

Lansdowne Borough Council

SPECIAL MEETING

June 28, 2016

APPROVED MINUTES

The Lansdowne Borough Council held a Special Meeting on June 28, 2016, 6:30 p.m. at Borough hall. Present: President Schleigh, Mr. Aubrey, Ms. Byrne, Ms. English, Ms. James, Mr. Radich and Ms. Williams. Also in attendance: Mayor Campuzano, Borough Manager Totaro, Borough Secretary Henry and Borough Solicitor Scott. Chief Donegan was not present.

Mr. Totaro opened the meeting with the Pledge of Allegiance.

President Schleigh announced this meeting was being held to discuss three topics:

- (1) Banners
- (2) Inside/Out Event
- (3) Zoning Issue

Agenda: Ms. Byrne moved to approve the agenda. Mr. Aubrey seconded. Vote: unanimous.

Old Business: No items.

New Business:

1. Banners - The Union Athletic Association ("UAA") has requested permission to hang appropriate banners on Borough property advertising the July 4th parade and events.

MOTION: Mr. Aubrey moved to approve the UAA to hang banners at selected areas in the Borough. Ms. Byrne seconded. Vote: unanimous.

2. Inside/Out Event - A "Paint with a Twist" event is being held on July 7th at the 20th Century Club. This will be a BYOB event and a liquor rider is necessary for general and liquor liability insurance purposes. Ms. Byrne noted that only snacks need to be purchased and the cost is within the \$3,100 original budget. The remaining money will go back into the General Fund. Ms. Williams asked for clarification on whether the Borough is allowed to charge for events and if the charge can be more than the costs so that money is returned to the General Fund. Mr. Scott confirmed this is true. Mr. Aubrey felt a system of checks and balances should be in place. Ms. Byrne agreed, adding that it would be helpful to have an electronic payment system in place. Mr. Radich commented he would also like to have a policy in place. President Schleigh felt that a policy is appropriate and in developing future events, these policies need to be implemented. Mr. Radich will take the lead in developing this project.

Mr. Aubrey questioned how money changes hands pertaining to the Arts Board events. Mr. Totaro indicated that when the Borough charges and sets a fee, it goes through a Committee and Borough Council approves such fee. This was the process used in the first Arts Board juried Art Show.

MOTION: Ms. Williams moved to approve the liquor binder for insurance for the July 7th Inside/Out event. Ms. Byrne seconded. Vote: unanimous.

3. Zoning - Mayor Campuzano opened the discussion. The Mayor mentioned that for the past five years neighbors on State Road near Delco Mulch and Supply, LLC have complained about the noise and odor problems associated with the manufacture and sale of mulch at the site. Delco Mulch now wants to apply for a zoning variance exception at 41 S. Union Avenue to store mulch, compost and other materials on this site. A Lansdowne resident, Betty Bird Smith, has obtained signatures for a petition to stop this proposal for fear it will create a serious health hazard, lower the property values in the area and compromise the quality of life for residents. Upper Darby is holding the Zoning Hearing Board meeting for this proposal on June 30, 2016, 7:00 p.m. in the Municipal Building. Mayor Campuzano commented he had contacted the Yeadon mayor, who was not aware of the situation. Mayor Campuzano commented that residents on Union Avenue have gone through a lot of problems, e.g., flooding, over the years and felt Lansdowne might be able to offer some assistance in addressing the proposed mulch site issue.

Mr. Scott explained that the mulch plant application is for a special exception, not a variance, which is a significant distinction. A variance places the burden on the applicant to prove that the use is not permitted and that special circumstances relating to the land makes the ordinance unfair to that parcel. A special exception, however, permits the use and the burden is on the complainant to demonstrate why a particular site will be harmful to the health and welfare of a general neighborhood. Mr. Scott indicated it was difficult to stop a special exception from being approved and would require expert testimony that demonstrates a health hazard, lowered property values, etc. Mr. Scott noted that the Upper Darby Zoning ordinance complied with all state notice requirements.

President Schleigh asked what could be done by Borough Council members to act as a voice for constituents. Mr. Scott noted that a Council person could appear on their own, send expert testimony or request a continuance (however, a continuance would be highly unlikely in his opinion). Ms. English noted that storm water is a problem in the proposed area and asked where Upper Darby's sanitary sewer originates, commenting that some of the proposed buildings need new and working bathrooms. Mr. Scott commented that if a new building is being erected, a new lateral connection is required. Mayor Campuzano commented that the immediate issue is with the noise and odor connected with the mulching operation. Ms. English felt that the best approach would be to voice an objection at the Upper Darby Zoning Hearing meeting by presenting a concrete problem with the storm and sanitary sewers that can be quantified.

