

HANOVER TOWNSHIP, LEHIGH COUNTY
REGULAR COUNCIL MEETING

December 2, 2020
7:30 P.M.

Present: Councilmen Heimbecker, Lawlor, Paulus, Tocci, Woolley; J. Jackson Eaton, III, Esquire; Al Kortze, P.E.; Melissa A. Wehr; Josef Fragnito; Vicky Roth; Pina Romano

Absent: 0

Attendance: 10

Courtesy of the Floor: None.

Approval of Minutes: November 18, 2020 Regular Council Meeting

Motion: I move we waive the reading of the Minutes of the November 18, 2020 Regular Council Meeting and accept same as presented.

Paulus, Woolley: Moved and Seconded

Heimbecker, Lawlor, Tocci, Woolley, Paulus: Aye Unan.

Reports:

1. Melissa a. Wehr
Township Manager

1. In Council's packet is the Declaration of Emergency Disaster which is extended weekly. As Council knows, both the County and the State have extended theirs. The State extended it for an additional 90 days and the County's extension goes into mid-January. Mrs. Wehr will be continuing this trend as well.

2. Council will find in their packets a Zoning Hearing Board Decision letter for the docket that was recently before them in November for a sign. It was approved with some conditions which are outlined in the letter.

3. The LVPC comment letter for the KRE Zoning Ordinance Amendment is also in Council's packets for review and comments.

4. Last month there were some questions regarding contacting the Pennsylvania State Police for the traffic violations occurring in the Troxell Street area. Mrs. Wehr has contacted PSP and they have placed in on their roll call. Mrs. Wehr said the residents should have seen some activity out there. Councilman Lawlor said he has not seen PSP activity. Chairman Paulus said he has not seen any activity as well. Mrs. Wehr will reach out to PSP tomorrow just to make sure.

5. There was a clerical typo on one of the final Budget. Mrs. Wehr corrected it and gave Council a new revised copy.
6. The Township Calendar is completed and waiting on proof from the printer. Staff will be moving forward on this and should be in the mail sometime in the near future.
7. The Planning Commission Agenda was distributed for Council's use as well. Mrs. Wehr will follow-up with an email to Council including copy of Agenda. The Planning Commission will be meeting on December 15.
8. Mrs. Wehr spoke with Jackson Eaton, Township Attorney via email earlier this afternoon. There was discussion last month regarding the agreement with Rockefeller for the winter maintenance. The last agreement prepared was left open ended so it will cover this and there will be no need for a new agreement for this upcoming winter.
9. Mrs. Wehr was notified by RCN that their rates are going up in just about every category. The Township carries RCN and Mrs. Wehr will be searching and comparing to Service Electric and the possibility of switching over if the rates are cheaper.

Councilman Tocci asked Mrs. Wehr if there was any update on the Goodman Group and the development at Middle Lloyd. Mrs. Wehr replied that she has not heard anything from them. Mr. Tocci asked if there was an update on Evercore proposal to rezone the parcel by Lloyd & Irving Streets. Mrs. Wehr replied that she has no updates on the proposal.

2. Al Kortze, P.E.
Township Engineer

1. Mr. Kortze reported that he is still working on the multi-ways stop report at Hoover and Hidden Village. He needs to go out and take a couple of site distance measurements. Mr. Kortze anticipates having the report ready for Council by their next meeting.
2. The Willowbrook Road Sanitary Sewer replacement work is progressing steady but surely. They have about three runs and approximately 400 feet of sewer line to put in. They are outside of the right-of-way. They are not impeding traffic in any way, shape or form. This should be wrapping up within the next few weeks.

Councilman Woolley said he noticed there was a red pickup pulled up down by Mr. Paulus' residence taking pictures of the intersection. He then proceeded to drive up and stop and Mr. Woolley's residence and took pictures of the intersection where the water was laying. Mr. Woolley asked Mr. Kortze if he had any ideas who it was. Mr. Kortze replied that it wasn't anyone from his office. He assumes it was someone from the Contractor. They have a walkthrough with the Contractor on Friday to go over some items on the punch list and any outstanding items. It could have been them in advance of the meeting on Friday.

3. J. Jackson Eaton, III, Esquire
Township Attorney

1. Mr. Eaton said Council will recall at the end of their last meeting, the Board went into an Executive Session. At that point, they discussed a settlement with RCN for the refund claim that they had. Council discussed and agreed in the Executive Session that the settlement that had been negotiated of \$40,000 that the Township would pay as a refund for the taxes that were incorrectly paid to the Township. Mr. Eaton is requesting Council to make a Motion in open session approving the settlement of the RCN video programming tax refund claim for \$40,000.

Motion: I move that we approve the settlement of the RCN video programming tax refund claim for \$40,000 pursuant to the Township Attorney's recommendation.

Heimbecker, Lawlor: Moved and Seconded

Heimbecker, Lawlor, Tocci, Woolley, Paulus: Aye Unan.

2. Mr. Eaton gave Council a copy of an email from the Solicitor for the Catasauqua School District. As Mr. Eaton explained at the last meeting, their Solicitor had brought several tax appeals requesting higher taxes on certain properties. As Mr. Eaton explained, because the Township has such a low rate, the Township does not get actively involved but they keep the Township informed. They are proposing a settlement in the matter. As Council can see, Mr. Eaton highlighted the amounts suggested. If Council wants to get into a discussion of the amounts openly, they can go into Executive Session after the meeting. If Council looks at the explanation from David Knerr, they are recommending that settlement is going to be an increase in the taxes that will be available to the Township. If everything is acceptable to Council, Mr. Eaton requests a Motion to approve the settlement proposal as contained in the email from Catasauqua School District's Solicitor, David Knerr, of December 1, 2020.

