

**North Middleton Township Board of Supervisors  
Motor Freight Terminal Conditional Use Hearing #34  
August 12, 2009**

The North Middleton Township Supervisors held a continued public hearing on August 12, 2009 at the Township Municipal Building, 2051 Spring Rd., Carlisle, PA 17013. Chairman Robert Reisinger called the hearing to order at 6:30 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.

Chairman Reisinger informed everyone that the board would step out to hold an Executive Session concerning a legal matter surrounding tonight's hearing. The meeting will resume momentarily.

Chairman Reisinger reconvened the meeting at 6:40 p.m. Solicitor Allshouse explained the purpose of the executive session. Vice Chairman Kelso made a motion that the individuals making public comment be sworn under oath, not be cross examined, and that their testimony be transcribed as a separate document from the hearing documents. Supervisor Bucher seconded the motion, and motion carried.

Solicitor Allshouse stated that he received a letter from Mr. Lucas indicating that September 9, 2009 would commence the 45 days for a decision to be made setting the deadline date of October 26, 2009. The township engineer looked at the revised plan and no additional township witnesses or evidence will be entered onto the record; therefore, in order to comply with the decision to use September 9, 2009 as the commencement date parties need to prepare a list of agreed upon exhibits for the official record and provide a list of conditional use requirements by September 9, 2009. In addition, all parties should prepare for 15 minutes of oral arguments on Tuesday, September 29, 2009. A second hearing has been scheduled for the purposes of rendering a final decision on the application on October 14, 2009.

Finding of facts, conclusion of law, and legal briefs should be delivered to North Middleton Township on September 14, 2009. Replies on the legal findings need to be submitted by September 21, 2009.

**Hearing**

Mr. Lucas called Mr. Shepley to the stand. Solicitor Allshouse reaffirmed Mr. Shepley's oath. Mr. Lucas asked Mr. Shepley if he agreed to keep the limit of spaces to 165 until such time a right turn lane is installed. Mr. Shepley also agreed the site would be constructed in two phases. Mr. Lucas asked about revisions that were made due to the meetings that took place prior to the hearings with township supervisors and residents. Specifically he addressed the revised location of the driveway, the elimination of a driver's lounge, and the replacement of a repair facility. Mr. Lucas asked Mr. Shepley to make comparisons of the proposed site with many other truck terminals in the area that he has visited. Mr. Shepley was asked to comment on positive aspects of the proposed sites and the negative aspects. Mr. Lucas provided Mr. Shepley with exhibits A51 and A68 and asked questions pertaining to the exhibits. Mr. Shepley testified that the applicant offered Mr. Moore \$285,000 for his property. Mr. Lucas handed out exhibit A86 which was a copy of the deposit and the sale agreement from the proposed offer. The property is titled in Auto Tech, Mr. Moore's previous trucking company. Mr. Moore did not accept the offer. Mr. Lucas offered exhibit A87 which was a Cumberland County Tax Assessment of the Moore's property, the assessed value in the \$140,000's and the applied market value of \$178,000. Mr. Lucas asked Mr. Shepley to comment on Mr. Moore's

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suggestion of Mr. Moore moving into the Johnson house. Mr. Shepley explained that would not be acceptable based on township zoning ordinances. Mr. Lucas handed out exhibit A88 which is a deed of the property adjacent to the site that the applicant purchased at a public auction for \$77,700.

Mr. Moore asked if he solicited Mr. Shepley's offer. Mr. Shepley commented that Mr. Moore did not solicit the offer, but said that Mr. Moore gave him permission to make an offer. Mr. Moore asked Mr. Shepley about site restrooms, and screenings that will be in place.

