

**MINUTES
HAZLETON CITY COUNCIL
REGULAR MEETING
WEDNESDAY, AUGUST 18, 2021**

Call to Order: Council met in regular session on Wednesday, August 18, 2021 in Council Chambers and via ZOOM Teleconferencing. The meeting was called to order at 6:15 p.m.

Silent Meditation and Pledge of Allegiance: A silent moment was taken followed by the Pledge of Allegiance.

Roll Call: Barletta-present; Colombo-present; Mundie-present; Sacco-present; Perry-present

Minutes of Previous Meetings: The minutes of the August 11, 2021 Regular Meeting and August 13, 2021 WORK SESSION meeting were approved unanimously.

Presentations/Proclamations/Communications: None

Bid Opening: None

Courtesy of the Floor (ON AGENDA ITEMS ONLY): Dee Deakos, 43 West Mine Street, Hazleton, spoke of the Zoning Ordinance. She asked if there are provisions made for people who are violating the zoning ordinance, i.e.- not going to zoning for new apartments. Atty. Logsdon stated the resident would be cited with the violation of the zoning ordinance. He said they would receive "like" a notice of violation and does not comply with the "NOV" they would be cited. Deakos asked if it takes them five years to find an illegal apartment, if it still applies. She said there are a lot of illegal apartments in town. She asked if there is anything, in the zoning ordinance, that would address the illegal apartments from "years ago". Atty. Logsdon said unless they register as a non-conforming use, at some point, creating an illegal apartment, the City could send an "NOV" and tell them they need to get zoning approval. He said the City could seek injunctive relief from the court. Deakos asked if there is a provision that will address illegal apartments. Atty. Logsdon said nothing has changed, in terms, of enforcing zoning. He said nothing is different.

Mark Rabo, 1st Street, Hazleton, spoke of the Zoning Ordinance. He said in major cities, in PA, and other states, if there has been an illegal apartment converted, and the zoning officer finds out, they could make the owner convert it back to what it was originally. Rabo said this could be looked as a remedy to put in the ordinance.

Rabo also spoke of the Stormwater Ordinance. He stated Perry and Mundie "were around" in 2014 when the Management Ordinance was passed. He stated there was very little input. He said this needs to be introduced at a public hearing, and required by PA State law. He suggested council table this and introduce this at a public hearing because it is a substantial land use regulation, according to Act 167- Stormwater Management Act. Rabo said the public hearing would give the residents an opportunity to comment on this ordinance.

Rabo also spoke of the Special Events Ordinance. He asked if this would entail vendors, as Funfest, or on Carson Street, to "cordon off" the street. He asked if the police or fire chief needs to be notified for coordination.

Rabo spoke of the Recreational Vehicles Ordinance. He said, he heard, that if the ATV's were stolen and the owner was not notified, then the ATV is destroyed. Rabo said they need to find the "due process" for the owner before destroying the ATV. He said this would put a lot of liability on the City.

Rabo spoke of the Farm Animal Ordinance. He said the City should keep the 1-acre provision in the Zoning Ordinance.

Rabo said the City needs to do traffic studies for all traffic lights, not just one.

Maria Jacketti, 549 Kiefer Ave., Hazleton, said she spent, this afternoon, going over 150 of pages of public policy and of illegalities associated with zoning. She asked for more than 3 minutes. Jacketti said "millions of taxpayer dollars" are on the line. She said if Perry wants to "shut her down", he will be responsible for all the taxpayer dollars. She said they would have to "arrest her" to get her off the microphone. Jacketti called Perry "a piece of work".

Jacketti stated there was a study done, in zoning, for natural gas and hazardous liquid transmission pipelines. She said it refers to different places in the country, and to "us", on Dietrich Avenue property owned by Ken Sency. She said she has it on the Heights Terrace Environmental site on Facebook. She said it was prepared by Atty. John Dougherty and for the Office of Pipeline Safety (OPS) of the federal government. Jacketti said no one should develop anything on top of a pipeline. She said the report goes through a "myriad" of risks. She said if the City is going to do this as an R-2, the City and taxpayers would take the liability. She said it also reviews how far the "setback" needs to be. She said the City needs to do an emergency evacuation study done in case of a breach of the pipeline. It needs to tell the City how the people would be evacuated, how the children would be educated and what medical provisions there would be. Jacketti asked if the City wants this type of liability. She said if council votes yes, on this, and in this case, they would be putting "tens of millions" of dollars in potential lawsuits. Jacketti said the gas seepage, from the lot, is also spoke of in this report, with the environmental impacts. She said there may be a class action suit against various entities.

