proposals that were received for the rewriting of the Zoning Ordinance and SALDO. Attorney Corriere's estimated costs will be \$7,500. The estimate that was received from Urban Research and Development was \$22,600 and the estimate from Hanover Engineering was \$5,900 which includes 3 meetings and 40 hours of time. It was also noted that Michael Corriere will need to review the ordinances regardless of which party will be drafting them.

Alice Rehrig provided the Board with a chart outlining the 2021 budgeted capital purchases showing which ones were purchased, which ones will be included in the 2022 budget and which ones are being eliminated. The chart also showed the 2022 planned capital items.

The tasers and police car which are part of the Grow NorCo Grant application are included in the budget under the assumption that the grant was not successful. Once it is determined what if any grant award is received, the budget will be adjusted since the award should be taking place in October.

There was a general discussion regarding whether the microphones and monitors should remain as part of the budget or should they be delayed and included in a grant which would redesign the layout of the meeting room from a security basis. The IT company and a security company did a walk-through of the building, but the estimates or recommendations have not yet been received. Another option instead of monitors may be a projector mounted in the ceiling that projects onto a large screen. Cindy Miller noted the security of the complex needs to be improved.

The 2022 Liquid Fuels estimated amount is similar the 2021 estimate amount. The 2022 estimated amount is \$160 more than the 2021 estimate that was received last year at this time. The actual amount that was received from the State was \$440,790 which is \$6,000 higher than the estimate. If we receive the same amount as our estimate, it will be a reduction of 1.3%. The draft budget that was presented to the Board is basically mimicking the 2021 budget. Phil Gogel questioned if the last portion of the roads in the Hills of Greenock is included in the estimated amount. Alice Rehrig commented the road cannot be added to Liquid Fuels until after it is complete. She is not sure if we will be able to add it in time to receive funding for it in 2022.

Cindy Miller commented the funding for the ordinance review could be dropped from \$22,600 to \$12,000 if we use our engineer and solicitor rather than a consultant. Phil Gogel commented another possibility would be to use an intern to help reduce the expenses.

There was \$5,000 included as a contribution to Northampton Regional EMS.

The magnetic locks for the bathrooms at the park were put on hold. In order for them to work properly, there should be internet and wi-fi. The replacement of the batting cage net was included as a general fund expense rather than taking the money out of the Recreation Land Fees. This was done since there is additional revenue being generated for the general fund by the renting of the field. The field rentals over the past two years will pay for the net.

- II. EXECUTIVE SESSION. The Board went into Executive Session to discuss the candidates that were interviewed for the open position on the Road Crew. No action was taken at this time since this item is listed later on the agenda.
- III. APPROVAL OF THE MINUTES
 - A. Minutes of September 14, 2021. Mike Jones made a motion to approve these minutes. Phil Gogel seconded the motion. All voted aye. Motion carried.
- IV. APPROVAL OF BILLS
 - A. General Fund Checks 25182 to 25212. Mike Jones made a motion to approve these bills. Phil Gogel seconded the motion. All voted aye. Motion carried.
 - B. State Fund Check 1540. Mike Jones made a motion to approve these bills. Phil Gogel seconded the motion. All voted aye. Motion carried.

V. PLANNING RELATED ITEMS

A. Extension of Time

1. Michael & Martina Obenski w/ Car Doc. Larry Turoscy was present to represent this plan. Originally, the applicant granted the Board an extension of time until January 31, 2022, and this extension was subsequently approved by the Planning Commission. After further review of this extension, Larry Turoscy would be willing to grant an extension of time until February 28, 2022, because they end up losing close to a month of time during November and December because of the holidays.

Mike Jones made a motion to accept the extension of time until February 28, 2022. Phil Gogel seconded the motion. All voted aye. Motion carried.

VII OLD BUSINESS

- A. Cherryville Intersection. The striping was completed during the week of September 20, and Jim Milot was supposed to be conducting his final inspection either September 27 or September 28. A written report has not yet been received. We should be expecting to release the final payment at our next meeting.

B. Maintenance Building

1. Awarding of Bids. The bids for the maintenance building were received last Wednesday and are before the Board for review and consideration for approval. The total of the bids for the project was \$4,129,979. The architect reviewed all the bids and found them to be acceptable. The project total is between \$1.2 and \$1.5 million higher than what was budgeted.

Adam Raker commented the bids will not be the total of the project. There are still going to be some additional expenses for permitting and change orders. The actual cost will probably be closer to \$4.5 million. Adam Raker also noted things are very crazy in the market right now, driving the prices up. It's hard to say when or if they will come back down. Mike Jones commented all the work for the design and bidding has been done. The Board can revisit this in the spring and see how the market it as that time.

Mike Jones made a motion to reject all bids due to budgetary constraint. Phil Gogel seconded the motion. All voted aye. Motion carried.

VIII. NEW BUSINESS

- A. Jody & Megan Snyder—Request for Waivers of Sections 138-15.B(14)(b) and 138-15.B(14)(c). Mr. and Mrs. Snyder have a very long driveway which is requiring them to do stormwater management. In order for them to meet the requirements of these sections, it would be very costly and there would be a significant amount of earth disturbance. Based on the minimal amount of flows that are expected in the swales, the Township Engineer is recommending the waivers, as indicated in his letter of September 16, 2021. This was reviewed and discussed by the Township Engineer at the previous meeting; however, action could not be taken on this because it was not on the agenda.

Phil Gogel made a motion to grant the requested waivers of Sections 138-15.B(14)(b) and 138-15.B(14)(c) as outlined in Hanover Engineering's letter dated September 16, 2021. Mike Jones seconded the motion. All voted aye. Motion carried.