Motion: I move that we approve the settlement proposal as contained in the email from Catasauqua School District's Solicitor, David Knerr, of December 1, 2020 as recommended by the Township Attorney.

Paulus, Lawlor: Moved and Seconded

Heimbecker, Lawlor, Tocci, Woolley, Paulus: Aye Unan.

Mr. Tocci asked Mr. Eaton if there was anymore progress on the Noise Ordinance. Mr. Eaton replied that he is still working on it.

Unfinished Business: None.

New Business:

1. Resolution No. 2020-42, A Resolution Granting Preliminary/Final Land Development Approval, 710 Lloyd St. Addition, American Parkway Associates LLC, Allentown, PA 18109 (Vote)

Tim Charlesworth, Attorney with Fitzpatrick, Lentz & Bubba, represented the Applicant addressed the Board. He said he has a very straightforward application before Council this evening. The tract is just over five acres. The property is in the Planned Unit Development zoning district where multiple uses are permitted. They are looking to construct a building of approximately 7,500 square feet comprising some office and garage in that building. There are apparently two users on the property. All are permitted uses. The letter dated November 9 from Keystone Consulting contains no issues and they have no problems with complying with their requests. Their engineer, Ms. Sue Kandil is also in attendance this evening and she will speak and answer any questions regarding the plan which is here. Mr. Charlesworth said he doesn't know how much detail Council needs. They have recommendations from the Planning Commission for approval and they will answer any questions that Council has. Mr. Eaton asked Mr. Kortze if there are any public improvements for which they will need an improvements agreement. Usually there are conditions for improvements agreements. Mr. Kortze replied that there are no public improvements. Mr. Tocci said he would like to state for the rest of the Council to know that when Mrs. Wehr mentioned the Planning Commission Minutes that Council has in front of them, is only the Draft version. He recommends to Council glancing over those Minutes as there was public input at that meeting to some length. He thinks the Minutes are worth reviewing beforehand. Mr. Tocci asked the residents in attendance if any of them had concerns or comments at this time. Mr. Tom Hutterer, 740 Lloyd Street, asked what type of uses is the building in question going to be. Mr. Charlesworth said the building is not constructed at this point. It will be leased to various users, perhaps one or more than one. All will be permitted uses under the Zoning Ordinance. Otherwise, they will have to come back to the Zoning Hearing Board to ask for relief. They don't anticipate that. Mr. Hutterer said it says office space. Does this include restrooms? Mr. Charlesworth said all the construction will be done in accordance to building codes. There will be restrooms, windows and whatever is required under the building code. Councilman Heimbecker said his guess is that the resident's question is what are the permitted uses under this zoning? What can you do to that building and/or what can that building be used for? Mrs. Wehr, speaking as the Zoning Officer, said there are several permitted uses for that parcel. Mr. Charlesworth is correct. If the use they propose is not a permitted use that is her job and her duty to notify them and they would have to go before the Zoning Hearing Board. If it is a permitted use, it will simply be a permit and they will follow through on building codes and inspections for the final Certificate of Occupancy. Mr. Heimbecker asked Mr. Hutterer what his concern is. Mr. Hutterer replied that his concern is when the Applicant came forward for the variance for the first business, it was his impression that the variance was going to be for the entire property and not just the sole purpose of Mini Mobile, i.e., the hours of work, type of business, and that is why they allowed that variance to go through. The new company, another company that is in there, is working weekend hours which was not granted for the variance given to Mobile Mini. They also said they would not be doing any type of mechanical work on the trucks. Mr. Hutterer's concern is are they going to open a garage. Mr. Hutterer believes that at the last Township meeting they

said it would just be used for storage and now they are saying there is going to be an office there with garage doors. Mr. Hutterer was under the impression it was just for storage for HEPCO and now they are saying it may be a different business entity. Mrs. Wehr said there are many uses permitted in the PUD zoning district. At this time, to answer Mr. Hutterer's concerns, Mrs. Wehr read off all permitted uses in that district listed in the Township's Zoning Ordinance. They are number 11 under Retail in the Zoning Ordinance, commercial business and professional service, a vehicle garage and vehicle autobody shops with all works performed in an enclosed building subject to the conditions is a permitted use in that district. Under Rural and Agricultural, it touches on four uses, under Residential, there are nine uses, under Public/Private Recreational Uses, there are six uses, under Governmental Institution Education and Utility, there are eight uses, under Retail Commercial Business and Professional Services has 13 uses, Industrial and Employment Oriented has four uses and there are six accessory uses listed whether they would be permitted, special exception or conditional use, it is listed in the Zoning Ordinance. Mr. Hutterer may review the Zoning Ordinance if he wishes to look over it. Mrs. Wehr reiterated that with the permitted use in that district it would just be a regular building permit and they would then go through the inspections from the Building Code Official and the Certificate of Occupancy would then be issued. If it is not a permitted use or it's a special exception, those are higher levels of approvals that they would have to go through. Mr. Hutterer's concern is with the variance they were issued it was agreed upon that there wouldn't be any type of truck mechanical maintenance work being done for that property. Also, as part of the variance that was granted, they were supposed to install a fence and it has not been done as of yet. They were supposed to plan arborvitaes on his property and that was not done. His neighbor has the arborvitaes, but he has never been contacted as to when it will happen. Mr. Paulus asked if these were the improvements agreed upon from the very first Mobile Mini application. Mr. Hutterer replied, yes. Jason Groller of 730 Lloyd Street held up a piece of paper stating the original agreement. Mr. Paulus said they would have to review it. Mr. Paulus said if they said they will do it; it will be done. Mr. Hutterer said it's been at least two years. Mr. Paulus was surprised to hear this. Mrs. Wehr said it was brought to her attention that their conditions for approval required a fence. Mrs. Wehr approached the property owner. He applied for and received a permit for the fence. The fence permit is noted on the land development plan and it shows the location of the proposed fence along with the location of the existing fence. Mrs. Wehr believes there was some type of agreement that the Township was not party to that was between the two property owners and that the Township would not get involved in. She also believes there was the same type of agreement regarding the arborvitaes. However, when it was brought to her attention about the fence that is moving forward, it's part of the land development plan and it will have to be up and secured prior to them getting their final Certificate of Occupancy from the Township. Mr. Hutterer said his other concern is the placement of the fence. On the first proposal, the fence was going to be down on the bottom half of what he thinks is a 10-foot embankment. On the drawing before them this evening, it seems like it's on top. Mrs. Wehr said the placement of the fence is shown on the plan and it meets all the requirements of the Township Ordinance. Mr. Heimbecker asked the Applicant's engineer to point out on the plan where it is. At this time, Ms. Kandil pointed out on the plan where the fence will be placed.

