

LEHIGH TOWNSHIP BOARD OF SUPERVISORS

May 28, 2024

7:00 p.m.

- I. CALL TO ORDER. The Lehigh Township Board of Supervisors held their second monthly meeting on May 28, 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
Jerry Pritchard
Mike Jones
Attorney David Backenstoe
Alice Rehrig

II. APPROVAL OF THE MINUTES

- A. Minutes of May 14, 2024. David Hess made a motion to approve these minutes. Janet Sheets seconded the motion. All voted aye. Motion carried.

III. APPROVAL OF BILLS.

- A. General Fund Checks 27779 to 27813. Cindy Miller made a motion to approve these bills. David Hess seconded the motion. Cindy Miller questioned if the check to Overhead Door was a duplicate because she remembered paying them last meeting. Alice Rehrig commented this was a second bill for a different door. All voted aye. Motion carried.
- B. State Fund Checks 1596. David Hess made a motion to approve this bill. Janet Sheats seconded the motion. All voted aye. Motion carried.

IV. PLANNING RELATED ITEMS

A. Waiver Request

1. John and Dennis Moyer Lot Consolidation Plan. Dennis Moyer was present to represent his request for waiver of SALDO Section 147-28, Open Space, Recreation Areas, and Community Facilities. Mr. Moyer felt his land development plan should be exempt from recreation fees because he is not proposing any dwelling units and no additional employees are being hired. The ordinance also states that an existing dwelling or commercial structure is exempt from the fees. His existing lot has a commercial structure. Boundary adjustment plans are also exempt from the fee. In his opinion, his plan meets all four of these criteria.

Cindy Miller commented the Township Engineer's opinion is that the plan is both a lot consolidation plan and land development plan for a new non-residential structure. His interpretation is that the recreation fee should be based upon the development area for the new structure.

David Hess commented that at the same time, Mr. Moyer is meeting the exemptions. Cindy Miller commented the engineer would have taken the exemptions into consideration and is disagreeing that he should be exempt from the fees. Jerry Pritchard commented the engineer is stating that the fees should be paid on the development area of the new structure. Janet Sheats commented she understands there are exemptions, but the development area would supersede the exemptions. Cindy Miller commented the Township needs to follow the recommendation of the Township engineer.

Cindy Miller made a motion that the waiver request for the open space recreation fee be denied based upon the recommendation of the Township Engineer. Jerry Pritchard seconded the motion. Jerry Pritchard commented if the Board starts allowing new structures without recreation fees, anyone can come in and have their fee waived. Janet Sheats commented she believes there is an issue in the wording of the ordinance that is making things unclear and not fitting to the situation. David Hess commented he disagrees with the opinion of the engineer. Cindy Miller commented the fees apply to subdivision and land development which is what is happening here, there is a land development plan and a lot consolidation plan. Alice Rehrig commented the whole site is two and a half acres. The recreation fee is only being assessed against the new structure that is being proposed on half of the two acre lot in the rear. The past exemptions that were granted by the Board were done in cases where someone had a larger lot and cut a lot off to sell. The existing lot and house were exempt from fees and the newly created lot was assessed the fee. In this case, we are exempting the existing structure and assessing the new area that will be developed. Mike Jones commented he would be willing to defer the fee until such time as the building is being built, but it is his understanding that he wants to start building right away. Cindy Miller commented she would be willing to change her motion to the recreation fee will only be required to be paid for the area that is being developed for the new structure. Janet Sheats seconded the motion. Jerry Pritchard questioned what the actual fee would be. Attorney Backenstoe commented the fee would be calculated at the time when the permit is applied for based on the area that is being developed for the structure. Cindy Miller, Janet Sheats, Jerry Pritchard, and Mike Jones voted aye. David Hess was opposed. Motion carried.

B. Letter of Withdrawal.

1. Turkey Hill Land Development Plan. Cindy Miller made a motion to accept the letter of withdrawal from Turkey Hill. David Hess seconded the motion. Mike Jones noted that even though the plan is being withdrawn, it doesn't mean that they will not be building. According to the letter that was received from their attorney, they are planning on submitting a new plan without the branded partners. Jerry Pritchard commented he believes this is a stall tactic. When the money is not flowing, you shrink down. All voted aye. Motion carried.

