

WEST LEBANON TOWNSHIP
January 3, 2022

The regular meeting of the West Lebanon Township Board of Commissioners was called to order at 7:00 p.m. by Vice President Harry Fox with the Pledge of Allegiance

The following were in attendance:

Commissioner Tina Houser	Treasurer: Julie Clouse
Commissioner John Brenner	Secretary: Antoinette Issis
Commissioner Michelle Testerman	Maintenance: John Brenner
Commissioner Harry Fox	Township Engineer: Mr. Joshua Weaber
Commissioner Phylis Dryden	Solicitor: Mr. Andrew Race

Andrew Race took over the meeting for reorganization of the Board.

Andrew opened up nominations for the president of the board.

John Brenner made a motion, seconded by Michelle Testerman and agreed by the board to nominate Harry Fox as president of the Board.

Andrew Race opened up nominations for vice president of the Board.

Phylis Dryden made a motion, seconded by John Brenner and agreed by the board to nominate Michelle Testerman as Vice President of the Board.

Andrew stated that Commissioner Tina Houser is in attendance however not as a commissioner. Tina Houser submitted her resignation letter to the township.

John Brenner made a motion, seconded by Michelle Testerman to add accepting Tina Houser's resignation letter to the agenda.

John Brenner made a motion, seconded by Harry Fox to accept Tina Houser's resignation letter as Commissioner of West Lebanon Township. All in Favor.

Andrew Race stated the rule is that the board has 30 days from January 3 to nominate someone to fill the vacant position of Township Commissioner until the next municipal election. If the board does not vote or select someone by majority vote it would then go to the vacancy board. The vacancy board is made up of the remaining commissioners and one member of the public who votes in West Lebanon Township. The vacancy board would have 15 days to appoint and approve a new commissioner. If that fails for any reason, it would then go to the court of common pleas to have someone appointed.

Michelle Testerman asked how the vacancy board would work because if they cannot agree there would be no tie breaker?

Andrew stated the Chair member of the vacancy board would be one member of the public and that would be the odd vote. If the board wants to consider nominations to fill the vacant board position that will need added to the agenda.

John Brenner made a motion, seconded by Harry Fox to consider nominations to fill the vacant board position board be added to the agenda. All in favor.

Andrew asked if there are any nominations to fill the vacancy for West Lebanon Township Commissioner which was vacated by Tina Houser.

Michelle Testerman nominates Bill Houser to fill the vacancy for West Lebanon Township Commissioner. Andrew asked if there is a second for Bill Houser. Motion fails due to lack of second.

Phylis Dryden nominates John Gurguanus to fill the vacancy for West Lebanon Township Commissioner. Michelle Testerman seconds the nomination for John Gurguanus. John Brenner and Harry Fox oppose. Motion fails due to a 2-2 vote.

Andrew asked if there are any other nominations.

John Brenner made a motion, seconded by Harry Fox to nominate Richard Pflueger to fill the vacancy for West Lebanon Township Commissioner. Michelle Testerman and Phylis Dryden oppose. Motion fails due to vote being 2-2.

Andrew Race stated at this point he will take nominations for a member of the public to fill the vacancy board.

Phylis Dryden made a motion, seconded by Michelle Testerman to appoint John Gurguanus to the vacancy board.

John Brenner stated there would be a conflict with John Gurguanus doing it because he is on the zoning board. He cannot be on both committees.

Phylis stated he could resign from one board.

John just wanted to point that out. That would be the same thing with Mr. Houser in the back there because he also works for the federal government. The township has to watch where they are going with the conflict stuff because John does not want to keep going through this issue every month.

John Brenner told John Gurguanus that if he is on the board of commissioners committee, he cannot be on the zoning board committee.

John Gurgunus stated he would rather be on the Zoning Board.

John Brenner stated that John Gurgunus is the head of the zoning board and that is why it got brought up.

Michelle Testerman asked if Dennis Horn will do it?

Dennis Horn, who was in attendance, does not want to do it.

Andrew asked if there a member of the public who has any interest in being on the vacancy board.

Michelle asked in regards what John stated about someone who works in the government. Can they be appointed?

Tina Houser stated they can be appointed but cannot be elected.

Andrew stated they cannot engage in any partisan activities.

Michelle stated this is a by-partisan position.

Andrew stated the vacancy board is a non-partisan position.

