



**LUZERNE COUNTY COUNCIL
PUBLIC HEARING
September 08, 2020
Video/Teleconference via TEAMS
5:30 PM**

5:30 PM CALL TO ORDER

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

ROLL CALL

MOTION TO SUSPEND BYLAWS REGARDING THE REQUIREMENT A MAJORITY OF THOSE PARTICIPATING IN THE MEETING MUST BE PHYSICALLY PRESENT AT THE MEETING.

MOTION TO SUSPEND BYLAWS REGARDING THE CONDUCT OF PUBLIC MEETINGS TO THE EXTENT THAT THE CURRENT FORMAT IS INCONSISTENT WITH THE TERM OF THE STATE'S EMERGENCY DECLARATION.

PUBLIC COMMENT ON PROPOSED ORDINANCE Entering into an Intergovernmental Agreement with Hanover Township for the Repair and Dedication of the Division Street Bridge in Accordance with the Pennsylvania Intergovernmental Cooperation Law, Act 177 of 1996, previously adopted as Act 180 of 1972.

This is an opportunity for members of the public to address the Council on the matter listed on the Agenda. Please refer to the Public Meetings Online page of County's Website at <https://www.luzernecounty.org/1279/Public-Meetings-Online> for more information on how to participate in Public Comment via technology.

ADJOURNMENT

ORDINANCE NO. _____ of 2020

An Ordinance of County Council of Luzerne County Entering into an Intergovernmental Agreement with Hanover Township for the Repair and Dedication of the Division Street Bridge in Accordance with the Pennsylvania Intergovernmental Cooperation Law, Act 177 of 1996, previously adopted as Act 180 of 1972.

WHEREAS, Section 2304 of the Intergovernmental Cooperation Law (“PICL”) promulgates a municipality by act of its governing body may, or upon being required by initiative and referendum in the area affected shall, cooperate or agree in the exercise of any function, power or responsibility with or delegate or transfer any function, power or responsibility to one or more other local governments, the Federal Government or any other state or its government; and

WHEREAS, Section 2305 of the Intergovernmental Cooperation Law allows a local government may enter into intergovernmental cooperation with or delegate any functions, powers or responsibilities to another governmental unit or local government upon the passage of an ordinance by its governing body; and

WHEREAS, Luzerne County and Hanover Township seek to enter into an Intergovernmental Agreement for the sole purpose of Luzerne County (“the County”) securing a grant to replace/repair, the Division Street Bridge, as more specifically described in the Intergovernmental Agreement which is incorporated fully herein by reference, owned by the County that are located within Hanover Township (“the Township”); and

WHEREAS, upon completion of such repairs by Luzerne County, the County shall dedicate its interests in the bridge to the Township for ownership and maintenance and the Township shall accept such dedication and responsibility of the bridge; and

WHEREAS, the respective municipalities have acted and intend to act pursuant to Article M, Section 5, of the Pennsylvania Constitution and 53 Pa. C. S. § 2303, et seq., providing for intergovernmental cooperation; and

WHEREAS, Section 2307 of the Intergovernmental Cooperation Law states that the Ordinance adopted by the governing body of a local government entering into intergovernmental cooperation or delegating or transferring any functions, powers or responsibilities to another local government or to a council of governments, consortium or any other similar entity shall specify:

- (1) The conditions of agreement in the case of cooperation with or delegation to other local governments, the Commonwealth, other states or the Federal Government.
- (2) The duration of the term of the agreement.
- (3) The purpose and objectives of the agreement, including the powers and scope of authority delegated in the agreement.
- (4) The manner and extent of financing the agreement.
- (5) The organizational structure necessary to implement the agreement.

(6) The manner in which real or personal property shall be acquired, managed, licensed or disposed of.

(7) That the entity created under this section shall be empowered to enter into contracts for policies of group insurance and employee benefits, including Social Security, for its employees, if applicable.

WHEREAS, Luzerne County wishes to enter into an Intergovernmental Agreement with Hanover Township in accordance with the PCIL.

