

PINE GROVE TOWNSHIP MONTHLY BOARD MEETING MINUTES

September 7, 2022 7:00 p.m.

1. **Meeting was called to order** at 7:00 P.M. by Smith
2. **Pledge of Allegiance.**
3. **Roll Call: Present:** Richardson, Meert, Smith, Sell, Hephner Also Present -Attorney Catherine Kaufman
4. **Agenda:** Hephner stated she would like to add the OEO Laptop to the agenda under Old Business. Smith stated that was discussed at the meeting last month and Hephner stated yes and she would like to see it on the agenda again. Hephner stated she would like to discuss the Public Comment section of the agenda, she believes it should be higher on the agenda than it currently is, because it gives the people the opportunity to discuss what they want to discuss. It may have to do with what is on the agenda and the board will not be able to deal with it if it is left to the end of the meeting. ***Motion made by Hephner, supported by Richardson to move Agenda Item #11 Public Comment to Agenda Item #8.5 Public Comment. All yes, motion carried.*** Sell asked if the Recycle Center Fence could be put on the agenda under Old Business. Smith stated that he is waiting for the quotes to come in, there is no new information regarding the fence at this time. Sell stated that the board should discuss Robert's Rules of Order and asked for it to be placed on the agenda under Old Business. Hephner stated that last month the board discussed putting lights up at the Kendall Park and did not see it under Old Business on the agenda and is not aware if anything has been done. Sell stated that it is on the new agenda that was re-printed just before the meeting. ***Motion by Hephner, supported by Richardson to approve the agenda as amended. All yes, motion carried.***
5. **Consent Agenda:** Sell stated that she had a change to make in the meeting minutes from the August 3, 2022 board meeting under #5, the Ordinance Enforcement Officer Laptop. Sell stated that the minutes state that the issue was discussed at length and it was not very detailed and did want to add that it was refused to be brought back and that Smith had refused to actually return it. Smith stated that he did not refuse, that Sell was putting words in his mouth and he was not going to put up with it. Sell stated that the meeting is recorded and Smith stated that he is going to want to hear it and Sell stated that she asked Smith if he was holding it hostage and Smith stated he was not bringing it back. Attorney Kaufman stated that if the board wanted to remove the Meeting Minutes from the Consent Agenda if the board wanted the minutes changed, then the Consent Agenda could be approved and put the Meeting Minutes under New Business. ***Motion made by Hephner, supported by Sell to approve the Consent Agenda minus the Meeting Minutes from August 3rd adding discussion of meeting minutes under New Business. All yes, motion carried.***
6. **Monthly Bills:** ***Motion made by Hephner, supported by Sell to approve the monthly bills for a total of \$35,637.70. All yes, motion carried.***
7. **Correspondence and Reports:**
 - A. **Library:** Nothing at this time.
 - B. **Sheriff:** Submitted. 43 township complaints. OEO: Working on 14 blight complaints.
 - C. **County Commission:** Submitted.
 - D. **Road Commission:** 3rd application of dust control started, Fog Sealing is winding down, Road Commissioner has resigned.
 - E. **Fire Chief:** Submitted.
 - F. **Fire Board:** Hephner stated that they will be starting on the next budget soon. Presented the new Fire Truck cost estimate.
 - G. **Ambulance:** Submitted.
 - H. **Treasurer:** T&A: \$9,932.20 Checking: \$789,981.31 PNC Savings: \$199,923.96 Tax: \$97,005.15 Consumers: ARPA: \$309,801.54, Extra Protect Savings: \$250,457.91 Money Market: \$250,919.34