Public Comment: Mr. Radich moved to suspend Roberts Rules of Order. Mr. Aubrey seconded. Vote: unanimous.

Visitors:

1. **Betty Bird Smith** - 82 S. Union Avenue. A 30 year Lansdowne resident, Ms. Bird expressed concern about lowered property values and will present a petition with signatures to the Upper Darby zoning meeting on June 30th. Ms. Bird mentioned she had spoken to Mayor Miccozzie, who is aware of the issue and told her "they will have a challenge" at this meeting. Ms. Bird's other concerns were the dumping of concrete, yard waste, dirt and construction waste that would create a health risk to the community in general and to children in particular. The Nile Swim Club and the Yeadon community playground are downwind from this site. The heavy truck traffic would also increase traffic problems. The site has been a dumping ground for decades. Advanced Chemical, who operates there, has abandoned barrels on site, the building is dilapidated with no roof and standing water poses a mosquito problem. The zoning notice was not properly posted and nothing was mailed to residents. Ms. Bird noted that a State inspection was performed April 26, 2016 but she had not yet received the results. Ms. Bird contended the storage of mulch may create a volatile situation and there was already an explosion and a fire at that site in 2000. The stench alone from the proposed 25 foot mulch stacks in the approaching high heat of summer was not acceptable. Ms. Bird will be attending the June 30th hearing to ask that the exception be declined and appropriate repairs be performed, such as proper fencing.

2. **Delaine McCleary** - resident. Ms. McCleary, daughter of Ms. Smith, commented that she grew up in that area and at its worst, the water rises up 3-4 feet to their porches during the worst rain. The mulch would clog the drainage system and she worried about the long term issues, such as abandoned homes, on Union Avenue. Ms. McCleary felt that as a business, Delco Mulch should take responsibility for the runoff control and erecting fencing to rectify the eyesore.

Borough Council comments: The Mayor thanked Ms. Smith for all her hard work and initiative in obtaining the signatures and commented that it would be difficult to prove against the issue and because there are no Upper Darby residents in that area to voice objections, the problem has fallen through the cracks for a long time... Mr. Aubrey added that it would be a good idea for more people to attend Thursday's meeting.

Mr. Aubrey moved to Reinstate Roberts Rules of Order. Ms. Byrne seconded. Vote: unanimous.

President Schleigh asked if it was possible for the Zoning Board to require that the applicant conduct an environmental study. Mr. Scott asked the Borough Engineer what could trigger such a study. The Engineer commented that it's up to Upper Darby's code requirements and the Township is requiring numerous repairs. Mr. Aubrey questioned if EPA violations could trigger an investigation. Ms. English asked if the Borough could get copies of the repair report for proof and as part of the hearing have an exception to have someone prove or disprove the location of the sanitary and storm water sewers. The Borough Engineer mentioned that the maps could be checked. The Mayor commented that all the sewers were new along Union down to Nyack and the EPA had paid for them. Ms. Williams asked if there was any recourse for noise pollution. Mr. Scott noted that only businesses in Lansdowne can be cited. President Schleigh contended an argument could be made that the quality of life in Lansdowne would be compromised if this particular business was at that site. Mr. Scott reiterated that it would be

difficult because Lansdowne has no jurisdiction to dictate controls in another municipality. However, an injunction could be possible based on an individual's private right of nuisance.

Mr. Scott suggested asking Upper Darby to impose conditions on the approval, such as hours of operation and capturing storm water management. After further discussion, there arrived a consensus to have the Solicitor present the Borough's issues at the upcoming Zoning Hearing meeting.

MOTION: Mr. Aubrey moved to allow the Borough Solicitor latitude to present arguments and do whatever is necessary in his opinion to either (a) block the application or (b) present the proper objections, stipulations and conditions for a best case scenario. Ms. Byrne seconded. Vote: unanimous.

Adjourn – Mr. Aubrey moved to adjourn the meeting. Ms. Byrne seconded. Vote: unanimous. The meeting adjourned at 7:30 p.m.

Respectfully submitted,

Barbara Ann Henry
Borough Secretary