NOW, THEREFORE, BE IT HEREBY ENACTED AND ORDAINED by the County Council of Luzerne County as follows:

SECTION ONE. Incorporation of Preamble.

The provisions set forth above in the preamble to this Ordinance are incorporated herein by reference in their entirety.

SECTION TWO. Conditions of Agreement

That Luzerne County and Hanover Township enter into such Intergovernmental Agreement, attached hereto and incorporated herein by reference, in accordance with the terms therein and any other laws which apply.

SECTION THREE: Duration

The duration and term of the Agreement shall be the length of time required to complete the replacement/repair to specification on the Division Street Bridge between Carey Avenue and Keith Street. Upon completion of the replacement/repair of the Division Street Bridge, the County shall dedicate and the Township shall accept such dedication of such Bridge. The County Manager shall have the authority to execute any additional documents to consummate the agreement with Hanover Township.

SECTION FOUR: Purpose

The purpose of the Agreement is for Luzerne County to transfer ownership of and responsibility for the Division Street Bridge to Hanover Township once said bridge is in satisfactory condition per the terms of the Intergovernmental Agreement.

SECTION FIVE: Manner and Extent of Financing

That Luzerne County shall finance the cost of repairs through a Community Development Block Grant secured from the Pennsylvania Department of Community and Economic Development. Engineering costs are borne by Hanover Township and Wilkes-Barre City per their separate agreement regarding same.

SECTION SIX: Severability

The provisions of this Ordinance are severable and if any section, sentence, clause, or part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction such decision of the court shall not affect the remaining sections, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the County of Luzerne that such Ordinance would have been enacted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION SEVEN. Effective Date.

This Ordinance shall take effect on the fifteenth (15th) day following its enactment.

SECTION EIGHT. Repealer.

Any Resolution or Ordinance or parts thereof that conflict with or are inconsistent with this Ordinance are hereby repealed to the extent of the conflict or inconsistency with this Ordinance.

ENACTED by the County Council of the County of Luzerne this _____ day of _____, 2020.

LUZERNE COUNTY COUNCIL

AYES:

NAYS:

ATTEST:

BY: _____
Sharon Lawrence,
Clerk to Council

BY: _____
Tim McGinley, Chair

BY: _____
Chris Perry, Vice-Chair

INTERGOVERNMENTAL COOPERATION AGREEMENT

THIS INTERGOVERNMENTAL COOPERATION AGREEMENT (this "Agreement") dated the _____ day of _____, 2020, by and between:

HANOVER TOWNSHIP, a Pennsylvania Political Subdivision and Township, with a municipal office located at 1267 San Souci Parkway, Hanover Twp., Luzerne County, Pennsylvania 18706 (hereinafter the "Township");

AND

LUZERNE COUNTY, a County within the Commonwealth of Pennsylvania, with a County office located in the Luzerne County Courthouse and having an address of 200 N. River Street, Wilkes-Barre, Pennsylvania 18711 (hereinafter the "County"). The Township and County are sometimes referred to in this Agreement as the "Parties".

BACKGROUND

WHEREAS, the County is the owner of and responsible for the maintenance of a certain bridge located within the Township, more specifically, the Division Street Bridge (the "Bridge") between Carey Avenue in Wilkes-Barre City and Keith Street in Hanover Township; and

WHEREAS, the aforementioned bridge located within the Township has been in disrepair and not passable for several years; and

WHEREAS, in the interest of the public health, welfare, and safety, the County and Township recognize the benefits of repairing the Bridge and dedicating it to the Township; and

WHEREAS, the Act of December 19, 1999, P.L. 1158, No. 177, 53 Pa. C.S.A., Section 2301, et. seq., also known as the Intergovernmental Cooperation Act (Act 77), and more specifically Section 2303(a) provides that two local governments within the Commonwealth of Pennsylvania may jointly cooperate in the exercise or in the performance of their respective governmental functions, powers, or responsibilities; and

WHEREAS, Section 2302 of the Intergovernmental Cooperation Act defines local governments to include counties and townships;

WHEREAS, Section 2303(b) of the Intergovernmental Cooperation Act further provides that in the carrying out the provisions of the Act, the local governments so cooperating shall enter into a joint agreement; and

WHEREAS, under Section 2305 of the Intergovernmental Cooperation Act, a local government may enter into an intergovernmental cooperation agreement with another local government upon the passage of an Ordinance by its governing body; and

WHEREAS, the Parties wish to enter into this Agreement for the purpose of the repair and subsequent dedication of the Division Street Bridge over Solomon's Creek from Carey Avenue in Wilkes-Barre City to Keith Street in Hanover Township, Luzerne County, Pennsylvania under the terms and conditions set forth below.