- I. **Planning Commission:** Richardson stated that he talked with Rebecca Harvey regarding the scanning for all the boxes of documents downstairs in the basement and she put a proposal out to Western University through the Geographic Board to see if they would allocate any interns that would tackle the scanning of the records from downstairs and what that cost and procedure would be. Richardson stated that members of the PC attended training last week regarding Solar Fields and Short-Term Rentals and the PC will be meeting on September 19th.
 - J. **KABA:** Submitted. Permits for June: 3 Building, 6 Electrical, 4 Mechanical, 1 Plumbing.
 - K. Smith stated that the Board received communication from Van Buren County Farm Bureau inviting board members to their Summer Legislative Dinner on Monday, August 29th at 5:30pm.
8. **Committee Reports: Building Committee:** Smith stated that the first meeting was held Aug. 29th at 7 p.m. Guidelines were set up and first and foremost, is getting the current township hall to where it is safe to be in for however long it remains open. The next meeting will be Sept. 12th at 7 pm and Hephner asked Sell if she could put the next meeting date on the electronic sign out front and put Public Invited.
- 8.5. **Public Comment: (limit two minutes)** Eric, who lives on 23rd Ave asked what the possibility of it getting paved is? Smith stated that it is approx. \$8,000 per mile so there was not much chance. A resident stated that he talked with Joe from the Drain Commission regarding the drains in Kendall and as of now the drain work may begin in October. He also spoke about some grant opportunities. Cathy stated that she was at a board meeting approx. 9 months ago complaining about burning dog poop. She was told to take a picture of it and stated she has taken a picture. Now it is fall and she would like to open her windows, asked if there was anything that could be done about the burning of the dog poop because it smells nasty. Smith asked for the address and stated we will take a look at that.
9. **Old Business:**
- 1. **Computer Upgrades:** Smith stated at this point in time the board has messed with this thing way too long and he suggested it be dropped and let the computers we got run until they drop dead and then we will deal with it. Smith stated that he didn't want to mess with it anymore. Richardson asked if that was a motion or just discussion. Smith stated he just didn't want to deal with the nonsense anymore, every time somebody talks to somebody else, we have to go through all the rigamarole and come up with a different idea. Hephner stated she believed the discussions were leading to what the Board actually needed. For example, could we get along with something different that is cheaper and would give us the same thing. Hephner stated it is extremely important that the board continues the conversation about upgrading the computer equipment because the board should not wait until it's not working for us. Hephner stated it is important that the board revisit the two suggestions that were put out there and then the board would make a decision as a whole. Hephner stated if the board needed someone else to take charge of that, if Smith does not want to, Sell is very well versed in computers. She could take a look at some of those things and bring recommendations back to the board. Sell stated that the original request from Smith was to get a server and Sell had talked to three different people who stated that the township did not need a server. Sell stated that the other option was the scanner that Smith would like for the basement, where would be that be stored. A NAS would be sufficient and a gentleman in the audience had recommended using another external hard drive to back that up so that it could be off site. Sell stated that it was discussed last month that Richardson was going to talk to Rebecca, which he did, but Smith was going to get with Kaufman to find out who did all their scanning. Kaufman stated that she did not get that to Smith but stated that she could give the board that information. Sell stated that she thought Smith was going to get a quote on the scanning, because personally, before voting on spending \$10,000 on a scanner, I want to know what we will be paying and who will be scanning everything, that's where we left off last month. Sell stated that there was discussion on two

separate things that were going to get tied in, the scanner was going to get tied in onto a server but I don't think for our small office that a server is necessary. Richardson stated that Rebecca Harvey stated that they could take the boxes from here and actually take them to Western, as the interns get credit for doing it as well as a little extra money to get through school, so I did not commit as it was not my place. Sell stated that she agrees the Township does not need a server, but as far as the computer upgrades, that is necessary. Sell stated the scanner is a whole separate issue. Hephner asked why the board did not handle this as two separate issues, if we don't need a scanner and Sell has spoken to someone about the other options, can Sell get a quote from them on what it would cost the Township. Sell stated that she has quotes. Hephner stated that Sell should bring that to the next meeting and the board can decide what they are going to do with it. Smith stated that he contacted the company that Kaufman uses last year and was informed that they do not do large format documents, which the township needs. Smith stated they do up to 8 1/2 x 11. Kaufman provided the phone number for the company she uses. Hephner asked Sell to bring her quotes to the next meeting for the NAS. Sell stated that a NAS is basically an external hard drive to store all the documents in but if it's on site and we have a fire or flood, it's gone. A gentleman in the audience suggested a solution to just have another external hard drive that we back up once a week and keep it off site. Then we don't want to have to pay x amount of dollars to store in the cloud. Hephner asked again if Sell could bring that quote to the meeting next month. Smith stated then we would be dealing with this next month again. Hephner stated, absolutely. Smith stated if you ask three different people about computers, they will tell you three different things. Hephner stated that Smith was not interested in re-visiting it anymore, so we will have Sell do it. Sell stated two months ago, she had recommended Smith contact the person Sell had talked to, to make sure it was going to do what Smith wanted it to do, we came back to the next meeting and Smith had not done that, so clearly Smith has lost interest, so let's move on. Smith stated, ok, that's done until next month now as far as the scanning and stuff. Richardson asked if he was still getting with Rebecca Harvey in regards to the scanning of the records downstairs. Everyone stated yes.