Mr. Tocci said he has questions to read that were submitted to him from residents for various reasons since they were not able to be in attendance this evening. At this time, Mr. Tocci asked if any of the residents that are in attendance this evening had any other concerns before he proceeds with asking his questions. Mr. Groller of 730 Lloyd Street, the parcel directly next to the existing building at 710 Lloyd Street. He said to piggyback to what Mr. Hutterer was saying before, he has the document that outlines the map and where the fence would be placed and where the arborvitaes would go and was agreed upon with the Zoning Hearing Board, which was before Mrs. Wehr was with the Township. Mr. Groller handed Mrs. Wehr a copy of the document. Mr. Groller would prefer not to have the fence next to the property and agreed upon arborvitaes that were there. Mr. Groller asked what the time line is for the construction, i.e., the start date and the expected end date. Ms. Kandil said the plan needs to go through to finish the land development since there are some comments from the Township Engineer. The Applicant will have to apply for a building permit which she is not sure when it would get approved and when he would start the construction. Ms. Kandil said they have to go through the process first to get approval. Mr. Groller asked as a follow-up question what is the estimated duration once it is started to completion and what would the hours of operation for the construction be, i.e., normal business hours, middle of the day, after hours, night work, etc. Mr. Charlesworth said these are not land development questions. He is not sure what the relevance of these questions is. The construction will be done in accordance with good construction practice and local law. It is as simple as that. Mr. Tocci said how is that not relevant for the people who will be living near the construction? Mr. Charlesworth replied because the property owners in the residential area and the adjacent commercial industrial zone both have property rights. His clients have rights as well. They have to abide by the rules and they will. They will answer as many questions as they can, but we won't know. Mr. Tocci said these questions are justifiable questions to ask, i.e., what hours of operation will be. Mr. Tocci asked Mr. Charlesworth how he can say that they are not justifiable questions. Mr. Charlesworth said a contractor has not been picked as of yet. The construction drawings haven't been drawn. They will be done according to whatever laws there are that restrict the time. He can't tell the residents they are going to start at 7:00 a.m. and end at 5:00 p.m. He doesn't know what the contractor will propose. It's premature. Mr. Tocci said that he understands that when the contractor is ready to build, Mr. Charlesworth will come back and tell the Council and residents this information. Mr. Charlesworth replied that they will pull a permit just like anyone else does. Mr. Tocci said there seems to be a disregard for the people who live in the area. To say that questions aren't relevant when you have residents in attendance asking questions about it and he has a list of concerns from residents. Mr. Charlesworth said he was referring to that one question. Mr. Tocci said he hopes his tone is different for the rest of the questions. Mr. Charlesworth said he will do his best to answer them. That is why the Applicant's engineer is in attendance and why he is in attendance. Mr. Groller said he is just looking for an estimated time frame and he apologized if he offended anyone. He does not want to make anyone hostile. He is a neighbor that is concerned. Mr. Groller asked Mr. Charlesworth if he knows what the estimated time line is once the construction starts or when they expect to have it completed. Ms. Kandil replied that every building is different and with this size of a building, maybe six months in her estimation. They may start in the spring if they receive all the approvals, but she cannot confirm it. Mr. Groller asked what potential impacts to the neighbors do they foresee happening and do they typically run into with construction of this type. Ms. Kandil said in her personal opinion as the engineer she

