

Swanecreek Township

Zoning Commission Meeting

Record of Proceedings

Wednesday, October 13, 2010

Meeting was called to order at 6:00 p.m. by Chairman, Walt Lange

Roll call was taken by Chairman, Walt Lange

Walt Lange, Chairman, - present, Joe Kahl, Vice Chairman, - present,

James McConkey - present, Robert Westmark - present, Sally Wylie - present

Steve Brown, Fulton County Regional Planning Director, was also in attendance.

Township Officials & employees present: Trustee Leu, Walter Hallett, III, Zoning Inspector & Christine Lauch, Administrative Assistant

Agenda Attached

Visitors: See sign in sheet

Chairman Lange asked Walt Hallett to start the meeting out with discussion of noise issues the township has been receiving.

Walt Hallett spoke of the amendments already made to 105-2 (#18). He stated that he spoke to the Fulton County Prosecutor, who advised him that a nuisance has to be of a reasonable measure. Mr. Hallett feels that if the township were to get legal opposition in the event that the violation went to court, the current language is too vague and would not be prosecutable. He has gotten legal opposition recently (attached) from sighting noise nuisance violations and feels the language needs to be more stringent. The current language falls under nuisance factors. He had concern of how to qualify the reasonability of the issue when it is intermittent. He explained the difference of a public and civil nuisance, as well as a property owner's intent of a nuisance. If several citizen complaints are filed on one property owner as opposed to one property owner against another, it may be more applicable to find it in violation;

however, he still felt the language needed to be stronger. The township currently has a policy that a citizen complaint/concern form has to be signed by the complainant.

Walt stated the language could mimic our current wind turbine regulations, however, without a decibel meter, there is no way to regulate nuisance of noise.

Steve Brown, Fulton County Regional Planning Commission Director, stated noise issues are hard to regulate in situations that aren't a continual problem, because by the time the township receives a complaint about a motorcycle's noise, it would be gone before we could get there.

Joe Kahl questioned Walt Hallett of what recourse there would be for a violation if the language was clearer. Mr. Hallett said he would have to have the ability, firstly, to isolate the complaint in order to produce a case against the culprit and then take it to the Prosecutor for review, after a reasonable time limited warning for compliance. He stated he could file a case, as a designated authority (complainant) on behalf of the township. Mr. Kahl stated that he does not want to see nuisance language have the opposite effect intended. Mr. Kahl also voiced his concern regarding the costs involved in regulation; calibration of the meter and cost of wages, including prosecution if needed. He said there needs to be a balance so that it did not become an "extreme" situation.

The board discussed reasonable measure noise issues, for example, a loud party versus a continual disturbance being passed onto the township for regulation, which issues are civil and which situations the Sheriff's office would take care of. The Fulton County Sheriff's office has been telling complainants to contact the township because they do not have a decibel meter either.

There were several public forum complainants that attended this meeting. One resident had major concerns regarding a metal stamping facility on County Road 6 that adjoins her property. The vibration is causing damage to her home and the noise is extreme. However, the facility's parcel is zoned M1. There were three property owners that had issue with this facility.

Walt Hallett referred to 100-16 #3 Industrial Performance Standards. He has contacted O.S.H.A., who told him they will only come out to investigate if an employee from inside of the facility makes a complaint. Walt also has been in contact with the E.P.A. Walt Lange stated the business was there pre-zoning; the township cannot simply re-zone that piece of property. The board suggested they call the local E.P.A. office. Chris will get some information around for them.

A resident from an un-zoned area questioned noise/nuisance emanating from a scrap metal facility on Airport Highway, the board informed her that since it is in an un-zoned area, the township cannot regulate it. Chris can get information needed for her to put zoning on the ballot to her if she wished to pursue that. She suggested splitting the language into two parts; hazards and nuisance.

A resident from County Road 1-2 spoke of a motocross track where dirt bikes are being ridden on a continual basis. He stated dirt was brought in to make jumps, etc to make a full blown course. He also has Rails to Trails on the other side of him; the dirt bikes are riding down the trails. Steve Brown stated the township cannot regulate it currently unless it is a commercial situation. Joe Kahl asked him if his neighbors also have issue with this. He said he has not spoken to his neighbors about it.

There were also residents who questioned dogs barking as a nuisance factor. The Fulton County Sheriff's office said there is no ordinance after 10:00 p.m. and referred him, also, to the township. There is nothing in the Zoning Resolution that currently addresses this.

The board discussed the cost of a decibel meter. Trustee Jim Leu said they cost around \$400 to \$700. He would like some research done with a meter to educate the township on decibel education, etc. The board suggested that charting and statistics be done in the areas that already have concern, as a starting point. Trustee Leu will put it on the Board of Trustees Agenda for their next meeting to discuss.

The board discussed possibly making a suggestion to the township Trustees to purchase a decibel reader, as well as examining other township's language and regulation for nuisance, particularly noise. Chris provided a few other township's ordinances for the board's review. Joe Kahl stated that he would call Sugarcreek Township to inquire how they regulate these situations and the board would work, individually, on possible suggested language and discuss language amendments at the next meeting, November 10, 2010.

- Sally Wylie motioned to table the discussion, a 2nd was heard from Bob Westmark.

~Roll Call - Walt Lange - yes, Joe Kahl - yes, Bob Westmark - yes, James McConkey - yes, Sally Wylie - yes

- Walt Lange motioned to adjourn the meeting at 7:20 p.m., Bob Westmark 2nd the motion.

~Roll Call - Walt Lange - yes, Joe Kahl - yes, Bob Westmark - yes, James McConkey - yes, Sally Wylie - yes

Zoning Board Approval of Minutes:

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Walter Lange, Chairman	Joe Kahl, Vice Chairman
_____	_____
Sally Wylie, Board Member	James McConkey, Board Member

Robert Westmark, Board Member	