

## Public Hearing

### Motor Freight Terminal Conditional Use Hearing #27

January 15, 2009

The North Middleton Township Supervisors held a continued public hearing on January 15, 2009 at the Township Municipal Building, 2051 Spring Rd., Carlisle, PA 17013. Chairman Robert Reisinger called the hearing to order at 6:31 p.m. Board members present: Vice Chairman Harry Kelso, Supervisor Richard Bucher, Supervisor Robert Shearer, Solicitor Mark Allshouse, and Recording Secretary, Tracy Gates.

Visitors: **See Attachment #1**

The Pledge of Allegiance to the American Flag opened the meeting.

#### Administrative Issues:

##### Board Changes:

Supervisor Robert Reisinger holds the position of Chairman of the board. Supervisor Harry Kelso holds the position of Vice-Chairman. Supervisor Dennis Hurley submitted his resignation on January 5, 2009.

Chairman Reisinger announced to the public that anyone interested in fulfilling Supervisor Dennis Hurley's seat can submit a letter of interest by January 23, 2009.

##### Vacant seat:

Solicitor Allshouse recommended to the board that a decision be made as to how handle the vacant seat and a new appointee with regards to these hearings. Mr. Lucas feels that it would be impossible for the new appointed supervisor to read the transcripts to the twenty-five hearings prior to this evening and have accurate knowledge of what has occurred to date. Mr. Lucas would accept 3 out of 4 opposed to the original 4 out of 5 vote. Mr. Wolfe feels the same, but he is comfortable with the new supervisor to be present at the hearings, make comments, and ask questions, but not be allowed to vote. Mr. Wolfe agreed with 3 out of 4 vote option. Solicitor Allshouse recommends to the board that a decision be made to the procedure process of the new appointed supervisor prior to the new supervisor takes his/her position. Chairman Reisinger asked the board for comments. Supervisor Bucher suggested that the new appointee be allowed to sit in on the hearings, ask questions, but does not want to make a decision this evening as to whether the appointee would have voting power. Supervisor Shearer agrees with Supervisor Bucher, but not in favor having the appointee being allowed to vote. Vice-Chair Kelso does not feel that the new appointee should sit in on the future hearings nor be allowed to vote. Chairman Reisinger agreed with Vice-Chair Kelso. Vice-Chair Kelso made the motion to not having the new appointed supervisor sit in on the future hearings and therefore, not having voting power. Supervisor Shearer seconded the motion. The motion carried with a 3(Reisinger, Kelso, Shearer) to 1 (Bucher) vote.

Dr. Carey:

Solicitor Allshouse stated for the record that Dr. Carey is no longer available for future hearings. Since applicant did not have an opportunity to cross examine Dr. Carey, this creates a problem with regards to this hearing. Mr. Wolfe submitted a letter on Jan. 9<sup>th</sup> offering options to solve this issue. Mr. Lucas offered his opinions regarding the situation. Solicitor Allshouse asked the board for questions and comments. The board unanimously agreed that the current report that was originally submitted by Dr. Carey is not a "clean" report and cannot be adopted by Dr. Bascom. Solicitor Allshouse stated that a decision has to be made as to what to do with Dr. Carey's report and testimony at this time. Supervisor Shearer motioned that the board strike Dr. Carey's report and testimony from the record. Supervisor Bucher seconded the motion and the motion carried. This vote was unanimous.

Length of Hearings:

Solicitor Allshouse stated that under the NPC that the applicant can have "100 days". Mr. Lucas indicated that he has no objection to bring Dr. Bascom back this evening as a witness on direct and he can cross examine her along with some additional cross examination of Mr. Hoover. Mr. Lucas waved the 100 day rule with the understanding that the applicant receives Dr. Bascom's report by January 23, 2009, so that he will have time to prepare for cross examination of Dr. Bascom.

Future Hearings:

February 24, 2009 at 6:30p.m.

March 19, 2009 at 6:30p.m.

April 15, 2009 at 6:30 p.m.

Hearing:

Mr. Hoover was called to testify. He was reminded that he was still sworn under oath. Mr. Lucas cross- examined Mr. Hoover. Mr. Hoover was asked questions with regards to the photos that he presented during his testimony at the last hearing with regards to the height of the lights and number of bulbs each light contained, the age of the fixtures, etc. More questions were asked by Mr. Lucas concerning other exhibits offered by Mr. Hoover and changes that Mr. Hoover felt were going to occur in the neighborhood and have already occurred in the neighborhood. Mr. Moore had no questions. Supervisor Bucher had no questions. Supervisor Shearer had no questions. Vice-Chair Kelso asked if Mr. Hoover was asked if he was offered a FMV for his property. Vice-Chair Kelso asked about the banging noise that takes place on the Quaker property. Vice-Chair Kelso asked about the noise study. Vice-Chair Kelso asked about the time frame of the DVD that was presented by Mr. Hoover. Chairman Reisinger had no questions. Mr. Wolfe was offered redirect.

Admission of Exhibits:

Mr. Wolfe – December 10<sup>th</sup> offered #38 through #47. Mr. Lucas raised an objection to the photographs, 41, 42, 43, 44, 45, 46, and 47 the DVD based on relevance. Solicitor Allshouse allowed all exhibits to be submitted.

Mr. Lucas – December 10<sup>th</sup> offered exhibits 71 and 72. Mr. Wolfe raised no objections.

Solicitor Allshouse put on record that the board would like to be wrapped up at the next hearing. Solicitor Allshouse is requesting that Mr. Wolfe allows adequate time for Mr. Lucas, Mr. Moore, and the board. Mr. Lucas raised concern about having sufficient time to cross examine Dr. Bascom. Solicitor Allshouse stated that he would allow Mr. Lucas to have another hearing, but does not want to enter into another objection of the 100 day rule.

Supervisor Shearer motioned to adjourn the hearing. Supervisor Bucher seconded the motion. Chairman Reisinger adjourned the meeting at 8.45 pm.

Respectively Submitted,

A handwritten signature in black ink, appearing to read 'Deborah Ealer', with a horizontal line extending to the right.

Deborah Ealer

Tracy Gates  
Recording Secretary