2. **Private Drive, Eric Matthies:** Attorney Kaufman prepared a written attorney/client privileged memo which was sent to the board. Kaufman advised that the Board can go into a Closed Session to discuss the memo or the board could waive privilege and it can be discussed in Open Session. Kaufman stated that it is an analysis of road law and information they learned at the Supervisor's meeting with the Road Commission at the end of August. Kaufman applied it to what she believes the situation is here in Pine Grove Township. ***Motion made by Richardson, supported by Meert to waive the attorney/client privilege with the communication in regards to Mr. Matthies driveway. All yes, motion carried.*** Attorney Kaufman read the memo into the record. (See Attached). After reading the communication, Kaufman stated that if a road is not up to county road standards and it is a short length of road, they won't get much money for it, so the RC will not assume the liability of continuing to maintain that road, it will be decertified, which is legal to do, which is the case in Matthies Road. Kaufman stated that the RC decertified the road back in 2010 and said at that time that they could recertify the road but it would have to be brought up to county road standards. Kaufman stated that the RC decertifies roads as they have liability exposure as to the roads that they maintain. So even though this is a public road, the RC has removed it from the certification list, they can't spend ACT 51 money on it anymore and therefore when it is decertified, they are not liable if something happens on it. Kaufman stated that once it is decertified the RC is no longer responsible, under law, for maintaining that road. Kaufman stated that the options are not good, Option 1, the people who live on the road could ask for a special assessment district and there would have to be a consensus of at least 51% of the property owners on the road frontage. They have to get a quote from the road commission on what it would cost to gravel, dust control and/or snow plow and that would be charged back against the property owners on that part of the road. Kaufman stated this option would not be asking the RC to recertify the road. Option #2: The Township can initiate litigation in Circuit

Court to have a road declared a public road and have the court determine the length and boundaries of the road, but with prior written approval of the RC to initiate that litigation. The Petitioners would be required to pay for the costs of the litigation. Matthies explained that the problem is the Kal-Haven Trail goes across their road and when the snowmobiles use the trail extensively, it builds up a berm and then the residents cannot drive up over the trail. Matthies stated that even the snow plow person they have hired in the past will no longer plow their road due to the ice buildup of the trail. Meert asked if the only problem getting in and out of the driveway is the Kal-Haven Trail, isn't the DNR responsible in some way to maintain it. Smith stated that the state does not own it any more, the county does. Smith stated that the Kal-Haven Trail is a linear state park but it is maintained by the County now. Kaufman asked if there is a written contract with the county that could possibly be amended to address certain problems. Smith stated that another solution might be to go to the snowmobile club and tell them to stop dumping snow and building the berm up because that is who is dumping it there, when they come through grooming the trail. Kaufman stated that it being a state park, but the county maintains it, maybe we need to see what that agreement looks like and can it be modified to ensure that this issue does not happen. Matthies ask that if the 3 owners decided to widen the road on their own monies with gravel to the RC specifications, how would they go about that. Kaufman stated what should probably happen is to contact the RC and offer to give up an easement such that it would be 66 ft wide and get it all the way out to CR 388 with gravel, and designed by an architect to meet the required specs. The RC possibly at that point might consider to recertified it. Smith stated that he is the liaison with the RC for the board, let him go to the RC board, contact Mr. Bishop, sit down with him and say look, here's what we propose and see what he says, that's all we can do. Matthies ask if he could go with him and Smith stated he could also ask Bishop to come to Pine Grove. Smith stated he would contact Bishop to see when and where they could meet and he will let Matthies know.

3. **Property Behind Township Offices:** Smith stated the Township put in an offer on the property behind the Township office and the offer was rejected by the property owner. A second offer was made and was also rejected but a counter offer was made to accept the price but would only allow 14 days to do any required testing. Smith stated the testing agency that he contacted stated that it would be a minimum of a 4 week turn around to get the testing back, which is after the testing was completed and it was a 2-4 week wait to get it scheduled. Therefore, the counter offer with only 14 days was rejected. Hephner asked who the offer was rejected by and Smith stated by him on behalf of the township. Hephner asked Kaufman if that decision should come back to the board and Kaufman stated that the board would make the final decision, that the Supervisor was given authority to go up to a certain level, but the final decision should have come back to the board. Kaufman stated that it is important that a Phase 1 Environmental be done and if the window was 14 days and it could not get done in 14 days, that maybe a counter offer could be made showing the time it would take to do the testing. Smith asked if there was anything else to work on this topic now. Hearing nothing, Smith moved onto the next agenda item.
4. **Cleanup of Township Office:** Smith stated that he met with Wonder Maker Testing, who took the samples for mold and also asbestos in the Township Hall. Smith stated the results should be in possibly by the end of this week. They also pointed out where water was entering the basement and made a recommendation of a person who does basement waterproofing, Thompson Family Waterproofing. Smith stated he contacted them to inspect the basement. They found a few cracks in basement walls but found the bulk of the water infiltration in the basement is due to the gutters on the building. They are not big enough to handle the water coming off the roof. The downspouts are disconnected and in disrepair and not functioning properly. Smith stated the tunnel going out to the old well is another point where there is actually a hole through the cement from outside going into that tunnel. Smith stated his recommendation is to do the gutters, dig up hole leading into the tunnel and fill it with good solid fill and seal it up and then