V. OLD BUSINESS

- A. Maintenance Building. Alice Rehrig commented there was nothing specific that needed to be addressed with the building. The remaining electrical work is being scheduled based on the change orders that were approved at the last meeting. It is getting down to the point where only the retainage is remaining for some contractors.

Cindy Miller questioned if the costs listed in Alice Rehrig's report is current including everything that was approved. Alice Rehrig commented it is current as far as what was approved for payment. The change orders would not be included unless the work was not completed.

Cindy Miller questioned if we were within budget for the project. Alice Rehrig commented there was \$100,000 included as a contingency for the project. Our change orders to date were just under \$50,000.

Jerry Pritchard questioned if there is a final date for completion. Alice Rehrig commented the HVAC just completed the balancing of the system at the end of last week so they are getting ready to do the final engineering inspection. Jerry Pritchard questioned if all the parts are on site. Alice Rehrig commented it is her understanding that they are only waiting on the transfer switch for the fire suppression system and the generator.

David Hess questioned when the final paving will take place. Alice Rehrig commented she doesn't have a date. She knows they are waiting for the heat tape to be installed. Everything ended up on hold because they needed to wait for PPL to install the pole. Then they needed to wait for the change orders to be approved. She would expect that after the next two weeks, the only remaining items will be punch list items.

- B. Leasing of Delps Park Farm Field. Jerry Pritchard questioned why the farm field at Delps couldn't be leased. It would be easy money coming back to the Township. Why not put it out to bid? This was brought to the Rec Board a while ago by David Hess.

Attorney Backenstoe commented the Board can and should rent the field. What the Board shouldn't do is not allow someone to just use the property. There was some discussion about allowing the current person to use the field, and he has suggested at the very least you would need an appraisal. You can put the field to bid without an appraisal. You would have the right to accept or reject any or all bids. What Moore Township does with the four or five farms they lease, is they put it to bid with a one year lease with two one year options to renew, which essentially creates a three year lease. Each lease is created based upon any unique features of each site. It is not an overly complicated process. They are going to farm it, they have a period of time to do that, provide insurance naming the township as additional insured, and there is a diagram of the area to be farmed.

Cindy Miller questioned if, when we start getting grants for the park and we need to walk the park, will we be able to walk the fields where the farmer has planted. She wants to be assured the Township will have the right to access the area when they need to in order to develop the park. Janet Sheats commented it would need to be included in the lease.

Attorney Backenstoe commented one of the leases in Moore Township is structured that the lease runs from April 1 through March 31 and the payment is due in October. The obligations of the farmer are to be safe, maintain it, use proper farming methods, indemnify the Township, and bankruptcy issues. If the lease is violated, they are responsible for paying the legal fees.

Janet Sheats questioned what the acreage is for the area being farmed. Alice Rehrig commented it is 20 acres. Mike Jones commented the 20 acres at \$165 acres is about \$3,500. David Hess commented he knows Jerry Pritchard put this on the agenda because when they worked the stand, there was no income generated from the stand.

Cindy Miller questioned if the lease states the two renewals are an option, can the Township decide they don't want to lease it for that year. Attorney Backenstoe commented the Township would have the right to not accept the extension of the lease. Cindy Miller commented her concern it that when the Township is ready to start implementing their recreation plan, she doesn't want to have the property tied up and not have access to the property. Jerry Pritchard commented that he doesn't believe anyone will be denied access; it is a Township Park. Mike Jones commented if you go and stomp around their crops, they will not be happy. Janet Sheats commented you need to be respectful when you are out there. David Hess commented there was discussion at the Rec Board about something and the question came up regarding how much the farmer pays for farming the field and it was stated, nothing. He thought it would be good to get revenue from leasing the farm. If we are ready to start developing the park, we stop leasing the park.

Cindy Miller commented we also need to be careful as to what type of fertilizers are used on the field. Certain fertilizers require the field to be left idle for a certain period of time. If we are ready, we want to be able to move dirt immediately when the lease expires. If we are ready to implement a plan, she doesn't want to hear we can't because of the field being farmed.