Jacketti spoke of the EPA. She said she stands her for the "people of the Heights and "Terrace". She stated the EPA has very distinct rules about liability, which affects the City, the plastics plant and the DeAngelo brothers. She said if they bought the property not knowing it was not contaminated, it would be known as "innocent users", but everybody, in Hazleton, knows the property is contaminated. She said not only from the explosion, but from dumping of electronics and oil. Jacketti said she has photographs, and the residents of the Heights and Terrace could call the DEP and EPA to have their properties tested for benzine. She said she does not want to sue the City of Hazleton, but there is "quantum" neglect here. She said there are more neighbors dying of cancer. Jacketti said if the property is donated, they would be eligible for "super-fund cleanup". She said they would need the help of the City for this. Jacketti asked why they would give R-2 properties to dangerous properties.

Jacketti stated both of these reports are posted. She said the council would be putting the health and safety of the City's residents at risk. She said she really likes most of the council members. She asked if they would feel safe if they lived in this area. She said if they vote yes, on this ordinance, they will be legally and morally responsible. She said government should have done their homework.

Sacco asked Jacketti if she does not think cancer does not exist on Harrison Street. She said she choices to live and raise her child there. Jacketti said they have "cancer-clusters" throughout the City. Sacco said they are not soil testing. Jacketti said, "don't you think you should". Sacco asked Atty. Logsdon if it is the City's responsibility to test the soil. Atty. Logsdon stated no. He stated it is the resident's responsibility to have their soil tested, for themselves, and if they feel there is something wrong, then bring the evidence to enlighten the people. Jacketti said they could also request DEP to test the soil, upon request. Atty. Logsdon said yes. Jacketti said the City could also request DEP to do this.

Sacco said the DEP and EPA are "night and day". Sacco said there are eight residents here, tonight, and the City is "busting at the seams". She said the council has listened to all their complaints. She said Atty.

Logsdon has gone “above and beyond” with showing zoning maps. She said her points tonight seem like an “Edgar Allan Poe” theme. Sacco said council went “down the checklist”. She said Mope presented many great things, and council spoke about them privately. Jacketti stated this is serious “unpacking” of real liability risks to the citizens of Hazleton. She said she is, also, a mother, too. She said if she knew there was contamination, in her neighborhood, she would contact DEP.

Jean Mope, 531 South Hazle Street, Hazleton, said Sacco made a good point. She said they did choose to live her but did not choose to have explosions. She stated after looking at the zoning maps, at the last WORK SESSION, they spoke of a Green Space. She said Atty. Karpowich said the City does not have Green Spaces, and is agreeable to this.

Mope spoke of the sale of properties. She stated that property has “exchanged hands” three times. She said there should be something, in the ordinance, if there is a contaminated property, it needs to be disclosed before the sale goes through.

She said the public did not get to hear the end of the hearing or had a chance to review the new zoning map. She suggested council table the ordinance, for this evening, until the next meeting. Mope said the residents will have a chance to see the changes, the residents will approve a lot of them, and “reach out” to Donnie to see if he still accepts this property as open space. She said this property could stay wooded, and considered, as open space. Mope said before it transfers “hands”, again, it needs to be looked at and, told, to the new owner, that this may be a potential problem.

Maria Jacketti stated the EPA report, she has posted, online, talks about what Mope spoke of. She said it states the incident buyer has good legal protection against liability. She said the level of liability is “through the ceiling”.

ORDINANCES AND RESOLUTIONS:

ORDINANCES:

(1ST READING)

Ordinance 2021-9

Zoning Ordinance (1st READING)

Presented by Perry. Seconded by Sacco.

On the Question:

Perry stated what the City did from the last meeting, they took the map, “drew” on the map and

made changes to the map. Atty. Logsdon pointed the changes, on the map, to the public. Perry stated instead of moving the zone, from 1st Street, it was “brought back” to Diamond Avenue. He said Poplar Street was extended, central commercial, “all the way and to include” 424 Arthur

Gardner Highway, eastern side, including Prestolite and Quality Beverage. He said Dietrich Avenue was changed back to residential. Also, the property on Mill Street was changed from general office space to residential. He stated these were the major changes made. Perry said council received the new maps this morning and will let the residents look at the maps.