does not think there will be any impact. It's normal construction. Some concrete trucks coming in. She does not see any major impact. It is a small building, 7,700 square feet. It is not a huge building or warehouse. Mr. Groller said it is three to four times bigger than his home. That's big to him. At this time, Mr. Tocci asked questions on behalf of other residents who submitted questions to him. Going back to the comment that the building is not that big. From a homeowner's perspective it does seem big. Mr. Tocci said if he's correct it's twice the size of the existing building or larger. Ms. Kandil confirmed that it is approximately twice the size of the existing building. Mr. Tocci asked if they had plans that show a rendering of what the building will look like on interior and exterior. Ms. Kandil said it will be a brick fabricated building. Nothing fancy. It is a garage. In answer to Mr. Tocci's questions, Ms. Kandil said she does not have anything with her showing a rendering of the building. Mr. Tocci said one of the main questions submitted to him which he believes Mr. Hutterer already asked is what are the plans for a building that is over 7,500 square feet? He knows that all the listed use possibilities were mentioned. At this time, is there anything they can tell the Board of what or who is going in there, i.e., what tenants are interested in going in there? Mr. Charlesworth said he believes one of the current tenants is going to expand and take over at least part of the building. It would be great if the existing tenant would say they are taking over the entire building then they would be done. But they cannot guarantee that. Mr. Tocci said being the new member on Council, he has to ask if this is a normal procedure in the Township that someone can build a building of that size and Council doesn't have to know what will be going in there? Mrs. Wehr said that is correct and not unusual when a commercial property owner constructs a building. Most times they construct it without having all their agreements in place with a proposed tenant. Mr. Tocci asked when tenants do come is that something that would have to come before Council for approval of those tenants or does Council just receive notification of that? Mrs. Wehr replied that once they select a tenant, they must fill out what is called a Use Application and Permit that comes into the Township and the use gets approved and if there are any other modifications done to the building such as a tenant fit-out if they building the shell and they leave the inside go until the tenant signs their agreement and gets their lease signed and then they fit-out the inside for that particular tenant. At that time, if it's a permitted use, Council would not see it. Mr. Tocci asked if that is what seems to have occurred between what people were referring to before regarding Mobile Mini. We know that was a zoning variance. But, when HEPACO came in, is that what they did on the previous Manager's last day where they filled out the certificate. Mrs. Wehr said Mr. Tocci is correct. HEPACO submitted a use application to the previous Manager and he signed off on it before he left. Mr. Tocci said the confusion for so many of the residents that live in that area was when Mobile Mini applied to be down there, they had to go for a zoning variance, an exception of some sort. There was an agreement made with them regarding the times that they could operate. The way that agreement was written up it refers to the Applicant and for most people who are not lawyers it seemed that applied to the entire property for what ever use would go there and what residents have been told repeatedly is that no in this case Applicant doesn't apply to the owner of the property, but only applies to Mobile Mini and yet other times Applicant does apply because they have to build a fence and so forth. Mr. Tocci said that is where some of the confusion was coming in. He is not aware if the rest of the Council was aware of that. Mr. Tocci said that is where the idea of saying hours of operation can only be from 6:00 a.m. To 6:00 p.m. and only Monday through Friday since most of the people that live in that area thought that was the agreement for everything on that property. That is where

there is a lot of angst and concern and whoa, what just happened. When you have another business that came in and they are operating whenever they want to operate and then there is the potential for whatever will go in this proposed building. Mr. Charlesworth said he will explain what he thinks happened there. The only issue before the Zoning Hearing Board was the outdoor storage that Mobile Mini would have. There were containers and some things that were outside. The things they were going to do inside the building were permitted uses. The outside needed to go to the Zoning Hearing Board for approval. When conditions were imposed on Applicant, that was for the outside storage. Mr. Charlesworth said in his earlier comments to Mr. Groller, he did not mean to come across as sounding insensitive to the neighbors, but they bought houses next to or close to an industrial/commercial zoned property. He is aware it was vacant for a long time and from what his clients tell him it was kind of a junk yard when they bought it. There were homeless people living inside the building. They've since cleaned it up, going to put up the fence and abide by the restrictions that are in place. Mr. Charlesworth believes it will be an improvement although it will be a commercial use which is permitted there. Mr. Tocci asked Mr. Charlesworth if at this point, he couldn't say what he thinks as to how many more employees are going to be at this location. Mr. Charlesworth replied that he couldn't even guess at this time. Mr. Eaton said that is one of the conditions that they have to provide the number of employees. At this time, Mr. Eaton read the condition as follows, "Additional sanitary sewer allocation is required for the proposed building. The Applicant shall provide the estimated number of new employees anticipated with this development." Mr. Eaton said the Applicant will have to provide that before the plans can be filed if he accepts the conditions. Ms. Kandil said she spoke to her client. He said his intent for now is not to have more employees. It will only be used with the existing tenants and there are no extra employees. If they have to pay anything for the sewer system because they are building a new system, they will pay the EDU. For now, the plan is not to have more employees than what they presently have. Ms. Kandil said it can change in the future. She does not know. She is just reiterating what her client told her. Mr. Tocci asked if what he is understanding is that they are both in agreement. He referred to Mr. Eaton at this time. Mr. Eaton reiterated that it is one of the conditions that was in the Township Engineer's review of the plan and those conditions were adopted by the Planning Commission. Mr. Tocci said his understanding is if a new tenant other than the current tenant comes in, then they would have to make that information available. Ms. Kandil confirmed that Mr. Tocci is correct. Mr. Eaton said it is an engineering issue as to what they understood it to be when they were reviewing the plan. He just wanted to point out that it was mentioned in the conditions. Mr. Kortze said the building is proposing tying in to the existing sanitary sewer system. His comment was that they have to provide an estimated number of employees. Mr. Kortze said they have to make them hookup with the least number of EDUs since they are having a bathroom. One EDU equals approximately 250 gallons. That could be up to seven employees. They will have to apply to secure at least one EDU. Mr. Kortze said the way they work it is if there is a change of use on there and they would come in and a new tenant would come in or even the first tenant would come in and say they would have 20 employees, then they would make them secure additional equivalent dwelling unit sewage flows for those employees. It's a place holder for at least one EDU depending on whether they have one employee or seven employees. They would still need one EDU. They are putting in a bathroom and they say there may not be any more additional employees, but you're putting in a bathroom and you need to get sewer allocation. Ms. Kandil said she spoke to her client and he will pay the EDU for the