Michelle asked so it does not matter if someone is a government official.

Andrew explained the vacancy board is different from the commissioner vacancy. The vacancy board meets to appoint a commissioner and is made up of the rest of the commissioners and one member of the public. The member of the public becomes the chair of the vacancy board and runs that meeting. The vacancy board would have 45 days from today (January 3, 2022) to bring forward a candidate for West Lebanon Township Commissioner. The vacancy board does not go in front of the judge.

John stated after 45 days it would go in front of a judge.

Andrew stated correct.

Phylis asked if the chair of the vacancy board has to vote.

Andrew stated yes as that is the point of bringing in a member of the public.

Michelle asked since it is an appointed position, the person filling the position could be someone like Bill who holds a government position.

Andrew stated correct since it is not a partisan position. For example if Bill is a federal government employee, he would not be able to be commissioner because that is a partisan position.

Michelle stated commissioner is a by-partisan position.

Andrew stated the vacancy board is a by-partisan position however the commissioner position is a partisan position.

Tina Houser stated however that is not why she chose to resign. The US attorney told her that she can accept that position if she wants to.

Andrew stated the Hatch Act issue is not about sitting as commissioner, it is about employment with the federal government.

Tina Houser stated she chose to resign due to the election ballot having an "R" at the end of her name. That is the only reason why she had to resign.

Phylis asked if it would be non-partisan if she could have run as an independent.

Andrew is leaving that opinion to the Office of the Special Counsel for the federal government.

Tina Houser stated it is the Office of the Special Counsel that told her that she did not have to give up the position. It was her choice to resign.

Andrew stated all that being said, it comes down to there is no majority for any candidate for commissioner so now the commissioners need to look at filling the vacancy board. Filling the vacancy board does not need to occur tonight. To fill the vacancy board it will be an interested member of the public who votes in West Lebanon Township.

Phylis asked that is a non-partisan position.

Andrew stated correct and asked if anyone was confused since this is new to West Lebanon.

Phylis asked it could be Bill Houser?

Andrew stated it could be whoever the commissioners want to nominate and it does not need to be tonight. If the Board of Commissioners does not provide a candidate during the meeting, they have 30 days to provide a nomination for the vacancy board. The vacancy board will then have 15 days thereafter to bring forward a commissioner. If the Board of Commissioners is still in a lock step, then it will go to the Court of Common Pleas where one of the four judges will pick somebody.

Julie Clouse asked if the Board of Commissioners does not chose someone tonight, they will have to wait until the February meeting?

Andrew stated a special meeting could take place if need be.

John stated the township could hold a special meeting or appoint someone at next meeting.

Julie asked appoint someone to the committee or commissioner?

Andrew stated to the committee or commissioner as long as it is within 30 days.

Antoinette Issis stated the next meeting is scheduled as February 7, 2022 so that is outside the 30 days.

Andrew stated that means unless a special meeting takes place or resolved tonight the board of commissioners will not be able to select a next commissioner. On February 7, the commissioners can still fill the vacancy for the vacancy board and they would have less time to meet. That

meeting has to be published and will be a public meeting because of the Sunshine Act and it will have a majority of the Commissioners.

Phylis asked Gary Rettinger if he would be willing to be on the board?

Gary stated he has to think about it. Gary asked if he decides to do it does he have to provide a letter to the commissioners?

Andrew told Gary if he is willing to do it, to inform one of the four commissioners and a special meeting will be held in order to vote on it. If all goes well the township could hold the special meeting for the vacancy board and vote on commissioner on the same night.

Gary stated he has to think about it.

Phylis Dryden made a motion, seconded by John Brenner and agreed by the board to defer the matter because there is a viable candidate who will be considering the vacancy board position.

Andrew stated with that being said the township has a quorum. Harry Fox is currently president and Michelle Testerman is currently vice president.

Phylis Dryden made a motion, seconded by John Brenner and agreed by the Board to approve the minutes as written December 6, 2021.

VISITORS' ADDRESS: There were 7 visitors in attendance.

COMMITTEE REPORTS:

Treasurer's report: Copies of the report were given to the Board members and available to the visitors in attendance.

Lebanon County Treasurer Delinquent Real Estate Taxes collected are \$192.77 from 11/1/21 to 11/30/21 Municipal (\$192.77), Street Light Taxes (\$0.00).