Colombo recommended council table this ordinance, tonight, until the next meeting on September 8, 2021. He said the residents spoke, they came to the meetings, council listened, and they changed some things. Colombo said a lot of work has been done on the resident’s “end”, mayor’s and solicitor’s “end”. He said everyone worked “meeting after meeting”. He stated he will give the residents a chance to review the new map and made a motion to table the ordinance.

Perry stated he does not know if waiting until September 8th will still meet the people’s needs, but if “this is what people want”.

Motion to Table:

Presented by Colombo. Seconded by Barletta.

Roll Call: Barletta-yes; Colombo-yes; Mundie-yes; Sacco-no; Perry-no.

ORDINANCE TABLED 3-2

Ordinance 2021-20

Stormwater Management Ordinance (1st READING)

Presented by Perry. Seconded by Sacco.

On the Question:

Atty. Logsdon said he got this on the agenda because Alan Wufsus, City Engineer, brought this “back to life”. He stated last year they were working on this. He said the City needs to comply with the City’s MS-4 permit. Atty. Logsdon said part of this requires updated and approved DEP ordinance. He said the 2011 passed ordinance is good, but the DEP new model ordinance is the 2022 ordinance and needs to be in compliance with this version. He said there are a few new items in their model ordinance. He said he sent the City Clerk a PDF version and WORD version. Atty. Logsdon stated he sent over the 2011 version by itself. Perry said this does not have to be done until 2022. Atty. Logsdon said yes; this does not have to be passed tomorrow. Perry said the engineers modeled this after what DEP would like to have. Atty. Logsdon said yes. He said the copies sent to council are the ones recommended by the engineer. He stated he tried to have an engineer, at this meeting, but Stephanie and Don Totino were not able to attend, along with Greg Pavlick. He said he will have one of them here, at the next meeting, to discuss. He said it is not a “rain” tax, a per capital stormwater fee. He said this is part of the City’s MS-4 permit and would be more for land development, the “saldo”. He said council received this ordinance a few days ago.

Motion to Table:

Presented by Sacco. Seconded by Barletta.

Roll Call: Barletta-yes; Colombo-yes; Mundie-yes; Sacco-yes; Perry-yes.

ORDINANCE TABLED UNANIMOUSLY

(2ND AND 3RD READINGS)

Ordinance 2021-15

Special Events Ordinance (2ND READING)

Presented by Barletta. Seconded by Perry.

On the Question:

Atty. Logsdon said to answer Rabo's question, it sounds like a "hybrid" of a block party and a parade. He said this would be covered under this ordinance. He said it would fall under a block party and a parade, and would need approval for blocking of streets, and parking.

Roll Call: Barletta-yes; Colombo-yes; Mundie-yes; Sacco-yes; Perry-yes.

ORDINANCE PASSES UNANIMOUSLY

Ordinance 2021-18

Amending Ordinance 2018-15, 2019-9, and 2020-12, Regulating Recreational Vehicles Within the City (2ND READING)

Presented by Perry. Seconded by Colombo.

On the Question:

Barletta asked Atty. Logsdon if these are the changes. Atty. Logsdon said the biggest change made is, Section 5, the creation of an Appeals Board. He said it states, "a person or entity aggrieved by the confiscation and forfeiture of an ATV, including the lienholder or financier of an ATV, may request a hearing before the "ATV Board of Appeals" to consider the same. The ATV Board of Appeals will consist of three members, each appointed by City Council and each appointee shall be a resident of the City of Hazleton". He said this would be a small amendment. He said he received "feedback" from administration staff. He said city council would make the appointments for a resident for the City of Hazleton. He stated the cost is \$350.00 for an appeal and all costs associated with a court reporter and advertising costs if a public hearing is requested. He said they could request either a public or private hearing with the board. Atty. Logsdon stated the ordinance, also, states, "all advertising costs, of the public hearing, would have to be the responsibility of the appellant. If the Board of Appeals grants the release of a vehicle back to a lienholder or financier, or other person or entity, said lienholder or financier or person or entity must pay all costs relating to the seizure, removal and storage of said vehicle, and a lienholder or financier may not sell or otherwise release the vehicle back to the party found to be in violation of this ordinance. Perry asked if the City just does not "take the vehicle" and "crush it" until the City covers "all the bases". Barletta said this would be an appeal on whoever got charged with it could come in front of council. Police Chief Schoonmaker said if someone else was using the vehicle to appeal to the City, whether it was stolen or borrowed. Barletta asked if this is for someone not cited. Schoonmaker stated no, they would still be cited. Barletta asked if they would go through the judicial process or would the City withdraw the tickets. Schoonmaker said the ATV would not be returned if the owner was