see if water still comes into the basement. If so, he can then seal the cracks in the wall at a cost of \$1,200.00 per crack and there are 3-4 cracks. ***Motion made by Smith, supported by Sell to get quotes for redoing the gutters and downspouts on the building and excavating the old well pit and eliminating it, sealing it up to the building. 4 yes, 1 no, motion carried.***

5. **New Signs for Parks and Cemeteries:** Smith stated he contacted RWL Sign Company and obtained a quote for new signs for Kendall Park and Cemeteries. ***Motion made by Smith to approve the quote for new signs by RWL to replace the signs indicated at the parks and the cemeteries at a cost of \$4,812.00.*** Sell asked if there was anything on the cemetery signs currently, or is there any rules or regulations against planting live plants in the ground, because some places do. Smith stated that there is nothing on the signs currently and does not know of any ordinance that addresses that. Meert asked about the wood posts and Smith stated that they are 4x4 treated posts. Sell asked if they could look at steel posts that would not get all green and slimy and break down because the signs outlast the posts by far, maybe a powder coated steel post or aluminum. Smith stated that would be a lot of added expense to go with steel posts. Hephner asked if a quote with steel posts could be obtained. Smith stated yes and once it goes over \$5000.00 it will have to go out for a competitive bid, which will add another 30-60 days getting the project approved. Smith stated he did not see the big deal with the wood posts himself. ***Motion died for lack of support.*** Sell asked if Smith would follow up with an addition quote and Smith stated he would recontact RWL for a quote with steel posts.
6. **OEO Laptop:** Hephner stated she reviewed the minutes from June 1, 2022 indicating this board, after a lengthy discussion, motion made by Sell, supported by Hephner to appoint Trustee Jesse Richardson to be the Liaison Officer with the contracted Sheriff Deputy for the Township. It is her understanding that the Sheriff Deputy is still reporting to Smith and getting information from Smith, when we had voted Jesse to do that. Hephner stated there was repeated discussion from the Deputy who stated his supervisors wanted him to report to the Township Supervisor, is that correct? Smith stated yes. Hephner stated she met with the Sheriff last Thursday, and a Captain, and there is no such mandate. Smith asked if Hephner met with the Sheriff and Hephner stated that she just said she did. Smith asked if she met with the Sheriff himself, not his Deputy. Hephner stated she met with Sheriff Abbott in his office, face to face. She was not representing the board; she was representing herself. Since the Township was paying this Deputies salary, would they mandate who he was to report to. Hephner stated the Sheriff then stepped out of the room and called the Captain in, who is actually the direct supervisor of that Deputy. Hephner stated the Captain used to be in charge of that position and both of them clearly told me that there is no such mandate. I told them the board had voted for our Deputy to report to Jesse Richardson, Trustee. Hephner stated the Captain then said our deputy had been getting no information from Jesse Richardson. When I left, I went to the website which is linked to the county website, and both of those clearly states that the Zoning Enforcement Officer, Blight and Ordinance complaints is under Supervisor Smith with his phone number. That is not what the board voted. Smith stated that has been in there for quite a while, he stated he had forgotten it was in there. Hephner stated it is still there and that that needs to be changed to Jesse Richardson. The Deputy now needs to start reporting to Jesse. Hephner stated the Sheriff was in 100% agreement as was his Captain. Hephner stated it was a good time to bring up, when this board votes on something, it is your responsibility, and mine, to support what the board votes for. Hephner stated we each have one vote, and even if you don't agree, you can't go off and do what you want anyway. The directive in the motion that occurred in June is still in place. Hephner stated the website needs to be changed as well as the counties website with Jesse's information on it so those two can start meeting. Hephner stated the computer that is in the Supervisors possession right now, was purchased by the Township Board for the previous Enforcement Officer. It needs to be returned to Pine Grove Township, who owns it, it is not the Supervisors. Smith stated he did not say it was. Hephner stated it is in Smith's possession and it has not yet been returned and according to last month's meeting minutes, you were asked to