new building. If later he needs it to be more, the bill will show how much is being used. Mr. Tocci asked what types of vehicles will be traveling to and from the building? Mr. Charlesworth said they don't expect any change in the types of vehicles. Mr. Tocci asked how much of an increase in traffic do they anticipate? Ms. Kandil replied that for the time being they don't anticipate any increase in traffic or employees. In the future, if there is a change in use, there could be an increase. Ms. Kandil said her client said for now some of the employees of the tenant will move to the new building, but no increase in employees or traffic. It will be the same. Mr. Charlesworth said with a 7,000 square foot building to a resident it might seem massive, but for a commercial building it's really not. If there was something in the Ordinance that triggered additional trip generation studies based on the square footage and the number of employees, they certainly will abide by that. At this level of 7,000 square feet that hasn't been tripped yet. Not at that level. Mr. Tocci said some of the neighbors, particularly when they had the heavy rains, when the improvements were made by Mobile Mini, there is a huge amount of runoff water that used to be absorbed that now flows out of the property and comes pouring over Lloyd Street. Mr. Tocci hasn't seen everything that went before the Planning Commission. Have any and all drainage issues been addressed? Would this proposed building affect that at all? Ms. Kandil said the property at this time exists in a stone area. It is used for a parking lot and used for storage for equipment. It is also a compacted stone area. The building is being proposed above the existing stone. They are not increasing the runoff that much because they are moving from compacted stone to a building. The size of the building is exempted from any stormwater calculation. Mr. Charlesworth added that the building would be constructed over top of an area which is not green space now. It's already compacted stone. It is already semipervious at best. Mr. Tocci said when the property was renovated, many trees were removed along with other vegetation. Does the proposed plan include replacing those trees or vegetation around the area? This also ties into another resident's question regarding landscaping, etc. Ms. Kandil said she is not aware of any tree removal. When they did the survey, there was no tree removal. Most of the property is stone. There are trees around the property. She is not sure what the client did before their survey. When they did the survey, it existed of mostly stone and surrounding vegetation and that is how it will remain. There is no changing of existing trees. Mr. Tocci asked if there are plans to put anything more in. Ms. Kandil said there is no plan to do any new vegetation or new trees. Mr. Tocci asked how will the noise pollution be addressed? Mr. Charlesworth said he hates to sound like a broken record, but they will follow the applicable rules under Township Ordinances. Mr. Hutterer spoke regarding the water runoff and the fact that they are saying the vegetation was not disturbed. He said it was disturbed. He said they brought in truckloads of crushed stone and compacted it over the existing soil. He believes that is the problem with the water runoff. Mr. Hutterer felt bad because it became a lake down there. He dug a ditch around the perimeter of his property to try and stop the water from running down on to Mr. Groller's property. Mr. Hutterer said for them to say that they didn't do anything to compromise the water runoff is not true. They went over existing vegetation where the water was being absorbed and now it's just running off. Mr. Tocci said the big question that the residents that spoke to him had and kind of ties in on his end is that there are no sidewalks along Lloyd Street and the road is a dead end. Lloyd Street, itself, is used a lot for going on walks every day, riding bikes, and people taking their pets for a walk. Mr. Tocci said his personal end of this is that his four children, ages 5 through 13, have to walk on that street every day to and from their school bus stop at the intersection. He is very concerned about the safety and what they

are saying there might not be a lot of increased traffic currently but are very much leaving open in the future that there could be an increase. Mr. Tocci asked what can they do to ensure the safety of the residents there and what can be done to make all who are coming in and out of that area aware and responsive to the fact that they are driving through a residential area? The residents asked him to ask Council, the Township Manager, the Township Attorney and the Township Engineer what are reasonable accommodations or conditions that can be made? Some of the suggestions were if they can have limited hours imposed, i.e., 6:00 a.m. – 6:00 p.m., can there be a reduced speed limit for trucks and commercial traffic, can there be size and weight restrictions on vehicles, can there be flashing lights on the Watch Children signs, speed bumps, etc.? Any of these things were brought up as something that they could and should ask for as an accommodation or condition. Mr. Heimbecker asked Mr. Eaton if any of these were addressed in the conditions? Mr. Eaton replied, no. Mr. Heimbecker asked if the Planning Commission viewed them as necessary. Mr. Eaton replied, he didn't know. Generally, they adopted the conditions which were primarily engineering conditions that were directly required by the Subdivision and Land Development Ordinance. Mr. Eaton said his response, without having done any particular research on this, is that in a land development generally you cannot require hour limits and operation land development is not the place where the use of the property in its use or how it's used is determined. That is usually during the zoning process. All the other things could be considered as conditions. It needs some more thought for an appropriate condition to be put on the record. Mr. Eaton said all these items as far as limiting the size of vehicles, etc. can be done under other ordinances. The Township Engineer would know better as far as the street crossing signs, flashing signs, etc. Those are things that could be done but may require further approval. They could be conditions that are added and can be at the expense of the developer if it's an adjacent approval. Mr. Kortze said additional signage or putting flashing lights around signs is something that is permitted. This is something if Council wants to impose as a condition. There wouldn't be anything against the rules and regulations that would preclude having that. Mr. Kortze said speed bumps were discussed before as far as traffic calming. He knows the Township personnel utilizes that road as much as just about anyone when they go down to check the sewer metering station. Speed bumps could be put in as temporary ones. They can be taken out during the winter time like they discussed in the Troxell Street neighborhood. This would be an option. It would have an impact on anyone that would be traveling through there. Mr. Kortze believes the speed limit presently is posted at 25 mph. He's not aware if there is anything in the rules and regulations that would allow to impose a 15-mph reduced speed limit for commercial vehicles and who really would be enforcing it anyhow if you put that in there. There isn't anything in the Ordinance that would prevent additional signage if whatever seems necessary. Mr. Tocci asked with regard to hours of operation, that is not something the residents can ask as a reasonable condition? Mr. Eaton said he can research it further, but doesn't believe that in a land development plan hour of operation are the type of thing that are considered normal unless there is a general ordinance for the Township that would be in Zoning. Often times for commercial buildings, there is a special exception procedure. Even though it is a permitted use it has to go before the Zoning Hearing Board. The Zoning Hearing Board gets to review issues of traffic, etc. Mr. Eaton said he can research it further but cannot give Mr. Tocci and Council an answer this evening whether they can impose on record hours of operation. Mr. Eaton assumes that in the Zoning proceeding where there were hours of operations on that, Applicant applied that there was some evidence about their hours of operation that made it appropriate. Also, an