arrested using it. He said it refers to the owner of the vehicle who found out “so and so” took the vehicle, did not give them permission, pursues theft charges and wants to get the vehicle back before the destructive process. He said it would be up to the Appeal Committee to decide if the City should return the vehicle to the rightful owner. He stated it does not apply to someone who has an unregistered vehicle or a stolen vehicle. Barletta asked how soon the appeal happens. Schoonmaker said all the fines must be paid, to the magistrate’s office, before it could appeal to the process. He stated whatever fees are paid at the magistrate’s office, set the appeal rates with the City, and would be scheduled to “hear”. Barletta said if the owner did not get cited, the person riding the ATV gets cited. She said the owner comes in front of council, and the rider goes in front of the magistrate. Schoonmaker said correct. Schoonmaker said the owner did not commit the violation, the rider did. He stated the owner, of the vehicle, would be coming in front of council to ask for his vehicle back. He said if there is a lien company that has interest, in the vehicle, they could hear their appeal, give them the option to pay all the fees, get the vehicle, with the understanding that they cannot return it to the original lien holder. Barletta asked how soon the person is cited. Schoonmaker said the City cites within the first 24-48 hours. He said the citation they spoke about was sent certified mail, the same day the traffic citation went out. He said the problem was the certified mail took longer.

Colombo stated the other item, added to the ordinance, was “equipped with a snowplow or a salt spreader”. Atty. Logsdon said yes.

Barletta asked if it would be easier to have the ordinance amended to state the owner only gets cited. Schoonmaker said the problem is what if the vehicle is an unregistered vehicle. He said they would be citing both and would cause “chaos” at Magistrate Zola’s office. Barletta asked if this would cause “chaos” there. Schoonmaker said no. He said one is civil and one is criminal. He said the City is handling the civil side, and the first step in the due process procedure. Schoonmaker said if they are unhappy with the City’s decision, they could appeal it to the Luzerne County Board. He said the judge “up there” would hear the same argument and make a decision. Barletta said the next step is to create a board. Perry said they need to create a board as quickly as possible. Atty. Logsdon said if someone is “bombing down” Broad Street, with an unregistered ATV that they paid cash for, doing “wheelies”, would, probably be cited under the Vehicle Code for riding an ATV on the streets, and, technically, be cited under this. Atty. Logsdon stated this would create a situation where the person did not steal the ATV, but “overstepped” the bounds of what they were allowed to do. He said these are the “grey” areas that the Appeals Board could handle.

Roll Call: Barletta-yes; Colombo-yes; Mundie-yes; Sacco-yes; Perry-yes

ORDINANCE PASSES UNANIMOUSLY

Ordinance 2021-19

An Ordinance Amending CHAPTER 89, SECTION 89-17, Of the Hazleton City Code, FARM ANIMALS (2nd **READING**)

Presented by Sacco. Seconded by Barletta.

On the Question:

Perry said they made these changes for the City to get restitution. Atty. Logsdon said this is just a “mechanism” and have not changed anything from the last meeting. He said the City is finding chicken, roosters and other fowl. He said this refers to any animal that is found, in the City, and costs them time to relocate and capture.

Roll Call: Barletta-yes; Colombo-yes; Mundie-yes; Sacco-yes; Perry-yes

ORDINANCE PASSES UNANIMOUSLY

RESOLUTIONS:

Resolution 2021-59 Approving Green Light Go (G.L.G.) Transportation Grant Agreement No. GLG-2019-40301-2014 and Authorizing the Mayor to Execute Same

Presented by Colombo. Seconded by Barletta.

On the Question:

Perry stated this is for a total of \$305,677 with no match required.