return it. Hephner stated it needs to go to Jesse or it needs to stay here so that he can use it here. If Smith has any questions about whether or not the board acts as one when a vote is called and each of us has one vote, you need to let me know that now. It's just like making that offer for the property, I am absolutely certain, after reading that, you were instructed to offer \$40,000.00 the first time and according to the information, you offered \$39,000. Hephner stated we had to have a special meeting to bring you back in, and have you offer \$50,000. The last counter offer they made should have come back to this board. Hephner stated Smith represents himself and his opinion but as a whole, you represent all of us and the people in this township. Hephner stated if anyone has any questions for her, she would be happy to answer them. Smith stated he had nothing for Donna. Hephner asked if he had not even an apology and Smith stated he had nothing to apologize for. Hephner asked Richardson if he was going to contact the Deputy tomorrow and tell him he was now to report to him. Richardson stated that he could do that. Hephner asked who was going to be responsible for changing the information on the website and Sell stated she would take care of it. Hephner asked Richardson if he wanted his cell phone listed or his home number listed and Richardson stated both would be fine. Sell asked Smith when he returned the laptop to Richardson, if he could please give him the passwords as well. Richardson stated the laptop could stay at the township and Sell stated that was fine but that he would still need the passwords. Sell stated that she was in the office every Tuesday and could help Richardson get started with it. Smith asked if the board was done with that now. Hearing nothing, moved onto New Business. Hephner stated that Robert Rules of Order was next under Old Business. Smith stated ok, what about it.

7. **Robert Rules of Order:** Hephner stated the Board needs to be clear if a motion does not get a second, it's dead and you cannot take a roll call vote. Smith stated that this board does not operate under Robert's Rules of Order. Kaufman stated that she does not believe that this board does operate under Robert's Rules of Order, whatever rules the board is operating on, if there is a motion and there is no second, then it cannot be voted on. It has happened in the past and Kaufman stated she was not quick enough to stop it and apologized for that. Kaufman stated that just as was stated a minute ago, if the person who made the motion could ask that the Clerk reflect in the minutes that the motion fail for lack of a second, but it cannot then be voted on. Hephner asked about the past when they voted without a second. Kaufman stated that she would rather not go back and invalidate decision that have been made, so she would not recommend that, that she would recommend that the board go forward and all understand that if a motion is made, there has to be a second and then can have a discussion and ultimately can call for a vote.
10. **New Business:**
 1. **Kris Strasser Adding Building Material to Recycle Center:** Smith stated that Kris called and asked about adding building materials to the Recycle Center and Smith stated that he told Kris that it was a decision made by the board of what would be taken at the recycle center and what wouldn't. Smith stated that Kris stated he talked to Best Way and they stated that they didn't care what was dumped in the containers. Sell stated that we used to do it but stated it is believed it was just because the attendants back then were a bit more lenient. Hephner stated that the historically it was decided not to allow building materials due to the possible asbestos and hazardous material that could come in with building materials and did not believe that it should be allowed. After a short discussion and advice from Attorney Kaufman, no changes were made to allow building material to be dumped at the Recycle Center.
 2. **Approve 2022 Tax Rate:** Smith stated that because of the election last month, the Senior Services millage was passed so the board needs to approve the tax rate for the L4029. Motion made by Smith, supported by Meert to approve the updated L4029 and submit it to the County. Roll Call: Richardson - yes, Meert -yes, Smith – yes, Sell -yes, Hephner – yes. All yes, motion carried.
 3. **Title Work for CR 388/32nd St Property, Placing Permanent Corner Post:** Smith stated that the property at 388 and 32nd St. has to have some title work done in order to complete the survey.

Smith stated the Board needs to authorize the expenditure of approx. \$1,200 to \$1,500 to complete the title work. Meert will contact AR Engineering to find out what title company they work with. **Motion made by Hephner, supported by Meert to approve the expenditure to do the title work at CR 388 and 32nd St and setting the permanent metal posts, not to exceed \$2000.00. All yes, motion carried.**