applicant who is willing to say, no, I'm not going to operate beyond those hours. Mr. Eaton asked Mrs. Wehr what time are they up against with regard to the ninety days. Mr. Eaton asked when the application was filed. The Board has to act within a certain amount of time or get an extension. Mrs. Wehr said she didn't know the answer and would have to look it up. Ms. Kandil said it was filed on September 29, 2020, which was the submission date. Mr. Eaton said in any case if Council wants him to impose hours of operation, he cannot give them an answer tonight. They would have at least until Council's next meeting for him to review it and get an answer to them. If the plan was received on September 30, Council has until at least the end of December to make a decision. Mr. Tocci said he would like Mr. Eaton to review it, but before he does that would it be something the Applicant would agree to without Mr. Eaton looking into it. Mr. Tocci is asking if the Applicant would agree for the consideration of the neighborhood to limit the operating hours between 6:00 a.m. – 6:00 p.m. Mr. Charlesworth replied that without speaking to his client, he would have to respond, probably not. He feels that as a preliminary plan application they are entitled to approval under the conditions of the SALDO and to review it under the Township's current SALDO to approve or not approve it. Mr. Charlesworth said if Council would like Mr. Eaton to take the time to review it until their next meeting, he doesn't think they will need an extension. But, if they do need an extension, that will not be a problem. Mr. Tocci said that is his preference if the rest of Council is in agreement. Mr. Eaton said to ask as many questions as they want to get everything out of the way during the extension. If Council agrees to proceed with this, Mr. Eaton would recommend tabling this matter until the December 16 Council Meeting. A discussion ensued. Mr. Heimbecker addressed the residents in attendance. He went on to say there are three Councilmembers who were there for two major battles that took place in this very room with this Council and this Engineer. The way Zoning works and the reason there are all these things that these developers have to go through on subdivision and land developments and all the ordinances they have to comply with and the feet to the fire that the Zoning Officer and Council has to put on these people is because they bought a piece of land and when they buy a piece of land, the owner has a right to enjoy it. Mr. Heimbecker said he wound up with a mechanic garage for a major trucking company 100 yards from his house. He feels the residents' pain and understand what they are up against and his son was six at that time. As a result of the fight that a couple of the neighbors who got together and came in before the Board and went through how many meetings and someone from Council was kind enough to recruit some of them and asked them to run for office. Mr. Heimbecker wants the residents to know it's never easy to sit up on the Board and decide what the future for a piece of land is going to be. Just like they go out and shop for a house and enjoy that house, you can't control your neighbor outside of what the laws are to control your neighbor. Mr. Heimbecker said they are not stuck; they are governed by whatever the ordinances are that preceded them and are set by the county and the state and all the different organizations that come out and tell them what is allowed to happen. Originally that mechanical garage near his home was supposed to run 24 hours a day changing truck tires, running diesel all night long and could have done it, but he thinks they wearied about the battle and wanted to be a good neighbor and limited their hours. It was voluntary. It wasn't anything that the residents did or the Board did to make them do it. They agreed. Mr. Heimbecker said they can look a lot and talk a lot, but at the end of the day it is going to come down to how his client is going to get the opportunity to enjoy his property. Mr. Heimbecker said they will have to watch the codes and see what Mr. Charlesworth comes up with on his side and Mr. Eaton comes up with on the

Township's Subdivision Zoning Ordinance. These are the same three modifications that Council looked at around five or six weeks ago at an Introduction to send these text changes to the Planning Commission. Because it's a hearing and making at least a nominal record this evening, Mr. Fitzpatrick would like to ask Council, and he defers to Mr. Eaton as well, does Council want to each one to go one at a time or can he tie them all together because they are tied together and give Council a summary. Mr. Zac Csik from Rockefeller Group is also in attendance this evening. With the Board's permission, Mr. Fitzpatrick can do a quick summary and Council can ask questions. Mr. Fitzpatrick said the language has been vetted carefully with Mr. Eaton to the extent there is public safety in fire issues involved. They worked tightly with Garren Knoll, Fire Chief, and the Fire Department and Township personnel and whittled the language down to just a few changes. These will allow state-of-the-art logistics and distribution facilities in the PIO district. There is very little land zoned this way in the Township. The Township rezoned this in 2019 anticipating this use. If Council will recall, that the Rockefeller Group going back three years plus promised the Township with regard to roadway improvements and utility upgrades that Rockefeller would indeed put at least one of these facilities in the Township. Rockefeller also happens to own a somewhat smaller triangular piece on the eastern side of Willowbrook Road not anticipating a project plan for that right-of-way. They are indeed anticipating a plan right on the western side at the very northern border of the Township where it abuts Allen Township and Northampton County. With this background, the first Bill before Council seeks to amend Chapter 27 of the Statutory Code of Hanover Township, the Zoning Ordinance, to remove what one would call an absorptive sound barrier from the definition of fence. It also addresses related restrictions on fences, walls and hedges and allows access roads that surround distribution facilities in the industrial area to be as far as 140 feet away from the building when there is an ESFR, which is an early suppression fast response sprinkler system for modern buildings. The last component of this overall Bill permits combined width of fire lanes and driving lanes to be 24 feet for buildings that have these early suppression fire sprinkler systems. Also, Council has before them Bill No. 2020-08 again related under the Township's SALDO exempting under Section 22-410 Exempting Buildings in a PIO Zone with an Early Suppression Fast Response Sprinkler System from requirements of fire lanes within 18 feet on two sides of the building. This is all tied together. At the moment, in the Township's Industrial Zone, the Township requires fences around industrial buildings. This is whether the Township has a flex building that has wheel chairs and walkers that one of the hospitals might deliver, whether there is pallet of t-shirts, it doesn't matter but anticipates a fence, typically chain link, in the area of six feet in height. Mr. Fitzpatrick said when talking about a building that is a few hundred thousand square feet and facing residential neighborhoods and abutting communities of Catasauqua and North Catasauqua, they do have vehicles coming in and out, there is light they have to control. They don't have a land development before Council as of yet, but the practice and good neighbor practice for corporations and distribution is to have an absorptive sound barrier. Mr. Fitzpatrick said they are asking, without going chapter and verse, just for the sake of the Public Hearing, what Mr. Eaton has prepared and given to Council in way of summary, resolution and amendment be made part of the record. They are asking where absorptive sound barriers are provided in a PIO zone, they are not to be duplicated with a fence. There is no point to a six-foot chain-link fence with an absorptive sound barrier. They are excluded from the definition of fence. Fences are not required in this zone where absorptive sound barriers are provided. Additionally, the idea in modern logistics facilities, which is a creature of the last decade or decade in a half, most municipalities in