- B. 2022 MMOs. In accordance with Act 205, the Minimum Pension Obligations must be presented to the Board by September 30. The pension obligations are based on the current year payroll. The required contribution to the Police Pension fund will be \$313,367 and the Non-Uniformed Pension contribution is \$49,322. Both of these amounts have been included in the 2022 draft budget. Phil Gogel made a motion to accept the 2022 MMOs as presented. Mike Jones seconded the motion. All voted aye. Motion carried.
- C. Hiring of Public Works Employee. Phil Gogel made a motion to hire the successful candidate pending the successful completion of a physical and drug and alcohol testing. Mike Jones seconded the motion. All voted aye. Motion carried.
- D. Manager's Report. The first MS4 inspection was conducted by DEP on Thursday. DEP did not find any violations, although they did make some recommendations for additional documentation. Pam Kemescy from Hanover Engineering was a great help with the success of the inspection.

Cindy Miller questioned if we have heard anything from Turkey Hill as to what their plans are. Alice Rehrig commented she has not heard anything directly from Turkey Hill, but every now and then she is seeing an email regarding them working on their different outside agenda approvals. Cindy Miller questioned if they are aware their plan expires on November 10. Alice Rehrig commented she will be notifying them regarding the expiration if they are not aware of it. The plan was approved by the Board, but they need to meet the conditions of approval.

The Board would need to either grant them an extension of time to get their plan recorded or the Board could take action to consider their plan null and void, then they would need to resubmit and go through the planning process again.

- E. Solicitor's Report. Attorney Backenstoe reported he received a call from Liz Amato regarding an individual who wants to move into the Township and erect a carrier pigeon shed and have carrier pigeons on their property. They provided her with a Statute that indicated the Township must issue a permit for someone who wants to have carrier pigeons, whether you comply with Zoning or not. Since he was not familiar with this, he did some research and found there is a 1965 Statute called the Sport of Racing and Carrier Pigeon Statute and it does direct all municipalities, except for first class cities, to allow carrier and racing pigeons anywhere in the municipality. However, looking further, the statute was amended in 1967 and a sentence was added that stated you have to issue the permit as long as they comply with all the zoning and building codes. This case was tested in 2000, where someone said no, you have to issue a permit for carrier pigeons no matter what, and the courts said it was amended in 1967 and a permit doesn't have to be issued because it is not a permitted use in that zoning district.

In addition, he also received a call from Alice Rehrig regarding a right to know request that was received for police body cam footage. Under the Right to Know Law, there is a specific exemption for police body cam footage if it was footage taken and used in the commission of a crime or something that could be a crime. In addition to the research on the right to know law, he found Act 22 of 2017 which is a very specific statute that was enacted that deals with body cam footage for police. This Act deals only with body cam footage and that Statute literally says that you no longer can ask for body cam footage under the Right to Know Law. It is taken out of the Right to Know Law and put into this statute. It makes it more difficult for someone who wants body cam footage. They must ask for it in a certain amount of time, identify certain things, and the Chief has to review the footage for certain things. If the Chief finds the footage is part of an investigation or depicts a criminal activity or he feels it cannot be redacted such that minors or other innocent parties' identities, victims could be disclosed, you would need to prepare an affidavit indicating these items. The Chief went through the footage and found it was part of an investigation, it did constitute commission of a crime, and it also took place in a hospital where notes and medical record screens could be seen. Minors were also involved in the body cam footage. Based on this information, he prepared an affidavit and the request was denied. The party then appealed the denial under the Right to Know Law and the Statute. Appeals to the Right to Know Law are quite common because they can easily be done from someone's home. Appeal to Act 22 must be done through the Court of Common Pleas. He believes the Office of Open records will uphold the denial

based on their prior rulings and direct that it needs to be appealed under Act 22. The Chief did a nice job in documenting what the footage depicted and feels the Township will be successful with the appeal that was filed.

- IX. PUBLIC COMMENT. Leo Livengood noted the flag is tattered and should be replaced and the flag properly disposed of. Sandy Hopkins noted the Boy Scouts have a bin at the Country Harvest in Palmerton to deposit flags for proper disposal.

Katherine Mack questioned how much time Mr. Lorah will be given to file the appeals that were discussed at the last meeting. She understands that Lorah Farms are generational farmers of the Township. She also realized that no cease and desist was issued in hopes of him coming forward with the appeal on a voluntary basis, but at what point will there be a conclusion to this matter. Attorney Backenstoe commented he believes everyone felt comfortable with the resolution of this going to either a conditional use hearing which he believes is the most appropriate or a special exception hearing for the expansion of a non-conforming use which he feels is the weaker avenue for relief. He believes the Board just assumed he would take this information and move forward with it. If the Board doesn't hear from them, the Zoning Officer could send a letter indicating the Board felt comfortable with them making a presentation under a conditional use. When do you plan on filing the appeal? If at some point, this isn't done, a cease and desist will need to be done even though no one really wants to do that. Cindy Miller commented she believes they may be finished with their events for the year. Kristen Soldridge commented she believes there is one more event, but with the weather getting cooler and the amount of rain we have been getting, they may not be able to hold that event. Katherine Mack commented a time frame really needs to be set because at some point, they are going to need to plan for next year and she would think he would be having an event in the spring. It wouldn't look good for the Township, Mr. Lorah, or the community if a cease and desist would need to be issued. The Board asked the Zoning Officer to reach out to Mr. Lorah.

- X. ADJOURN. Mike Jones made a motion to adjourn. Phil Gogel seconded the motion. All voted aye. Motion carried.