Janet Sheats commented her concern without having a lease is liability. Cindy Miller commented she is also concerned about damage that can be done with them driving in and out. David Hess noted they have been going in and out for the last 20 years without an issue.

Jerry Pritchard made a motion to put the farm field at Delps park out to bid and authorize Attorney Backenstoe to develop a lease appropriate for that property. Janet Sheats seconded the motion. Jerry Pritchard questioned if David Hess's brother was planning on bidding on the property; if so, David Hess couldn't vote on it. David Hess commented he doesn't know if his brother will bid on it or not. His only concern is making money for Recreation. Mike Jones commented the lease would go to the highest bidder. Jerry Pritchard, Janet Sheats, David Hess, and Mike Jones voted aye. Cindy Miller was opposed. She doesn't feel that this has been thought through enough. Attorney Backenstoe questioned if the Board wants just a one year lease or one with options. Janet Sheats commented she likes the optional renewals. Otherwise, it is not fair to the farmer. Jerry Pritchard questioned if it could be written in the least that either all the land or a portion of the land can be taken back at any time with notice. Attorney Backenstoe commented it can be; however, if there is a lease and the farmer expended money for seed, the Township would need to reimburse the farmer. If it a potion of the land, the lease would be readjusted to a lower acreage.

VI. NEW BUSINESS

A. American Legion—Hometown Heros Banners. The Legion is looking into putting up Hometown Hero banners throughout the Township for service members who have served from our Township. Mike Jones believes they are looking to have our road crew install the banners on the poles.

Sandy Hopkins questioned if it was known on which street they would start installing the banners. Mike Jones commented typically people try to pick a pole in front of or close to their house. There would be a form to complete and they would pick a first and second choice for the location.

Cindy Miller questioned if our public works employees would have to be driving all over the place to install the banners. Mike Jones commented he believes that there would be a cutoff date for the orders. Once they are received, then the installation

would be scheduled. Generally, orders for the banners are done once a year. Cindy Miller questioned if they would be working around our public works schedule. Mike Jones commented they would have to.

The Board was in favor of the project and will discuss it further with the Legion.

- B. House Bills 1976 and 2045 pertaining to Housing. The two bills are being considered in the House that will affect municipalities with a population of more than 5,000. One would require that you allow multiple family dwellings in commercial districts and the other would require that you allow twins, tri-plex, and quads in all areas where single family dwellings are permitted. These two bills would essentially take housing out of the control of our zoning.

Cindy Miller commented this was brought up at PSATS and it was highly recommended that everyone writes to their legislators. It is being done on a State level and being presented as being for low income housing, but that is not what is happening. This is being pushed by developers and contractors lobbying to the State. She wrote a letter to Representative Mako voicing her displeasure with the bill and telling him to vote no for the bill and leave zoning at the local level. (The letter is attached to these minutes). Residents are also encouraged to write to legislators as well.

PSATS has indicated that this is the number one issue that could be mandated on local government and if it passes, it will not be a good thing if they take local zoning away. Jerry Pritchard commented this is not welfare; it is probably developer lobbied. He also believes that there will be equal opportunity housing included within the law where a certain number of units may need to be specified as low income. He does not like the government overreach.

Cindy Miller commented she does believe if the bills pass through the House and Senate, it will be signed into law. If it passes, it will become another unfunded mandate because it will go beyond the zoning. It will impact our infrastructure where we may have to put in public water and sewer, and where will that money come from? Jerry Pritchard commented he doesn't like the mandatory hook up and mandating our zoning. Cindy Miller commented the federal government is also looking at taking away local zoning.

