

HANOVER TOWNSHIP, LEHIGH COUNTY  
REGULAR COUNCIL MEETING

December 4, 2013  
7:30 P.M.

Present: Councilmen Atkinson, Dreisbach, Kovacs, Paulus, Woolley; J. Jackson Eaton, III, Esquire; Ryan Christman; Sandra A. Pudliner; Vicky Roth

Absent: Frederick W. Hay, P.E.

Attendance: 4

Courtesy of the Floor: None.

Approval of Minutes: November 20, 2013 Regular Council Meeting

Motion: I move we waive the reading of the November 20, 2013 Regular Council Meeting and accept same as presented.

Dreisbach, Kovacs: Moved and Seconded

Councilman Atkinson requested that the Board consider an Amendment to the Minutes, in particular, on page 4 of same where it states as follows: "As of January 2014, we will have new Board members who will not spend Township funds on this endeavor and he feels this is a waste of taxpayer's money at this time." Councilman Atkinson questioned that added onto this should be the language "and will not be used next year." It should be noted that Councilman Atkinson is referencing statements made by Councilman Paulus. With the amendment to same, the Board voted for the amendment as follows:

Motion: I move that Council waive the reading of the Minutes of the November 20, 2013 regular Council Meeting and accept same as amended.

Dreisbach, Kovacs: Moved and Seconded

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

Reports:

1. Sandra A. Pudliner  
Township Manager

1. The Township Manager advised the Board that she has provided them with a memorandum from Accounts Payable relative to the issue involving the utility bills. The Township Manager noted that the sales tax issue will be handled and that credits for same will be received back to the Township.

Councilman Atkinson noted for the record that with respect to the fatal accidents which had occurred on Race Street, he indicated that he noticed in the newspaper

that the woman driving the vehicle had been charged. He noted that apparently she was not texting, but simply dropped her cell phone and was picking it up when she hit the individuals who subsequently died. Councilman Atkinson expressed his opinion that he felt that all actions against the Township will most likely be dropped at some point in time since the Township has no involvement in the matter.

2. Ryan Christman

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

1. Mr. Christman advised that a meeting will be held tomorrow involving the Route 22 widening project with the Lehigh County Conservation District. Mr. Christman noted that the Township Engineer will need to do further review on this matter.
2. With respect to the former Davis property which is now Airport Point, Mr. Christman noted they are ready to go. The agreements are being prepared to be executed and the matter should proceed within the next couple of weeks. The building is being demolished at this time since that had become a safety and vandalism issue and is really a separate issue from the proposed land development. The Township Attorney noted that the Developer has requested a cash escrow similar to what was utilized for Airport Centers. There would be a three way agreement with release of funds as the project is completed. A Maintenance Bond will also need to be posted. The attorney asked for a motion from the Board to authorize the Township Manager to accept such cash escrow and in that regard the Board made the following Motion:

Motion: I move that the Hanover Township Council authorize the Township Manager to accept a cash escrow agreement with the bank for the development of the Airport Point project.

Atkinson, Kovacs: Moved and Seconded

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

Councilman Atkinson questioned Mr. Christman as to whether or not there is any more activity with respect to moving forward with the storm water pipe in front of Friendly's. Mr. Christman indicated that probably in January the inlet work would be done and the project would proceed.

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

1. The Township Attorney indicated that his items are items which are listed under new business for introduction and that he would also like to review with the Board sections from the Charter under New Business.

Unfinished Business: None.

New Business:

1. Bill No. 2013-09, An Ordinance to Initiate a Referendum for the Purpose of Amending Sections 3.08 and 6.09 of the Township Charter to Delete Reference to the Penal Code and Substitute Reference to the Crimes Code of the Commonwealth of Pennsylvania (Introduce)
2. Bill No. 2013-10, An Ordinance Amending Chapter 1, Section 1-707(2) of the Statutory Code of Hanover Township to Delete Reference to the Penal Code of the Commonwealth of Pennsylvania and Substitute Crimes Code (Introduce)
3. Bill No. 2013-11, An Ordinance to Initiate a Referendum for the purpose of Amending Article IX of the Township Charter to Conform with the Pennsylvania State Constitution by Removing References to Recall of Elected Officials (Introduce)

With respect to the introduction of the above-referenced Bills, the Township Attorney advised the Board that the Township had been advised by the District Attorney's Office that in the charter, references to the Penal Code, is superseded by the Crime's Code. There are two Ordinances with regard to that. One authorizes the Township Manager to undertake a referendum to take the steps necessary to have put on the ballot a change from the term Penal Code to Crimes Code. That term also appears in the Administrative Code in the first chapter of the Statutory Code. The term is referenced there as well. The second Ordinance just amends that. The third Ordinance is the amendment to Article IX of the Charter authorizing the Township Manager to take the necessary steps to place this amendment on the ballot in the spring 2014 so that the Charter can be amended to remove the process for recall of a councilman. The Township Attorney noted that last year there was a request for recall under Article IX. The parties involved were advised that recall is unconstitutional. The Township Attorney noted that the Election Board sent him a copy of a case which clearly provides that the recall process is unconstitutional. The Township Attorney noted that with respect to other municipalities that had those provisions previous decisions upheld those provisions. However, now it has been reversed and found unconstitutional. The Ordinance prepared, the Township Attorney noted makes the necessary changes to Article IX, Direct Citizen Participation, to remove references to recall and changes the grammar where necessary. Councilman Atkinson questioned the Township Attorney as to whether or not the Ordinance could be worded in such a fashion that if there are any changes generic in nature which are made regarding this matter, that the Township would not have to go through a referendum process again. The Township Attorney indicated he could look at that and amend this proposed Ordinance accordingly.

The Township Attorney advised that when he reviewed the Supreme Court case regarding the unconstitutionality of recall, he noted that they talked about the history of the cases where elected officials were removed from office. In any event, the Supreme Court looked at the cases where someone had not fulfilled their duties and had been taken to court and asked for their removal. The Supreme Court looked at the issue in 1995 and said same was incorrect. The

Supreme Court determined that the only grounds to remove someone from office are stated in the Constitution and the means to do so are stated in the Constitution. The Township Attorney noted that provisions set forth in the Township's Codification, in particular, Sections 3.06 and 3.07 list five reasons for removal. It is also noted that Council make the determination. The Township Attorney provided the Board with a copy of the sections of the Charter and indicated his concern as to whether or not these provisions meet the standards of the Supreme Court. Attorney Eaton noted that the only one he thought clearly meets the standard is a conviction of felony or crime involving moral turpitude. In any event, the Township Attorney indicated that he has just begun a review of these provisions and would like more time to look into this matter.

Accordingly, Bill Nos. 2013-09, 10, and 11 were introduced at this time with a Public Hearing on same to be held on Wednesday, December 18, 2013 at 7:30 P.M.

Courtesy of the Floor: None.

Adjournment:

The meeting was adjourned at 7:50 P.M.

Respectfully submitted,

Sandra A. Pudliner  
Township Manager