

HANOVER TOWNSHIP, LEHIGH COUNTY
REGULAR COUNCIL MEETING

October 3, 2012
7:30 P.M.

Present: Councilmen Atkinson, Dreisbach, Kovacs, Paulus, Woolley; J. Jackson Eaton, III, Esquire; Frederick W. Hay, P.E.; Sandra A. Pudliner; Vicky Roth

Absent: 0

Attendance: 39

Courtesy of the Floor: None.

Approval of Minutes: September 19, 2012 Regular Council Meeting

Motion: I move we waive the reading of the Minutes of the September 19, 2012 Regular Council Meeting and accept same as presented.

Paulus, Kovacs: Moved and Seconded
Atkinson, Dreisbach, Kovacs, Woolley, Paulus: Aye Unan.

New Business:

Chairmen Paulus advised all in attendance that the item under new business would be addressed at this time.

1. A Duie Pyle Inc. – Petition to Amend the Text of the Zoning Ordinance and Amend the Zoning District Map (**Review and Discussion**)

Attorney Joseph Piperato appeared before the board on behalf of A Duie Pyle Inc. to present to the Board a Petition to amend the text of the Township Zoning Ordinance as well as the Zoning District Map. Attorney Piperato advised that the purpose of their attendance this evening is not to have the public hearing or present evidence. He noted that under the Municipalities Planning Code Section 609 it is his intent to present the Petition to the Board for consideration. Prior to the scheduling of a public hearing the Petition will be forwarded to the Hanover Township Planning Commission and the Lehigh Valley Planning Commission for their review and recommendation providing them with 30 days to do so. A hearing will be scheduled thereafter for review and comment. At that time Attorney Piperato indicated that they would present evidence. He again noted to all in attendance that the purpose of attending the meeting this evening was not to have a public hearing. Attorney Piperato indicated that they are here this evening to request that the Petition be

forwarded to the Planning Commission and the Lehigh Valley Planning Commission and that a public hearing be scheduled after the 30 day period runs. Attorney Piperato noted that the property is located off of Airport Rd and is an approximate 3.9 acre tract originally part of the Carmike Cinema property. He noted that it's their intent to present testimony regarding the history of the property at the public hearing. Attorney Piperato did indicate that the entire property at one time was considered a Planned Commerce Unit Development and that at some point in time certain conditions transferred to the sixth lot which is the lot in question. With respect to the determination of the Township Zoning Hearing Board as to what could be done with this property the five year period for doing so has expired. Attorney Piperato advised all in attendance that representatives on behalf of A Duie Pyle are present at the meeting. He indicated that it is their intent to utilize the property for a fleet maintenance facility. All activities will be conducted indoors. Attorney Piperato noted that the Planned Unit Development District does permit automobile repair facilities and they are asking that same be extended to vehicle repair shop to service A Duie Pyle's vehicles. Rather than them servicing their vehicles off site, Attorney Peperatto indicated that his client desires to construct a 14,500 sq. ft. maintenance facility. Attorney Piperato also noted that they may also need to request that the zoning map be amended to remove the subject property from the Planned Commerce Unit Development overlay district. Attorney Piperato also advised that they are not prepared tonight to present testimony.

A discussion regarding this matter ensued at this time. Chairman Paulus noted that there was a good turnout for discussion of this matter. Councilman Kovacs indicated that the matter should be opened up for public discussion. Attorney Piperato advised that he is not in a position to be part of an actual evidentiary hearing at this time.

At this point in the meeting Mr. Harold Knight of 1834 Troxell St approached the Board and indicated his disapproval of giving this matter any consideration. Mr. Knight did note that if the board seeks reelection they would not vote in favor of this project. Councilman Kovacs commented that no threat should be issued to the Board.

Mrs. Joyce Nace of 1845 Sherwood St approached the Board and indicated that she's a 40 year resident of the Township. She indicated that she has had to put up with noise from the Branch Motors facility and the movie theatre. She's called the police with respect to noise issues created by people at the Carmike Cinemas facility. Mrs. Nace indicated that she was opposed to the proposal of A Duie Pyle.

Mr. Anthony Rossi of 1913 Sherwood St indicated that it was his opinion that the residents have to deal with enough noise in the area and that he did not feel that this is the spot for A Duie Pyle to conduct their in house truck repair business. Councilman Kovacs commented that it was his opinion that the Yellow Freight facility which used to occupy the A Duie Pyle property was

much louder. Mr. Rossi indicated that was the case but he also noted that the residents have to also deal with the Carmike Cinemas facility.