- C. Awarding of Bids for Oil and Chip. There was only one bid received for the Oil and Chip project. The bid was from Asphalt Maintenance Solution in the amount of \$315,344.09. Cindy Miller questioned if we know why there was only one bid for the project. Alice Rehrig commented she doesn't know. There is at least one other local

company that has bid on the project in the past. Jerry Pritchard commented he doesn't like the idea of only one bid. Mike Jones questioned if this company has done work for us before and how close this was to what we were expected. Alice Rehrig commented it is about \$25,000 to \$35,000 less than what was initially estimated and they have done work in the past without issue. If the Board wants to rebid the project, she can have it ready for the June 25 meeting. Janet Sheats made a motion to award the oil and chip bids to Asphalt Maintenance in the amount of \$315,344.09. Cindy Miller seconded the motion. Jerry Pritchard commented in the future he would like to see more bids on projects like this. All voted aye. Motion carried.

- D. Resolution 2024-12, Recreation Facilities. The Recreation Board is recommending an increase in the fees for the baseball field from \$50.00 to \$75.00. In addition, they are recommending the home teams be required to supply their materials and work together in obtaining. Jerry Pritchard commented the home teams are taking care of the field and other teams are only paying an additional \$25 for the use of the field. He feels it should be increased more because there should be more assistance to offset the cost of the supplies.

Cindy Miller questioned if the Manager should be the one responsible for scheduling or should it be rewritten to make it a more generic term. Alice Rehrig commented she didn't have a preference because when she gets the requests, she forwards them to someone in the office. Since that is the case, Cindy Miller suggested making it more generic.

The resolution was tabled for further discussion by the Rec Board.

- E. Master Park and Recreation Plan. Alice Rehrig provided the Board with a draft RFP as a starting point for discussion so that the hiring of a consultant to develop the plan can be put out to bid. The Board will provide Alice Rehrig with their comments on the RFP so they can be incorporated and brought back to the Board.
- F. Manager's Report. Brian Cope from Northampton County would like to host a star gazing program at Delps Park on October 11th at 7:30 p.m. The County will be doing all the advertising and provide the materials. Cindy Miller questioned if they will be providing liability insurance for the event. Alice Rehrig commented she can contact Mr. Cope. She doesn't expect that to be a problem. Mike Jones questioned if there will be enough parking available. Cindy Miller questioned if they will be needing any other support services from the Township such as police or fire police. Alice Rehrig commented she doesn't believe they will be needing anything from the Township, but will verify that with Mr. Cope.

In the past, the Township participated with the County in the Urban County Program which would allow the administration of certain federal grants at a county level rather than the federal level. If the Township wishes to remain in the program, no action is needed by the Board. In general, the Township does not qualify for most of the programs; however, if there is ever a project that would require accessibility upgrades, we could apply for funding for that. The Board agreed to remain in the Urban County Program.

1. Payroll Time Management System. Cindy Miller made a motion to authorize Alice Rehrig to move forward with adding a payroll time management system to the current payroll processing. David Hess seconded the motion. All voted aye. Motion carried.

G. Solicitor's Report

1. 4158 Wood Drive. At the last meeting, Attorney Backenstoe reported that Mr. Vandling was again moving dirt and clearing the property against the court order. As a result of this, he had prepared a third petition of contempt to file with the court. The Board directed him to contact Mr. Vandling's attorney and review the petition with him and if he didn't file his plans by this meeting, the Board was going to go through with filing the third petition. As of today, Mr. Vandling did in fact file his plans and escrow. He does have an approved sewage permit on file. Attorney Backenstoe believes this plan would be similar to the previous plan which was approved, but ended up being rejected because Mr. Vandling did not provide the title search at that time. Mr. Vandling's attorney did include the title search with this submission. Mr. Vandling will be appearing before the Planning Commission at their July meeting. Attorney Backenstoe also understands that DEP has filed an extensive set of petitions against Mr. Vandling. There was a hearing that was canceled and there was another type of meeting. They are supposed to be on site tomorrow. Lou Benedict commented he believes that Mr. Vandling will be going to trial on June 24, if he can be properly served.

Cindy Miller commented the only thing that Mr. Vandling needs to do once he comes to Planning and gets his plan approved, is to obtain building permits. The Township wouldn't have anything to do with the DEP actions.

Mike Jones questioned if the Township can still give him building permits if he owes the Township fines. Attorney Backenstoe commented if Mr. Vandling complies with all the regulations, he doesn't believe the Township can withhold the permits. There is a lien against the property so that the Township does get their fine money.