Lebanon County Treasurer Real Estate Taxes collected are \$530.92 from 11/8/21 to 12/1/21 Municipal (\$334.57), Street Light Taxes (\$196.35).

Total monies in all West Lebanon Township accounts as of December 31, 2021 are \$1,898,893.82.

John Brenner made a motion, seconded by Michelle Testerman and agreed by the Board to accept the Treasurer's report.

POLICE: Chief Knight was not in attendance. John Brenner gave the report for the month of December 2021 as follows:

Total Calls for the month	41
Traffic Arrests	9
Criminal Arrests	1
Parking Tickets	0
Faulty Equipment Cards	3
Non-Reportable Incidents	10
Reportable Incidents	11
UCR Crimes	7

John Brenner stated that Tim Knight is now the Chief of Police for North Lebanon Township.

SPEEDWELL FIRE COMPANY:

Michelle Testerman gave the following report for December 2021 as follows:

4 calls for the month with 23 personnel for 15 hours and 28 minutes.

Training for hours for the month: 27 personnel for 78 hours.

Yearly: 307 personnel responded to 79 calls

Training for hours for the year: 185 personnel for 201 hours and 54 minutes.

Michelle stated the lettering is done on the new engine and there will be a few more weeks of training before that gets placed in service due to driving requirements.

HIGHWAY: Phylis Dryden stated guide rail was replaced at tunnel from truck trailer accident.

WATER: Phylis Dryden stated the daily average for the month was 31,419 gallons per day (GPD). The water tank is full. The total City of Lebanon Authority (COLA) water was zero (0).

SEWER: Phylis Dryden stated nothing to report.

STORM SEWER/MS-4: Phylis Dryden stated nothing to report.

TOWNSHIP BUILDINGS: Michelle Testerman stated progress, generator is here, hooked up and running. The New gas line is installed. The framing in the fire house is completed along with some electric work, shower, etc.

RECREATION: Michelle Testerman stated nothing to report.

PUBLIC SAFETY/CODE ENFORCEMENT/SANITATION: John Brenner stated the township will be ordering the 2021 Code Series of books. The commonwealth is updating the codes standards in February 2022.

Andrew Race stated when those come the township will have to do an ordinance to adopt those codes.

John stated he is aware and will get those ready where he wants the lines put in and screens and dates and will send that over to Andrew.

Andrew stated since this was brought up, he asked for the board to add to agenda to approve Andrew and John working on the draft ordinance for the new code book so then it can get published when it is out.

Michelle Testerman made a motion, seconded by Phylis Dryden to add to the agenda for Andrew Race and John Brenner to work on the ordinance for the 2021 Code Series of Books.

Andrew stated that way when the code book is ready, the ordinance will be published.

GREEN WASTE/RECYCLING: John Brenner stated nothing to report.

Zoning:**Purchase Certificates issued as follows:**

No. 29-2021 issued to Anthony Fitzgibbons Esquire for the property located at 502 N. 23rd Street Lebanon, PA 17042. Seller's Name: Joshua Heller- J.R. Heller.com LLC. Purchasers Name: Manuel Ricart and Jayko Ricart-Abreu.

No. 37-2021 issued to Anthony Fitzgibbons LSQ for the property located at 2320 Mifflin Street, Lebanon, PA 17042. Seller's Name: Herman & Patricia Dundore. Purchaser's Name: Keith & Amy Donnachie.

No. 39-2021 issued to Lebanon Land Transfer/Reilly Wolfson for the property located at 2101 West Cumberland Street Lebanon, PA 17042. Seller's Name: RE & AE, LLC. Purchaser's Name: Robert Bennett- Bennett Lebanon Holdings LLC.

No. 40-2021 issued to Lebanon Land Transfer for the property located at 2215 Lehman Street Lebanon, PA. Seller's Name: Malvone RE, LLC. Purchaser's Name: Joseph Kreiser.

Zoning Permits issued as follows:

Z-28-2021 issued to Trinity Solar for the property at 340 N. 21st Street to install Solar Panels.

Building Permits issued as follows:

B-19-2021 issued to Trinity Solar for the property at 340 N. 21st Street to install Solar Panels.

Excavation Permits issued as follows:

E-03-2021 issued to UGI for 426 N 23rd Street Lebanon, PA 17046

FINANCE: John Brenner made a motion, seconded by Phylis Dryden, and agreed by the Board to pay all the bills as submitted.