NOW, THEREFORE, intending to be legally bound hereby, the Parties agree as follows:

TERMS AND CONDITIONS

1. **BACKGROUND.** The recitals set forth in the Background section above form a material part of this Agreement, and are incorporated herein by reference.

2. **COUNTY FUNDING FOR WORK.** The County has secured a Community Development Block Grant from the Pennsylvania Department of Community and Economic Development to cover the cost of replacement/repairs to the Division Street Bridge. Hanover Township had agreed to oversee the construction on the aforementioned Bridge, at its own cost and expense, as well as, by entering into a separate agreement with Wilkes-Barre City. By overseeing the construction on the Bridge, Hanover Twp. is ensuring the construction on the Bridge is to the satisfaction of the Township.

3. **OWNERSHIP.** Work having been recently completed on the Division Street Bridge contemplated in this Agreement, the County shall offer its interests in the Bridge to the Township for dedication, and the Township shall accept dedication of the aforementioned Bridge.

4. **MAINTENANCE OF ADJACENT ROADWAY.** The parties agree that Luzerne County shall also not be responsible for the maintenance of Division Street on either side of the bridge.

5. **TERM.** The term of this Agreement shall be until the completion of its purpose.

6. **LIABILITY.**

Each party shall indemnify and hold harmless the other party as a result of any action accruing during an individual party's performance under this Agreement, and for any actions that may be brought against the other party for injuries or damage occasioned while an individual party is performing under this Agreement.

7. SEVERABILITY. The provisions of this Agreement are severable, and if any section, sentence, clause, part, or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Agreement. It is hereby declared to be the intent of the governing bodies of each local government that this Agreement would have been entered into if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

8. COMPLIANCE WITH ALL LAWS, RULES AND REGULATIONS. The Parties agrees to comply with all federal, state and local laws, rules, regulations, and ordinances while performing their duties under this Agreement.

9. NO RIGHT TO BIND EACH OTHER. Except as to the obligations set forth in this Agreement, the Parties otherwise understand and agree that they do not have any authority to bind one another in any way or enter into any other contracts on behalf of one another with any third party.

10. ENTIRE AGREEMENT/AMENDMENTS. The parties agree that this Agreement constitutes the entire understanding between the parties and any representations, oral or written, not contained herein, are without effect. This Agreement may be amended only by written instrument signed by the Parties.

11. ASSIGNMENT. The Parties shall not assign this Agreement, in whole or any part, to any person or other entity without the prior written consent of the both Parties. Any attempt at assignment without the prior written consent of the other party shall be null and void, not binding on the Parties and the same shall constitute a default under this Agreement.

12. AMBIGUITY IN THIS AGREEMENT. If any ambiguity or ambiguities in this Agreement exists or are claimed by either the Township or County, or if any court should determine that any ambiguity exists in this Agreement, the parties acknowledge that this Agreement was drafted by both of them and the rule that any ambiguity shall be construed against the drafter shall not apply.

13. GOVERNING LAW; JURISDICTION AND VENUE. This Agreement shall be governed by and construed under the laws of the Commonwealth of Pennsylvania, and the Parties agree that jurisdiction and venue is only proper in Luzerne County since this is where the subject roads are located and the place where this Agreement was entered into between the Parties.

14. SIGNATURES. The Parties sign below intending to be legally bound by this Agreement.

Attest:

Hanover Township Board of Supervisors:

Manager

By: _____
President

Attest:

Luzerne County Council:

Sharon Lawrence, Clerk to Council

By: _____
Tim McGinley, Chair