- VII. PUBLIC COMMENT. Lou Benedict questioned if Mr. Vandling is allowed to knock down trees or excavate now that he filed the land development plan. Attorney Backenstoe commented he would need to obtain the approvals of the plans prior to removing the trees or excavating.

Jere Schneck commented he was representing the Estate of Elsie Merkle. He has been working with the Planning Commission to get the property zoned from GC to A/RR. They have approved that change, but it could take them a period of time, possibly into next year. It was suggested that he come to the Board and ask if he could request that zoning change from the Board in the interim while the Planning Commission is working on the entire zoning districts and ordinances for the Township. Cindy Miller commented the Ad hoc committee has no objection to what Mr. Schneck is requesting and suggested he come to the Board of Supervisors to request the change now rather than having them wait for several months until they have the Zoning and SALDO finalized. Attorney Backenstoe suggested Mr. Schneck write a letter to the Board requesting to be on the next agenda. The letter should include the exact request, reason, and a map depicting the area to be rezoned. If the Board approves that, then an ordinance would need to be prepared and reviewed by the Lehigh Valley Planning Commission and the Township Planning Commission and then adopted by the Board of Supervisors.

Monica Brown commented regardless of whether or not the Township has a lease with the farmer at Delps Park, they should at least have a certificate of insurance naming them as an additional insured. Alice Rehrig commented she does have a certificate of insurance.

Paul Nikisher commented he is disappointed that the Board did not permit public comment when they are taking a vote. The public may have input into the motions that are being made. Attorney Backenstoe commented there must be public comment before a vote is taken. If the agenda is specific enough regarding the motion to be made, you could have public comment at the beginning of the meeting, then go through the agenda and take the votes without public comment. Public comment at the end of the meeting can be on anything that is before the Board. Janet Sheats commented she would like the public comment before the Board takes the vote, but doesn't want to see it drag on for an hour. Kristin Soldridge commented the comments need to be specific to the item that is being voted up. Any other comments should be held to the end. Mike Jones commented there has been a problem with people holding multiple conversations during the comments on the vote being taken. Attorney Backenstoe commented the Board does not have to allow that. It should just be a comment specifically on the motion that is made to the Board; not to members of the audience.

Paul Nikisher questioned if there is anything that can be done with Turkey Hill wanting to change their plans. Attorney Backenstoe commented only the proper owner has the right to submit and withdraw plans. All the Board can do is make sure the plans that are submitted are in compliance with the ordinances. Cindy Miller noted that whether or not Turkey Hill completes or withdraws their plan is not the concern; the concern is making sure the intersection gets completed.

Paul Nikisher commented he agrees with renting the field at Delps. If it is not farmed, the Township will have to maintain it. It would be better to earn the \$3,000 rather than spend the money on the maintenance. Cindy Miller commented she is fine with renting the field as long as the Township is able to go in and do what they need to when the time comes.

Paul Nikisher commented he appreciates the letter that Cindy Miller wrote to Zach Mako. Cindy Miller commented any tax payer can and is encouraged to write to him. It doesn't need to be a long letter; it can be as simple as "Please vote against House Bill #####. Please call me or please email me. It can be that simple. He also believes that Attorney Backenstoe should also write a letter on behalf of Lehigh Township.

Katherine Mack commented the types of pesticides and herbicides should also be taken into consideration when leasing the field at Delps.

Katherine Mack questioned if the Township has paid their portion of the lawsuit. The Board commented it was paid in the past month. Katherine Mack questioned how the budget or the Township resources changed as a result of the payment. Alice Rehrig commented a budget amendment will need to be done.