4. **Electric Service/Lighting for Kendall Park:** Smith stated there had been some concerns regarding the lack of lighting down at the pavilion at the park in Kendall so a quote was obtained to provide one 8-foot vapor light LED fixture, underground conduit and GFCI receptacle and an additional light on the flag mounted on a 2-inch rigid conduit and a new electrical panel. The fee includes the permit and does not include any of Consumers fee's that might come up with this project. Smith stated that the quote came in at \$4,500.00. **Motion made by Hephner, supported by Sell/Smith to go ahead with the repairs at Kendall Park with Esper Electric for \$4,500.00. All yes, motion carried.**
5. **Approval of August Minutes:** Sell stated she wanted to add onto #5 that at that point, the computer was still in Smith's possession, had not been returned, and had no plan for returning it to the Township. Sell stated she did have a question about the minutes, because the meeting that was August 3 and then the Special Meeting on August 15th and on the meeting on August 3rd, Smith had talked to VanDam and Krusinga who apparently had tried to come out and test for mold 3 times. Smith stated no, they just wanted to come out and look in the building. Sell said the minutes said "regarding mold" and then Smith said they had wanted to come out and could not get in because no one was ever there. Smith stated it was in regards to the mold but it wasn't for them to test for it. Sell said that on the Special Meeting on August 15th to help her clear it up because then it says "Hephner asked if VanDam and Krusinga had submitted a bid and Smith said they no longer do mold sampling. Sell asked for the cleanup of the township, are VanDam and Krusinga still an option to clean up the mold. Smith said yes, VanDam and Krusinga will clean up the mold but they will not test for it. Smith stated to make some more clarification on that, Wonder Makers do not do a remediation program so much, but they provide the test results and suggestions to stop the mold and then recommend you need to do this and this. Wonder Makers provide suggestions for cleanup based on their testing results. Sell stated that was why she was confused because in the one it said VanDam was coming for the mold and the other said that they don't do mold, but that's exactly what I needed. Meert asked if Sell wanted anything changed in the minutes. Sell stated that on item #5, the laptop, she would like that added in. Kaufman asked Sell if she was making a motion and Sell stated yes if that's what she needed to do. Sell stated that on the second page all the way down, #5, right before public comment. Sell stated on the other stuff she needed clarification because it was contradictory. **Motion made by Sell, supported by Hephner to approve the minutes of August 3, 2022 with the amendment. All yes, motion carried.**
11. **Member Comment:** Richardson asked if anything was ever found out on Craig Kincaid's burnt building, it burned down November 12 of last year, the pole barn that was converted into a house. Richardson stated that the Fire Chief had said something about contacting the insurance company. Kaufman stated that if Pine Grove Township is in the Fire Insurance Withholding Program, then the township will get a percentage of his insurance paid to the township if the Fire Department has applied for it. Smith stated that Kincaid may not have even had insurance on it. Smith stated he would contact Kincaid to see if in fact they did have insurance on the building. Hephner stated that she would just contact the Fire Chief and ask him. Hephner stated they had remediation in place so he could find out and Hephner will ask him if he ever applied for it. Meert asked where the process goes from there if there was no insurance. Kaufman stated that if there was no insurance, it would have to go to some type of unsafe building of the state housing codes if it's a residential structure and then the Hearing Officer would make a determination as to whether it should be torn down or saved.
12. **Adjournment: 9:18 p.m.**