OLD BUSINESS

John Brenner asked for an updated for the township's water tank. John knows Raponi was digging again because there was mud coming down a week ago.

Josh Weaber stated he will check with his structural engineer because he was getting the soils tests done.

Harry Fox stated the pickup truck with the trailer has been going up there on Sunday's.

John stated he knows they were working the weekend before last because all the mud came through when he went to check on something else.

Josh stated he will say something to Conservation District to have them verify that.

Andrew stated he will mention this to Greer Anderson as well.

Michelle Testerman's concern is that every month this keeps getting brought up but nothing is getting done.

John stated that is getting brought up and nothing is getting done, so that's why he is asking where we are at with the issue.

Andrew stated that they agreed to hire Chrisland Engineering to handle the calculations for the retaining wall, which is the portion West Lebanon is concerned about.

Josh stated it is up to the soil testing right now. We are trying to get the retaining wall design finalized. The soil testing company has to get out there and grab the test.

John stated he has a problem with Chrisland Engineering because of a conflict with Chrisland Engineering being the township engineer. Who will the township go to if needing to prove the tests are correct.

Andrew stated that is correct, however it was agreed to waive that conflict from both sides because of Chrisland Engineering being the township's engineer.

John stated he was using Steckbeck Engineering to do this.

Josh stated he originally went to Steckbeck Engineering and nothing was happening.

Michelle stated nothing is happening now either.

John stated nothing is happening now and has to get a third party engineer again, if he wants to challenge something on Chrisland Engineering's report.

Josh stated he will be more than happy to step away from it if needed.

John stated the township paid Chrisland Engineering to fight the issue to begin with and now Chrisland Engineering is working for him.

Andrew stated he agreed to pay out of his pocket for services provided by Chrisland Engineering.

John stated he is not saying that. The commissioners and the township paid money to Chrisland Engineering prior to him reaching out to Chrisland Engineering and now he is also paying Chrisland Engineering.

Andrew stated the township paid Josh to go up to do what needs to do. They hired Steckbeck Engineering and they could not get anyone from Steckbeck Engineering to go out. They waived the conflict for Josh to go out and adopt the recommendations made on behalf of the township. They agreed that whatever Josh recommended, despite the fact that Josh is paid by the township, they would accept his recommendations and pay him get the retaining wall in. The township wants the retaining wall in, and the plan was to get an injunction to force him to get the retaining wall in. He is already doing that with Josh, and they are awaiting the soil test results. The township even had a court order with an injunction and could not get the soils test done quicker. So, at this point we are waiting for the soil test results. Once Josh has the results, the calculation will get done and he is putting in the retaining wall. He has already agreed in writing to use Josh's recommendation on the wall which is the same thing that would have been recommended to the court.

John asked where that agreement is at since the township does not have that.

Andrew stated that was given to the township in writing where Grer Anderson agreed to it on his behalf.

John stated it was not given to the township.

Andrew stated John was on that phone call where he agreed.

John stated he wants it in writing. Where is North Lebanon at in this, since they are supposed to be paying half of this?

Andrew stated North Lebanon is handling the zoning portion from their end in regards to the land development plan. That does not affect West Lebanon.

Michelle was under the assumption that North Lebanon was paying half of all the fees.

Andrew stated that is correct if we went to court regarding this matter.

John stated that was not the agreement.

Andrew stated West Lebanon did not pay any additional money.

Michelle stated once again every month we are coming back with different excuses to why things are not being done. The water tank is sitting on a property where if the water tank falls, Harry's house is gone since his house is right there. This issue has kept getting brought up and

something needs to be done. He is agreeing to everything but as stated he is doing stuff on the weekends. Even though he is talking and agreeing he is doing the exact opposite. Somewhere along the line something needs to be as we cannot keep saying we are waiting.

Andrew asked Josh if he has an estimate for how long the soil testing needs to be complete.

Josh stated it all comes down to their response time and schedule which has been the problem at this point. Josh stated they have been contacted several times.

Michelle asked whose response time, the soil testing.

Josh stated the soil testing. Mr. Raponi agreed to take the township's recommendations.

Andrew stated the option the township has if he is still constructing on the weekends.

John stated he did not say construction but he is doing Earth movement since the mud is coming over.

Michelle stated Harry has seen the trucks.

Andrew stated the township can seek an injunction to halt any further earth movement. The petition is already done as North Lebanon drafted the petition.