Katherine Mack questioned if the same guidelines need to be followed for the audit when a CPA does the audit as compared to elected auditors. Attorney Backenstoe commented that the guidelines would be the same. Katherine Mack commented the requirements state that the audit must be published in a newspaper of general circulation, the concise financial information prepared by auditors consistent with financial statements of assets and liabilities. This must be done by April 15th. Is this something that we do? Alice Rehrig commented this is done. Katherine Mack questioned what newspaper it was published in. Alice Rehrig commented for 2023, the statement was not yet published because the audit is not yet complete because of difficulties that the auditor ran into. Cindy Miller noted the difficulties were not on the part of the Township. Jerry Pritchard commented the Township is not holding up the auditor, but the auditor is being held up from completing the audit. Katherine Mack questioned if there is some type of extension that is needed because the audit is supposed to be done by April 1. Alice Rehrig

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commented there is no provision for an extension. When the audit is completed, it gets submitted. Katherine Mack commented it may also be beneficial to post the audit on the website. Some people may be interested in the audit.

Wendy Kleintop questioned of the spending of the COVID money was decided upon by the Board, what was it spend on, how much was received and what is the remaining balance and how will that be spent. Cindy Miller commented the Board decides what the money will be spent on and they are still working through it. By the end of this year, the money must be committed. Wendy Kleintop questioned what it was spent on at this point. Alice Rehrig commented the HVAC systems, some was allocated to the fire truck, upgrades in technology, and matches towards grants. Paul Nikisher questioned what the balance was. Alice Rehrig commented she was not certain of the amount off the top of her head.

Charlie Perish questioned the bill to Offit Kurman for legal services in the amount of \$11,248.50. Cindy Miller commented it was for our labor attorney.

Randy Braun questioned if 4158 Wood Drive is being taxed. Attorney Backenstoe commented the property is being taxed.

Marc Kersmar commented when the Hometown Heros banners were done in Palmerton, you could choose a primary and secondary location in the information sheet. Typically, you would choose cross streets and they would try to accommodate the request as much as possible. Linda Roman commented as much of a good idea that this is, it is also distracting because of trying to read who is on the sign.

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

Alice Rehrig

From: Alice Rehrig
Sent: Thursday, May 30, 2024 12:26 PM
To: Alice Rehrig
Subject: FW: HB1976 and HB2045

From: cmiller lehightownship.com
Sent: Friday, May 24, 2024 2:25 PM
To: zmako@pahousegop.com <zmako@pahousegop.com>
Cc: Wendy Schlappich <WSchlapp@pahousegop.com>
Subject: HB1976 and HB2045

Dear Representative Mako,

I write to you today and request you vote "No" on HB1976 and HB2045. Municipalities are familiar with their community's wants and needs, infrastructure, and environment. The Municipal Planning Code (MPC) already mandates the municipality to have each type of zoning district within the community and gives the municipality the tools necessary to make the decision about the location of these districts. Location of zoning districts, ordinances and planning decisions should remain at the local level, not mandated by the Commonwealth.

Lehigh Township, through its' Comprehensive Plan, has zoned areas in the Township where it makes sense for single family dwelling, high density housing, and commercial. High density housing requires the availability of public water and public sewers. The Township knows the areas in the community where these services are available for development.

Lehigh Township has updated its' Comprehensive Plan and is currently in the process of updating zoning and SALDO ordinances with a professional consultant. In review of today's housing trends, it shows development including mixed use (commercial and high-density housing) in areas of communities where it makes sense. People, especially the youth, are seeking more walkable areas to live. One recommendation the planners will make to the Board of Supervisors is a new zoning district comprised of mixed use commercial and high-density housing. Lehigh Township already has approved this type of zone in the Township on a 285+ acre parcel.

HB1976 and HB2045 do nothing to guarantee affordable housing. These bills only guarantee developers the authority to mandate to a municipality where they want to

develop without taking into consideration the cost of the infrastructure necessary for development on the taxpayers and community.

Before you cast your vote, I ask you, do you want a parcel next to your property rezoned to permit triplexes? Do you want the Township to mandate you to forgo your on-lot septic and well water to install public sewer and water on your property should this type of development be approved next to you? Do you want Lehigh Township, where you live, to become overgrown with multi-family housing and lose its' rural character?

Should you want to discuss these bills and the impact it would have on Lehigh Township, please call me at 610-751-5601 or email me at cmiller@lehightownship.com

Regards,
Cindy Miller
Lehigh Township Supervisor