Pennsylvania are catching up to technology. When you have a large building that might be three or four acres under roof or more, you do not want local volunteer or professional firefighters running into the middle of a facility like this. A responsible company would say if they don't have the right technology, let the building burn, we don't want to lose human life. Mr. Fitzpatrick said the whole point of the ESFR is to prevent the need for firefighters to go into a building and in order to do that there is no benefit to bringing a fire engine right up against the edge of the building. He said they certainly want and appreciate the Township's firefighters on the exterior of the building and reachable places where fires can be doused, but both the fire lane driveways that typically surround an industrial building and the width of driveway lanes for fire trucks and automobiles are markedly different than even 10 years ago. Mr. Fitzpatrick said with their engineering teams, with the Township's Fire Department, with the experience of a big company such as Rockefeller, they are asking for these modifications as outlined in the proposed Amendment. The thought is that when you do have rigs that are in logistics and distribution moving in and out of buildings you can't have auto or truck traffic right up the side of the building. You need room for the trucks to move in and out whether it's a traditional distribution or warehouse or whether it is what they call cross stocks, you need a separation from the ring traffic around the building. The Township's Planning Commission reviewed these Amendments last month. Mr. Fitzpatrick went through the Amendments in great detail with them. They answered questions regarding a few lines in the Ordinance that were changed and they received unanimous support recommendation from the Township's Planning Commission for the changes before Council this evening. Mr. Fitzpatrick wanted Council to know that the Township Staff and Professionals were great to work with as they worked for the better part of 2020 in spite of Covid to get to this point where Rockefeller can deliver Hanover Township exactly what it promised. As Mr. Fitzpatrick stressed earlier, they don't have a full development plan in front of Council, but a concept plan which shows how the text Amendments would be utilized. Mr. Fitzpatrick noted that today he received a letter from Lehigh Valley Planning Commission, which is more theoretical than realistic. It is reviewing a plan that is not before Council. This evening they have a text Amendment that will allow them to bring a permitted industrial user in with the jobs, the benefits, the public improvements and tax revenues that it entails. Mr. Fitzpatrick appreciates Council allowing him to give them a layman's summary and lump them all together. At this time, he and Mr. Csik respectfully ask Council to approve the three text amendments to the SALDO and Zoning Ordinance before them this evening.

Motion: I recommend the approval of Bill No. 2020-06 An Ordinance Amending Chapter 27 of the Statutory Code of Hanover Township, the zoning Ordinance to Remove Absorptive Sound Barrier Approved Under Section 27-504 from the Definition of Fence in Section 201 and Exempt it From Sections 27-501 and 512 Restrictions on Fences, Walls, Hedges, and in Section 27-409 to Increase the Allowable Distance of Fire Access Roads from Buildings with Early Suppression Fast Response Sprinkler Systems to 140 Feet as Ordinance No. 625.

Heimbecker, Lawlor: Moved and Seconded
Heimbecker, Lawlor, Tocci, Woolley, Paulus:

Aye Unan.

Motion: I recommend the approval of Bill No. 2020-07 An Ordinance Amending Chapter 7, Part 2, Section 202(6) of the Statutory Code of Hanover Township to Permit

the Combined Width of Fire and Driving Lanes to be 24 Feet for Buildings with An Early Suppression Fast Response Sprinkler System as Ordinance No. 626.

Heimbecker, Lawlor: Moved and Seconded

Heimbecker, Lawlor, Tocci, Woolley, Paulus: Aye Unan.

Motion: I recommend the approval of Bill No. 2020-08, An Ordinance Amending Chapter 22 of the Statutory Code of Hanover Township, the Subdivision and Land Development Ordinance, Part 4, Section 22-410 to Exempt Buildings in a PIO Zone with an Early Suppression Fast Response Sprinkler System and Designated Direct Fire Apparatus Access Points to the Building from Requirements for Fire Lanes Within 18 Feet on Two Sides of the Building as Ordinance No. 627.

Heimbecker, Lawlor: Moved and Seconded

Heimbecker, Lawlor, Tocci, Woolley, Paulus: Aye Unan.