Respectfully submitted,

Michelle Meert, Pine Grove Twp. Clerk

New Business, #5 ZO Laptop: Sell stated that the ZO Laptop computer needs to go to Jesse. Jesse asked if he had to have the ZO Laptop, can BS&A be put on his own laptop. Smith stated no. Meert stated that he has to use that laptop because it has the program on it. Sell stated that we paid what \$5000 \$6000 for BS&A plus laptop and don't know where it is but, Smith stated that he has the laptop and he has been making entries into it. Sell said, "oh, you have been, and Smith said that he is the only one authorized to get in there right now. Sell stated but we have designated Jesse. Smith stated I know Jesse has been designated but that was to work with the ordinance officer, all I am doing is the entries after everything is done. Sell stated so somebody is utilizing it, Smith said oh yeah. Sell stated ok, well, it was brought to my attention that we didn't know where it was and that Jesse needed it so that's why I brought it up. Jesse stated that he did not have any way to get the information that he needs when someone calls in to give to the officer. Sell stated that you would like to have access to it. Jesse stated the way he does it makes a lot of sense because it has all the information there and on the back side, he can keep track how many times he comes or whatever. Smith stated that that does not come out of the KABA software, that comes out of the BS&A software, Jesse stated that was what he was saying. Sell stated that that was what Jesse was saying. Sell stated that it makes sense for you to have it, Jesse. Jesse stated that the officer would like that, it makes it a lot easier on him than me just giving him an address and complaint. Jesse stated however the board wants to handle it, that's up to them. Smith stated you are still not understanding what I just said. Smith stated the sheets he uses to work off from, come out of our Assessor.net, they don't come out of the Bill.net, that is a completely separate system. Jesse stated he needs whatever he needs if I'm going to do it, I guess. Smith stated that whoever is in here, Trena has access to Access.net, it's just a property record. Sell stated that Jesse is asking if he can have access to the BS&A program that the board purchased for the Zoning Ordinance Officer. Smith stated that this is not where that comes from and Sell stated that I understand that this is Assessing .net and I have access and you have access and actually there is access right there on that computer to the public. Jesse said that is what he needs to print off for the Deputy, so I can give him the complaint. Smith stated that Jesse can get it right there. Sell stated as you know a laptop at home is much more convenient than a computer. Sell stated Don, I'm not going to argue, Smith stated that Assessing .net is not on that laptop. Sell stated ok, but the BS&A is and if Jesse is going to be doing that, he can have access to that portion of it, Smith stated that Bill.net is on the laptop. Sell asked Smith if he was holding the laptop hostage, she is a little confused. Smith stated no he is not holding it hostage, its proprietary information on KABA website. Sell stated that Jesse does not have access to this, Smith stated correct. Jesse stated that he does not know if he needs it, I just need what the officer says I need. Sell stated that Michelle needs a new laptop because the one that is in the office isn't working very well, would you be willing allow her to use that laptop. Smith stated that I guess if she needs a laptop she can use it, but I need it to make the entries into the KABA stuff. Sell stated, Jesse can't make those entries is what you are saying and Smith stated that he doesn't have authorization to be in there. Sell stated you can't put that on your work laptop, you need two of them. Smith stated that he does not have a work laptop, I have a desk top in here. Sell stated I though we bought you a laptop and Smith stated no, we did not, Sell stated ok, my mistake. Sorry Jess. Jesse stated that's ok, as long as I have access to what I need then it will make him a lot happier instead of me having a bunch of papers and not knowing where he's going. Meert stated she can show Jesse how to get on the one in the township hall. The OEO stated that he does 5 townships and the reason that he tries to be as thorough as possible is because it becomes confusing to do 5 townships and our county is not a friendly county when it comes to numbered roads. Some are avenues, some are streets and they all cross different townships. What I am asking for is something that I feel Jesse can get access to, it doesn't sound like he can. Sell stated that Assessing.net he can which is on this computer. The OEO said the program he can access himself is BS&A. Sell stated that the data entry afterwards, is what Don is doing and that's why I was wondering if Jesse was capable of doing that. OEO stated that if he is not available to get into it, then he can't get into it, but I mean you know that, what I am looking for paperwork wise is a simple piece of paper that shows me who owns the house, who rents the house. I mean it's a very simple piece of

paperwork. It is something that is very easy to read so all I'm asking is that I get that instead of getting pieces of paper and phone calls saying hey, look at this address because I do police work too, then when somebody says something to me, I have to write it in this little book and then it gets lost. Then 3 weeks from now I'm looking, going, what's that address to and I rip it up because I don't know what it's to. Sell stated that's why when he came to me, I said we have a computer with this information that we purchased for Tim. The OEO stated that is not what he is looking for. I'm looking for a little bit more in depth file than BS&A. Sell stated that is in Assessing.net. OEO stated that he doesn't know where it comes from all I know is that all the other township supervisors when they hand me something, it's from that. Or whoever I work with in the township, they hand me that piece of paper, I don't get pieces of paper with names on it or address. So, maybe its people having to work together a little bit more to get me to be able to do my job because when it all comes down to it, I'm trying to make everybody happy, I'm not just trying to make you guys happy. I'm trying to make them happy too, so I got a little bit steeper hill to climb. Sell stated that she was trying to make Jesse's life easier. OEO stated that Jesse hears my whining but he will work on it and we will get it going. If there is access and he can get to that, he might have to work with Don to get that access until you guys can figure out how he may have it. Sell stated that it's public, its right here on this computer here for the public. Smith stated that the property record comes off BS&A's Accessing.net. The information after people got a complaint against them and then ultimately what happens with it, it goes on the KABA server. Sell stated which is what is on that laptop and that is what I was trying to get to Jesse. OEO stated that the KABA server is what is important to you guys, it is very important that you guys have that information that I do out of the KABA server. Sell states yes, and that's what Jesse wanted access to. He can't get that here from me, he can only get it from the laptop. Jesse stated that I don't know if I need that though. Sell stated that if Don is doing that part of your position, then apparently not. Jesse stated that he was asked and given a picture of what he needs and basically what it is just a parcel description. (Everyone talking at once about a piece of paper) Meert had the piece of paper and Jesse stated that this is what I need to make him happy and he can keep track on the back how many times he stops or whatever. I give him the piece of paper that he takes but he is not real happy about it, which I don't blame him, I understand. Sell stated yes, we want to make his life easier and Jesse said and make my life easier. OEO stated that it will make Jesses life easier to. Sell said yep, yep. Smith stated, ok, so we all squared away and Jesse said yep, I can do it right here, Smith said OK, we got that taken care of. Smith then opened up for public participation.