Mr. Wolfe asked Mr. Shepley questions about the decision to put the project into phases. Mr. Wolfe questioned Mr. Shepley about a plan that he presented to the residents with a green screen. Mr. Shepley and Mr. Lucas indicated that the plan was the same as exhibit T1. Mr. Wolfe asked Mr. Shepley about the concerns that were raised by the residents and how changes have been made to address the concerns. Again, Mr. Shepley stated that the screening has been increased, a lighting plan has been constructed, the fuel facility has been deleted, and the trucks controlled by CCC will be 2007 or newer. Mr. Wolfe asked Mr. Shepley about his previous experience with commercial proposed facilities and if a current agreement with CCC has been established. Mr. Wolfe asked if Mr. Shepley is prepared this evening to purchase all of the residential properties; Mr. Shepley indicated that he cannot answer the question due to many unknown factors. Mr. Wolfe asked questions about the financiers of the property. Mr. Wolfe asked questions of Mr. Shepley concerning other facilities that abuts multiple residential facilities. Mr. Shepley discussed the Napa facility on Trindle Road. Mr. Wolfe asked questions about exhibit A88. Mr. Wolfe asked Mr. Shepley if an offer was made for Mr. Hoover's property. Mr. Shepley did confirm that he discussed the possibility of purchasing Mr. Hoover's property, but no agreement was presented to Mr. Hoover. Mr. Wolfe questioned Mr. Shepley about the pre-application meeting with the township. Mr. Wolfe offered exhibit O54, a petition of 2300+ individuals that are opposed to the proposed site. Mr. Lucas raised the objection due to relevancy and the age of the petition which was dated in 2007 to May 2008. Solicitor Allshouse determined that the document is hearsay and does not hold merit therefore it will not be entered as evidence. Mr. Wolfe asked for a brief recess; a recess was granted at 8:11 p.m. Hearing reconvened at 8:20p.m. Mr. Wolfe asked further questions about the purchase of all the residents' property.

The Board Of Supervisors proceeded to ask questions. Supervisor Bucher had no questions; Supervisor Shearer asked if Mr. Shepley knew whether the facility in A81 is a full truckload facility. Mr. Shepley thought that the facility was only approved for storage of empty trailers. Vice Chairman Kelso asked whether Mr. Shepley is still interested in purchasing properties adjacent to the site. He further asked about the consideration being made surrounding Mr. Moore's suggestions for the proposed sites. Mr. Shepley did make comments about the suggestions and how they created more negative impact. Chairman Reisinger had no questions.

Mr. Lucas clarified Mr. Shepley's testimony pertaining to the lighting plan and the use of shielded lights.

Mr. Moore asked if offers have been made in the past that have been objected. Mr. Moore also asked Mr. Shepley about offers made to the Hurley's.

Mr. Wolfe asked Mr. Shepley the last time he visited the proposed site at night. He also asked about the proposed repair facility.

**North Middleton Township Board of Supervisors  
Motor Freight Terminal Conditional Use Hearing #34  
August 12, 2009**

The board had no further questions.

Mr. Shepley was asked to stand down.

Mr. Lucas is done with his rebuttal case.

Mr. Lucas offered exhibits A81, A86, A87, and A88. No objections were made and all exhibits were accepted into evidence.

Mr. Wolfe offered exhibit O 54. An objection was raised, the objection was sustained.

**Public Comment**

The court reporter ended the transcription at 8:54 p.m. and started a new document for Public Comment.

Solicitor Allshouse read regulations from the MCP about Public Comment.

The following individuals were sworn in for public comment.

1. David Twining 683 Barnstable Rd., West Pennsboro Township, a supervisor of West Pennsboro Township. Mr. Twining is against using Rt.641 for heavy vehicle traffic.
2. Tom Whitcomb, 616 Mooreland Ave., Carlisle, PA. He is retired from DEP as a noise expert. He feels that the information that was presented was "cherry picked" surrounding PM 2.5. He offered data from EPA. His opinion is that there is too much emphasis being placed on diesels for particulate matter. He addressed Dr. Bascom's testimony and questioned the inhalation study she presented and felt it was not valid. He commented about the death rates for truck drivers, and wanted to express that the authors did not have complete information regarding smoking. He also commented about the noise contamination.

Due to the time, the public comment session will be continued until September 9, 2009.

Supervisor Bucher made a motion to continue the public comment and the hearing until September 9, 2009. Vice Chairman seconded the motion and the motion carried.

The meeting adjourned at 9:10 p.m.

Respectfully Submitted

Deborah Ealer

Tracy Gates  
Recording Secretary