Mr. Eaton said in the LVPC letter regarding the Rockefeller zoning amendments they were concerned about the distance of the access roads around their buildings. The recommendation at the end was in order to enhance plans in emergency response efforts among emergency management personnel, the LVPC recommends direct communication and involvement with the Township and other emergency services and providers especially related to the proposal amending the maximum distance of fire lanes in a PIO zoning district increasing fire lane standards of Chapter 7 Fire Prevention and Protection of the Township Code of Ordinances. Mr. Eaton wants to make certain that it is in the Minutes that all of that was done before the Amendment was drafted. He doesn't want to see a report like this out there and someone come back and say, well after you got this did you do anything. All those changes were reviewed with the Fire Chief at length at a long meeting with the Township Engineer. The Township Building Inspector was present who was fully familiar with the Fire Codes and what was required. After discussion with them, everyone agreed that the Amendments were appropriate. They weren't advocating them, but they said they were appropriate. And, indeed, the Fire Chief requested additional spaces for trucks next to the building which the Developer agreed to.

5. Resolution No. 2020-42, Budget Amendments (Vote)

Mrs. Wehr said before Council this evening is the Budget Amendments discussed at the last Public Meeting on November 18, 2020 which include some minor housekeeping.

Motion: I recommend the adoption of Resolution No. 2020-42, Budget Amendments, as presented.

Heimbecker, Woolley: Moved and Seconded

Heimbecker, Lawlor, Tocci, Woolley, Paulus: Aye Unan.

6. Resolution No. 2020-43, Amendment of the Five-Year Capital Program for the Year 2021 (Vote)

Mrs. Wehr said the monies in escrow was updated to current numbers as of November 16. There was a minor adjustment in the 2021 Sewer Account from \$650,000 to \$1,000,000.

Motion: I recommend the adoption of Resolution No. 2020-43, Amendment of the Five-Year Capital Program for the Year 2021 as presented.

Heimbecker, Woolley: Moved and Seconded

Heimbecker, Lawlor, Tocci, Woolley, Paulus: Aye Unan.

7. Ordinance No. 628, An Ordinance Adopting the Budget of Hanover Township for the Year 2021 (Adopt)

Mrs. Wehr told Council that they have the revised Budget in front of them with the correction of a clerical error on Page 14.

Motion: I recommend the adoption of Ordinance No. 628, An Ordinance Adopting the Budget of Hanover Township for the Year 2021 as presented.

Heimbecker, Woolley: Moved and Seconded

Heimbecker, Lawlor, Tocci, Woolley, Paulus: Aye Unan.

8. Bill No. 2020-10, An Ordinance amending the Code of Hanover Township Specifically Chapter 27 Known as the Hanover Township Zoning Ordinance for the Purpose of Amending the Planned Industrial Office District to Permit a Residential Apartment Use (Introduce)

Mrs. Wehr said this is an introduction to place it on the Planning Commission Agenda for their recommendation. It has gone to the Lehigh Valley Planning Commission. Their comments are in Council's packets. This was the KRE Group's proposal that they presented to Council. They have asked through their letter to receive a recommendation or to move it forward for these changes. Mr. Eaton said if Council will recall, KRE presented a Citizen's Petition and the Township's Zoning Ordinance has a specific language that says if someone gets a Citizen's Petition than you shall act on it through normal considerations. The Ordinance also requires them to post a deposit, etc. for that process. They did that and the Ordinance has been passed on. It was not formally introduced for them to get to the point where they have a hearing on it. It should be introduced and that is what is happening this evening and then at the next meeting they can get their day in court. They wanted Council to vote one way or the other and they wanted it after Council had a chance to hear the recommendations of the Commissions which they were entitled to initiate that process, which they did. This introduces that and the introduction doesn't require anyone to vote any special way. Mr. Tocci asked if the Lehigh Valley Planning Commission approved it. Mrs. Wehr replied that the Lehigh Valley Planning Commission does not approve it. Their comments are in Council's packets. Mrs. Wehr said they will have to go before the Township Planning Commission at their meeting on December 15. LVPC's comments were dated November 20, 2020. Mr. Tocci asked when it says, "the consistency of the proposal be improved by allowing an apartment development as a conditional use special exception", isn't that what they are asking for? Mrs. Wehr said they are asking for an amendment to the

Ordinance to allow apartments in the PIO district. Mr. Tocci said he knew that, but he was looking at the Lehigh Valley Planning Commission's letter and read it as they were favorable to KRE's proposal. Mr. Tocci asked where does it say it that they don't approve, or don't like it, or not allowed or the Township shouldn't do it? Mrs. Wehr said it is in the third paragraph, "the proposal by right is generally inconsistent with Future Lehigh Valley." A discussion ensued. Mr. Eaton explained that the Lehigh Valley Planning Commission were suggesting that it should not be a permitted use as stating it was allowed as a permitted use, which means KRE can go to the Zoning Officer and request a permit and the Zoning Officer has to give it to them. They can also allow something as a special exception. If it's a special exception, it's permitted but they would have to go before the Zoning Hearing Board and the Zoning Board can attach conditions. Mr. Eaton believes the Lehigh Valley Planning Commission was saying don't allow it as a permitted use and make them go before the Zoning Board as a special exception or if it's a conditional use, it has to come back to Council for approval. Mr. Eaton said the LVPC was discouraging it, but saying if you do it at least put some more controls on it. Mrs. Wehr said additionally to keep in mind that their proposal is not just for one parcel of land but for the entire zoning district. A discussion ensued. Mr. Eaton said in earlier discussions with KRE they were suggesting an overlay. An overlay is something that has come around in zoning where you can't spot zone but it is something that allows you to overlay at different places around the municipality under the same rules and conditions. But, in this circumstance it changes the rules so that in every PIO you can now put apartments.

Courtesy of the Floor: None.

Mr. Paulus said they will be watching the numbers regarding Covid and decide how the Township will proceed in the New Year when it comes to Public Meetings.

Adjournment:

The meeting was adjourned at 8:59 P.M.

Respectfully submitted,

Melissa A. Wehr
Township Manager