Diane Conn of 1821 Sherwood St questioned the attorney for A Duie Pyle as to what they want the zoning to be. Attorney Piperato noted that the property is zoned Planned Unit Development now which represents most industrial type uses. Attorney Piperato also indicated in the past that it was approved as a Planned Commerce Unit Development. As a PCUD five different types of things were permitted. Part of the problem Attorney Piperato indicated is the fact that the use allowable under the PCUD had to be retail. Unfortunately Attorney Piperato indicated that it is virtually impossible to use this property as a commercial use because of its location and the surrounding area being industrial in nature. Attorney Piperato concluded that the Planned Unit Development District permits automobile repair garages and that they are requesting that the wording be changed to vehicle repair garages.

Stephen Seier of 1804 Tacoma St approached the Board at this time. Mr. Seier noted that he has been before the Board in the past with issues regarding US Food Service and has been in touch with the Township continually regarding noise issues. Mr. Seier noted that the noise is still there and that we have problems from Carmike Cinemas and US Food Service and do not need more issues. Mr. Seier also felt that this repair garage would have the doors open and create noise issues.

Karen Gifford of 1919 Troxell St noted that she still gets headlights in her kitchen window. She indicated you can smell diesel fuel at her residence. She noted that driving trucks create noise and pollution even for properties not close to these facilities.

Douglas Baillie of 1949 Troxell St advised the Board that he has lived in this area for 13 years. He noted that most of the facilities were there when he moved in. Mr. Baillie indicated that he felt there is enough noise with the airport and Route 22 and the Township doesn't need more noise. He noted that he is not close to this location but still hears the noise.

Mr. Robert Gifford of 1919 Troxell St advised all in attendance that he had served approximately 10 years on the Zoning Hearing Board in this Township. Mr. Gifford noted that he was involved with the Carmike Cinema situation and he indicated that at one point Carmike wanted to open a road into the residential area which was denied. Mr. Gifford also noted that on this land in question there's currently a sign which says "Taste of Italy COMING SOON". Mr. Gifford indicated he's of the opinion to even consider a trucking service facility on this property is ridiculous and that in his opinion it doesn't fit. He also noted that he thought there would be issues involving the movie traffic mingling with the truck traffic. In a discussion with Councilman Kovacs, Mr. Gifford indicated that Councilman Kovacs would never be reelected.

Diane Sunny of 1904 Taft St advised the Board that she was in agreement with the other residents that noise would be a problem in considering this

proposal. Mrs. Sunny also noted she has safety concerns. Mrs. Sunny felt that the roads are not built for trucks or truck access. She also posed a question as to what would happen if the Carmike Cinema facility went out of business. She feared that if that happened then that property will become industrial also.

Eamon Murray of 1809 Sherwood St advised that he has two young sons and that he has Carmikes Cinemas literally right behind his home. He noted that he hears noise at night which is tolerable but any addition to same would not be tolerable. He also felt that property values in that area will be going down. He also raised an issue with air pollution.

Diane Sunny of 1904 Taft St also noted to the Board that there are environmental issues which need to be monitored. They could be dumping oil, chemical spills, diesel fuel etc.

Joyce Nace of 1845 Sherwood St advised that she currently gets dirt right now from the Carmike Cinema facility and that she just had her house power washed as a result thereof. She noted that people with asthma should have problems. Mrs. Nace also addressed the situation with the 5 year span for development of this tract which had expired. Mrs. Nace was of the opinion that the Board was responsible for not pushing that. Councilman Kovacs commented that the Council thought that restaurant facilities would be built on the tract; however, Councilman Kovacs indicated that it appears that will not occur. Mrs. Nace questioned how much A Duie Pyle offered the current owner for the land and noted that obviously they were offered more than they paid for it.

Curtis Wegfahrt of 1853 Sherwood St spoke to the Board with respect to noise issues at 1 and 2 in the morning and that he has called the Township's Code Enforcement Officers on many occasions. He noted that there are tractor trailers running in the Carmike Cinemas parking lot. He also noted that there are health issues in his family and that this situation does not help matters.

Stephen Seier of 1804 Tacoma St questioned what exactly the law says. The Township Attorney indicated that this matter would result in a legislative decision within the discretion of the Board. Attorney Piperato noted that A Duie Pyle could come in requesting a variance and that the Zoning Hearing Board is a court of law and that proof must be offered to support a variance request.

Gerald Nehilla of 1966 Troxell St approached the board and supported opposition to this proposal.

Robert Gifford of 1919 Troxell St noted that they had 5 years to do something. Chairman Paulus indicated that the Board is aware of a restaurant use for the property. Councilman Woolley indicated that he knows several realtors. He has spoken to them regarding the fact that this property due to its location and lack of visibility from the road way does not draw any potential buyers for the property to utilize same as a commercial use.

Attorney Piperato noted that he and his client are not prepared tonight to address all the concerns raised at this time but same would be addressed at a public hearing on this matter. At the time of the public hearing Attorney Piperato indicated that they would put on testimony supporting their proposition and that if it is deemed inappropriate then the Council will not approve it. Councilman Kovacs commented that noise is a big issue and that Attorney Piperato needs to address same in his testimony at the public hearing.