Michelle stated so then have North Lebanon send it.

Andrew stated West Lebanon can file the injunction and it will involve West Lebanon going to a hearing to have him cease Earth movement until the wall is complete.

Michelle asked why it involves West Lebanon going to a hearing. North Lebanon has this ready and they are ready to issue the injunction.

Andrew stated because the water tank is for West Lebanon and the property is North Lebanon. Both municipalities will have to go to court.

Michelle wanted to make sure it was not just West Lebanon going to court.

Andrew stated if going to court, it will be West Lebanon and Amy Leonard from North Lebanon.

Amy drafted the document and then incurred that expense.

Phylis Dryden made a motion, seconded by Michelle Testerman and agreed by the board to seek the injunction for no further Earth Movement until the retaining wall is complete. All in favor.

Andrew stated he will file the injunction tomorrow, January 4, 2022.

John stated in July when the township asked Mr. Raponi and Josh was supposed to give him numbers on the cost to do the calculations. There is nothing in there about an agreement.

Andrew stated he has to pull his 2021 files but believes it was after July, maybe August or September.

Julie Clouse asked since the checks have 2 signers on them, one being Richard Pflueger, how do we proceed.

John Brenner stated President Harry Fox will have to start signing checks. That will have to be changed at the bank.

Julie asked if a resolution or a motion needs to be done for the change to occur. Some kind of proof needs to be taken to the bank.

Andrew stated a resolution would need done.

Julie asked that cannot be done tonight, can it.

Andrew stated the board can vote on the Resolution and it can be made up and signed if need be.

Michelle Testerman made a motion, seconded by Phylis Dryden to adopt Resolution 2022-01 to add Harry Fox to the township bank accounts.

NEW BUSINESS

The Secretary stated no New Business.

CORRESPONDENCE

Received checks as follows:

CSR-\$132.00 for Shredder.

CSR- \$100.80 for Shredder.

CSR- \$38.40 for Shredder.

Fraternal Order of Police- \$644.00 for building insurance premium for 2201 Church Street Lebanon, PA.

North Lebanon Township- \$857.32 for Public Safety for October codes.

Coryn Weaver- \$250.00 for damage to playground (\$240.80) and donation to playground (\$9.20).

UGI- \$208.00 for Excavation Permit E-03-2021 for 426 N. 23rd Street

Dean Nolt- \$50.00 for 2021 Rental License for 522 N. 24th Street.

Lebanon County Recorder of Deeds- \$2,380.81 for local Realty Transfer Tax Distribution for the period from November 1, 2021 to November 30, 2021.

Lebanon Land Transfer- \$50.00 for settlement for 2215 Lehman Street.

Susan and Daniel VanVleet- \$30.00 for Greenwaste Key Card.

North Lebanon Township- \$902.15 for DJ (\$586.57) and Public Safety (\$315.58).

Trinity Solar- \$93.16 for Zoning Permit Z-28-2021 (\$41.25) and Building Permit B-19-2021 (\$51.91) for 340 N. 21st Street to install solar panels.

DJ-52-3-03: \$121.88 for December 2021. Local Ordinance (\$54.31), Title 18- Payable to Municipality (\$67.57).

Received letters as follows:

Greater Lebanon Refuse Authority- received their minutes for December 7, 2021 meeting.

City of Lebanon- Copy of letters to Robin Getz and Helen Westphal being appointed to the Lebanon County Tax Committee.

Chrisland Engineering- letter sent to Lebanon County Planning for reimbursement of \$7,500.00 for Marcellus Shale Grant.

Keystone Collections Group- comparison of YTD November 2020 and November 2021 earned income Tax Collections.

Lebanon County TCC- Earned Income collection report for November 2021.

JBT- standby letter of credit for emergencies only.

Accord- Certificate of Liability Insurance for Hoaster Gebhard & Co (Producer) for Aruther Funk & Sons (insured).

Tina Houser- letter resigning position as West Lebanon Township Commissioner.

The next meeting of the West Lebanon Township Board of Commissioners is Monday February 7, 2022 at 7:00 p.m. at the West Lebanon Twp. Bldg., 322 North 22nd Street.

Michelle Testerman made a motion, seconded by Phylis Dryden and agreed by the Board to adjourn the meeting at 7:29 p.m.

Respectfully submitted,

Antoinette Issis, Secretary