

Lyndon Township  
**SPECIAL BOARD MEETING**  
17751 N. Territorial Rd., Chelsea, MI 48118  
Wednesday, September 3, 2008 @ 4:00 PM

APPROVED MINUTES

**Members Present:** MaryAnn Noah, Linda Reilly, MaryJane Maze, LeeAnn Shanahan, Kathryn Francis

**Members Absent:** None

**Also Present:** Merritt Honbaum, Ordinance Officer; Robert Mester, Deputy Ordinance Officer; Peter Flintoft, Township Attorney; Lee Fahrner, Township Engineer

**Call to Order:** Noah called the meeting to order at 4:00 PM, followed by the Pledge of Allegiance.

**Call to the Public:** None

**Herrst/Cane Property Collapse:** Noah asked for a motion to go into Closed Session to discuss updates concerning the Herrst/Cane property. Shanahan moved, supported by Reilly, to go into Closed Session at 4:02 PM. CARRIED 5-0. Noah stated the township attorney, township engineer, ordinance officer, office manager, and future township supervisor were invited to the Closed Session meeting along with Board members.

No action was taken during the Closed Session. Shanahan moved, supported by Reilly, to come out of Closed Session at 4:35 PM. CARRIED 5-0.

Regular session reopened at 4:36 PM.

At the request of the Board, Flintoft gave a report to residents who attended the regular meeting. Flintoft briefly reviewed the case, processes, settlement discussions, and bids submitted in an effort to settle the earth movement disaster at the Herrst/Cane property. Flintoft stated the most recent specs submitted by Herrst to shore up the hillside were not acceptable to the township engineer. At the same time, the Township would like permission to go onto the property to correct the problem and then collect monies spent. Flintoft reported the amount of money offered by Herrst's insurance company would not meet the cost of the bids leaving the township looking at other means to resolve. Flintoft added there is no known source of State or Federal monies available to remedy the situation and that the Road Commission has been paid for their losses.

Flintoft stated the law gives the township the right to remedy the problem; although, once the township goes onto the property to remediate, the township would become responsible at that point. Flintoft discussed other ways to collect from Herrst, i.e. collect on the lawsuit judgment, impose a special assessment on the Herrst property and collect through taxation, or an area-wide special assessment based on a drainage problem. Flintoft went on to discuss taxation and forfeiture proceedings in Michigan. Flintoft stated the township would probably receive the judgment from the lawsuit; however, it would fall short of the estimated \$100,000 to construct some type of retaining wall.

Flintoft stated Chelsea Area Construction Agency deals with construction codes and will not assist in condemning the home and does not consider the home dangerous. Richard Martin, a neighbor, questioned why Herrst does not have to comply on other blight issues. Shanahan explained the difficulty in trying to get Herrst to pay fines in the past for similar blight issues.

Noah clarified in order to be considered a dangerous building, there must be imminent danger, which was not the case after the initial collapse. Since the property was last inspected by SME engineers 15-16 months ago and soil erosion is ongoing, Noah stated Dale Benke, Soil Erosion Officer, will need to go onto the property to assess it on a regular basis.

Other nonviable options discussed included whether the Herrst home was in violation of the Public Health Code, and the possibility of asking the court to remove the family from the home.

Noah asked Flintoft for his recommendation. Flintoft stated if the township continues to pursue, it could take the judgment as a partial down payment for use in some sort of minimal treatment, i.e. planting vegetation on the slope. However, this would require engineers, professional landscaping, etc., and would probably exceed the judgment and if the township goes onto the property and further disturbs it causing more damage/collapse, would then be liable.

Noah offered a motion to pursue a judgment. There was no second. No action was taken.

**Office Manager Position:** Members received copies of applications for the Office Manager position to review prior to the September 9 Board meeting.

**Other Business:** None

**Adjournment:** Francis moved, supported by Shanahan at 5:15 PM.

Respectfully submitted,

Roxanne Petrie  
Office Manager