Joseph Heimbecker of 1834 Sherwood St noted that it is not just noise. He voiced his opposition with respect to the entire operation of heavy truck traffic; he advised the board that they had their hands full. He noted that the residents will be at every public hearing on this matter and that they will organize to make sure we get our word through to you. He noted that the neighborhood sat through other hearings and had acquiesced. He brought to the Board's attention the continuing truck traffic issues on Troxell St arising from apparent incorrect directions to the facilities on Hoover Ave. Mr. Heimbecker noted the state police do come through on a regular base, but there are issues. He noted that more development means more ponds and more risk of West Nile Virus, etc.

Diane Conn of 1821 Sherwood St advised all in attendance that she had measured only 230 ft. from the edge of the parking to the lot running by the theatre. She questioned why this property would be such a bad place for retail use. Councilman Woolley noted that a restaurant needs road visibility and this property does not offer that.

Frank Nace of 1845 Sherwood St indicated that these facilities are 1,000 yards from the back of his house but he still hears the noise, He's subject to dirt and traffic. He noted that if you put a repair facility 300 ft. in back of people's houses he felt there is no way you can control the noise. Mr. Nace noted that possibly from 8-5 there might be some control but not at night time.

Mr. Larry Hawk of 1866 Tacoma St questioned whether this operation was a 24/7 day a week operation. Attorney Piperato noted that A Duie Pyle does not operate on a 24/7 day a week basis.

Ed Velasquez of 1856 Sherwood St indicated to the Board that he works in a repair shop and indicated that there are noise issues even from small cars.

Bob Whitehead of 1813 Sherwood St advised that the Carmike Cinema people did not live up to some of their obligations. He indicated there are groundhogs in the area from them not cutting the grass in the manner they agreed to abide by at the time of development. Mr. Whitehead also noted that there are still noise issues with the US Food Service facility.

Maureen Whitehead of 1813 Sherwood St indicated that she had taught the children of a US Food Service rep and had conveyed her displeasure with the

noise issues regarding that facility. She noted that some of the noise issues have been resolved.

At this point in the meeting Councilman Kovacs indicated that he thought it would be appropriate if the owner of A Duie Pyle spoke at this time. Mr. Peter Latta of A Duie Pyle advised all in attendance that he is respectful of everything he has heard. He noted that he felt that he is presumed guilty by association. He noted that A Duie Pyle is a good employer and provides good jobs. He indicated that if he thought that they would contribute to the problems in the area he would not be moving forward. Mr. Latta indicated that he knows his business and he knows how to control his business. He noted that their trucks do not park in the streets. He indicated that they are pretty anal and are control freaks (Referencing his brothers and his self). He further noted that they control things tightly and that they know their operation. He felt that they should not be considered guilty by association. He indicated that they purchased the property from Yellow Freight which entity was in bad financial shape at that time. He indicated the facility was deplorable. He noted that they had renovated same and resurfaced portions of Hoover Ave and that they are a responsible corporate citizen. He noted that it is their desire to have the opportunity to present themselves and provide people with information to sustain their position that they are not a nuisance to the neighborhood. Mr. Latta noted that in the commercial world they are well respected. He felt the traffic should be less. He noted they are self-contained. He noted they don't operate on Saturdays and Sundays, However they do operate Monday-Friday around the clock He noted that they have other repair facilities that do not create noise levels which are objectionable.

Stephen Seier of 1804 Tacoma St questioned Mr. Latta regarding the noise concept and Mr. Latta noted that with the respect to their trucks, they don't run reefers. Their vehicles are all electric engines with automatic shut off after a certain period of idle time.

Mr. Bob Gifford of 1919 Troxell St noted that Carmike Cinemas when they came in were told that they can operate only until 12 midnight and that there have been issues in the past with respect to that operation. Mr. Latta noted that with respect to his trucking operation there are road inspections and that the drivers and carriers are scored. Drivers can actually have their CDL's lifted for violations. He noted that their drivers do post trip inspections when a vehicle comes in. Mr. Latta noted that if they load a truck to depart and that vehicle has a repair defect the ability to have a repair facility on site is invaluable. Otherwise he noted they would have to unload the truck.

Stephen Seier of 1804 Tacoma St commented that when they bought the Yellow Freight facility didn't they know they did not have enough space. Mr. Latta noted that they had improved the facility and he also noted that they have a driving academy at their West Chester facility. Mr. Latta noted that the property in question is desirable to them as a repair facility not for actual operation of their business.

Councilman Atkinson commented to the audience that there have been a lot of comments made tonight about US Food Service. Councilman Atkinson noted that US Food Service is largely in the City of Allentown. Over the years he noted that the Township has spent a lot of time and money seeking relief from noise issues. The Township has performed noise testing and has tried to address various legal issues. Council Atkinson felt however that the operation of A Duie Pyle does not compare to the operation of the US Food Service facility.