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MEMORANDUM

**THIS DOCUMENT IS SUBJECT TO THE ATTORNEY CLIENT PRIVILEGE
AND IS EXEMPT FROM DISCLOSURE UNDER MCL 15.243(h); AND MAY BE
CONSIDERED IN A CLOSED SESSION UNDER MCL 15.268(h)**

TO: Pine Grove Township Board
FROM: Catherine Kaufman, Township Attorney *Catherine Kaufman*
RE: CR 388 Driveway/Road - Matthies
DATE: September 7, 2022

At last month's Board meeting, property owner Eric Matthies asked the Board to assist in getting a driveway/road extension from CR 388 recertified and maintained by the Van Buren County Road Commission. Mr. Matthies provided the Board and myself with a comprehensive, historical chronology of this issue, including his and his neighbors' long term efforts to engage the Road Commission on this matter.

Since the last meeting, I have reviewed all the information presented by Mr. Matthies. I also attended (along with Supervisor Smith) the Van Buren County Supervisors' meeting, during which the Road Commissioners and staff discussed with Township supervisors Road Commission responsibilities, authorities and obligations. Additionally, the Road Commission's insurance counsel, Bill Henn, presented a summary of Road Commission statutory authorities and duties, along with a summary of applicable case law. Attorney Henn also answered questions and provided guidance on specific situations.

Several issues were clarified by Attorney Henn's comments during the meeting, as follows: 1) the Road Commission is statutorily required to repair and maintain the entirety of the ROW; 2) if a public road is certified, the Road Commission is responsible for maintaining and repairing the ROW; 3) if a public road is certified, the Road Commission can spend Act 51 funds on repair and maintenance; 4) a public road can be decertified and still be a public road, but generally no one is using the road (seasonal) and the Road Commission should not spend funds on maintaining it; 5) if the road is certified, the Road Commission is liable for anything that happens in the ROW, so the Road Commission will generally require that the road is developed to Road Commission standards, in order to avoid/minimize liability.

The above analysis applies to Mr. Matthies' situation. The Road Commission, by letter dated 9/20/2010, decertified the dead-end road serving Mr. Matthies' driveway that extends approximately 700 feet south from CR 388. The letter also noted that the property owners can request the Township Board to ask the Road Commission to re-certify this section of road, but also states that in order for the Township to re-certify this section of road, the road would have to be brought up to County Road standards. Thereafter, the Road Commission provided additional information, by letter dated 11/11/2010, which clarified that there is a 20 foot easement serving 3 properties (Matties, Goodrich, Keeley) and that the Road Commission could not maintain the easement (because of width). This letter outlined options: 1) do nothing; 2) Township contract with Road Commission to provide year round maintenance¹; Township can finance this contract with special assessment district; and 3) bring private easement up to Road Commission standards – which would require acquiring additional land to bring road easement to 66' wide, to allow 20 – 24 feet of road surface (gravel and/or asphalt).

Given the above information, the status of Mr. Matthies' road appears to be as follows:

1. May have been established as a public road by Highway by User or by McNitt Act.
2. Road Commission did maintain the road to some extent previously.
3. In 2010, the Road Commission notified property owners that it was decertifying the road and would no longer provide maintenance on the road.
4. Later in 2010, the Road Commission outlined options for continued maintenance of the road, including requirement to acquire additional land for 66 foot wide ROW.
5. Road Commission is responsible/liable for the repair and improvement of all certified roads. Therefore, it is understandable that the Road Commission would decertify a road if it is not constructed to County Road Commission standards and/or has low usage (cost benefit analysis of funds that could be acquired for the road versus cost of maintaining).
 - a. Road Commission liability attaches to certified roads – maintain and improve ROW
6. Township Board can (upon petition or upon its own initiative) create a special assessment district to construct, maintain repair public or private roads.
 - a. Costs allocated to properties that are benefitted
7. Township can initiate litigation in circuit court to have a road declared a public road and determine length/boundaries of the road, with prior written approval of the Road Commission. MCL 221.20a
 - a. The Township may require deposit from petitioners of amount estimated to pay all legal proceedings. MCL 221.20b

I will be available to discuss this memo at the Board meeting on 9/7/2022. If the Board wishes, it may go into closed session to discuss this memo, per MCL 15.268(1)(h). I have attached a sample motion to go into closed session, if the Board wants to do so. Alternatively, the Board may vote to waive the attorney client privilege attached to the memo and discuss the memo in open session.

¹ We do not recommend that the Township enter into a contract with the Road Commission for private road maintenance purposes because of possible liability. However, the Township Board can establish a special assessment district for the maintenance and/or improvement of the private road, which special assessment district would include approval of plans for those services.