Chairman Paulus noted that even though there is a petition before them he for one would not have to have a public hearing because in his opinion trucking is not something he would consider for that property and accordingly he is a no with respect to granting any relief in this matter.

At this point in the meeting there was discussion with respect to resolution of this matter and it was noted by the Township Attorney that this petition presented to the board this evening should be forwarded to the Hanover Township Planning Commission and the Lehigh Valley Planning Commission for their comments and recommendation. Councilman Woolley commented that he thinks it is proper to have a public hearing after allowing 30 days for comment by the Planning Commission and Lehigh Valley Planning Commission. In resolution of this matter the board made the following motion.

Motion: I move that after receiving recommendations from the Hanover Township Planning Commission and the Lehigh Valley Planning Commission, the Hanover Township Council schedule a public hearing with proper notification to all parties involved to discuss how the entire issue noted to the petition of A Duie Pyle, Inc. to amend the text of the Hanover Township Zoning Ordinance and amend the Zoning District Map shall be resolved.

Councilman Dreisbach noted he felt it is the right thing to do with respect to allowing everyone to speak at a public hearing and Councilman Woolley noted that this will allow everyone the ability to hear all points of view regarding this matter.

Atkinson, Kovacs: Moved and Seconded

Atkinson, Dreisbach, Kovacs, Woolley, Paulus: Aye Unan.

Courtesy of the Floor:

At this point of the meeting Shanell Rivera of Bethlehem PA appeared before the Board with respect to the issue regarding the accident on Race St which caused the death of two individuals and injured others at a Lanta bus stop at that location. Ms. Rivera questioned the Council as to what the Township's disposition is with respect to a traffic light at Cascade Drive and it was noted that a traffic study needed to be conducted. Ms. Rivera

advised the Board that she has a petition which has been signed by hundreds of individuals with respect to changing the bus stop from its current location on Race St and the Township Attorney advised Ms. Rivera to present that petition to the Township. He noted that initially this is an engineering issue. Councilman Kovacs commented that he thought that a potential solution to the problem would be for the airport to donate land to put up a shelter at that location. There was discussion that Lanta will not utilize Cascade Drive unless they can turn around and come out at a traffic light at the intersection of Cascade Drive and Race St. Councilman Atkinson commented that Race St is a state road and that the Township must deal with Penn Dot. The Township Attorney advised Ms. Rivera to give the petition to Council. He noted that the Township will have same reviewed by the Township Engineer who would give recommendations to the Board as to further action. The Township Attorney noted that with respect to Penn Dot involvement the Township cannot do anything on that road without Penn Dot approval. Councilman Kovacs commented that with respect to the signal light at Race and Willowbrook Rd it took the Township a long time to construct that signal light at a cost of three quarters of a million dollars.

At this point in the meeting Richelle Bonn of 2273 Irma Drive approached the Board with respect to the Chestnut Grove Homeowners Association utilizing the Township Building for their meetings. Ms. Bonn noted that they meet no more than four times a year and that the attendance would be between 5-35 people. The Township Manager noted that the Township's Building Inspector has indicated to her that currently we don't have in place two means of ingress and egress and that the Township should resolve that situation before allowing the meetings. Additionally, the Township Manager reminded the Board that Code Enforcement currently has no access to the building in terms of opening and closing the building and that matter needs to be discussed. Chairman Paulus indicated that it appears that the Board will have to review this further and get back to Ms. Bonn.

Reports:

1. Sandra A. Pudliner
Township Manager

1. The Township Manager advised the Board that she has provided them with the proposed 2013 Budgets. In that regard, it was determined that the Board would meet on Mondays at 4:00 P.M. on October 22, October 29, November 5, November 12, November 19 and November 26, 2012.
2. The Township Manager advised the Board that the recent Zoning Hearing Board appeal for Airport Centers was granted but that it appears that the objectors may file an appeal to that decision.
3. With respect to trick-or-treat in Hanover Township, same has been scheduled for Friday, October 26, between the hours of 6:00 and 8:00 P.M.

2. Frederick W. Hay, P.E.
Township Engineer

1. With respect to the Road Program, the Township Engineer advised that they are finishing the curbing on Cedar Hill Drive and will be mobilizing on Tuesday.

Councilman Atkinson questioned the Township Engineer with respect to a process called Roller Compacting and the Township Engineer indicated that he would look at it.

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

1. The Township Attorney offered no report at this time but did request an executive session after the meeting. He noted that the Board would not return with any decisions regarding same.

Unfinished Business: None.

Adjournment:

The meeting was adjourned at 9:10 P.M.

Respectfully submitted,



Sandra A. Pudliner
Township Manager