Roll Call: Barletta-yes; Colombo-yes; Mundie-yes; Sacco-yes; Perry-yes

RESOLUTION PASSES UNANIMOUSLY

Resolution 2021-60 Resolution Approving the Application for Traffic Signal Approval to the Pennsylvania Department of Transportation

Presented by Sacco. Seconded by Colombo.

On the Question:

Atty. Logsdon said when he gets these resolutions, from Alan or Frank, he does PENN DOT’s resolution, that has to be signed, but also does a “Hazleton one” and attaches it. He said it looks “goofy” in the meeting minutes and resolution book. Perry asked if this is for Diamond Avenue and Vine Street. Atty. Logsdon said yes; Diamond and North Vine Street.

Roll Call: Barletta-yes; Colombo-yes; Mundie-yes; Sacco-yes; Perry-yes

RESOLUTION PASSES UNANIMOUSLY

New Business: None.

Old Business: None.

Comments from the Audience: Jim Joseph, Hazleton, said he is a life-long taxpayer of this community. He said he comes here to ask the council for their help. He said Berkheimer Tax Office is having a problem taking some names off the tax rolls. Joseph said all three of his children live outside the Hazleton area. He said he gets their per capita tax sent to this house. He said they have moved out of the Hazleton area about four years ago. He stated one of his son's is in the military, full-time, active duty. He said this could affect his career in having an outstanding tax lien against him. Joseph said he should not be getting a bill. He said they tried numerous times to get their names off the tax rolls. Joseph said he tried several times and could not do it. He stated Colombo tried once, and he got action. He said the action was Berkheimer sent him two more bills. He said, on the second response, he was told they would take care of it and is still waiting. Joseph would like to get in what year and wants it in writing it was taken care of. He said if the City renews their contract, there needs to be a stipulation that residents could receive a receipt and have a "warm body", at City Hall, to take their payments. He said calling their number makes them wait and the City administration needs to have a direct number to contact them. Joseph said Colombo said he will call Berkheimer tomorrow. He asked if there is anyway to threaten them to do their job.

Mundie said he knows a lot of people get notices. He said it is a problem with the database. Mundie said he will call Jim Hunt at Berkheimer tomorrow. He said they get lists and databases which are not "up to date". He stated they are sending out notices to people who are dead for 5-10 years. Perry said the residents should just be able to go to them and tell them the address. Mundie stated Theresa just retired from Berkheimer. Gary Perna said there has been a woman working at Berkheimer, here, at City Hall. Perry said Dan Lynch could also contact Berkheimer. Joseph said, at least, he wants, in writing, his one son, who is in the military, is "off the rolls". He said whoever is cashing the check is the one who they need to talk to.

Mark Rabo, 1st Street, spoke of the Stormwater Ordinance. He said he did not say that Barry Isett did not do their "due diligence" but, as a reminder, they need to follow the Luzerne County Stormwater Management Plan which is a requirement under the PA Stormwater Management Act. Rabo asked if this also includes houses that lead into the Susquehanna River or is it for all properties in Hazleton. He said most of the City properties do not go into the Susquehanna River, but the Lehigh River. He stated it is only the new properties would go into the Susquehanna River. Atty. Logsdon said he does not know, but he will check with the engineers. Perry asked Atty. Logsdon if this is for businesses. Atty. Logsdon said this is for land developments. Rabo said as far as the traffic signals, the City needs PENN DOT to do traffic studies on all the streets. He stated he spoke to Dominic Yannuzzi and he agreed. Rabo said in 2020 and 2021, he said they need to do traffic studies on all the streets and get input from the police and fire chiefs. He said, then, include an official City street map. He said the Hazleton Water Department, Sewer Department and Hazleton Fire Department could access this. Rabo said the people working on

the Comprehensive Plan could include this. Perry stated the City's Comprehensive Plan will not happen for a while yet.

Jean Mope said at the last WORK SESSION meeting, there was discussion about the GPS system being changed. She reminded the City and Atty. Karpowich to look into this. She said they need to find 325 Arthur Gardner Drive. She stated this would stop the tractor trailers from coming into the Heights and Terrace and "meandering" around trying to find the plant. Perry said they opened up the "whole area" by Kama to make it wider. Mope said she and the residents would appreciate it. She said the ordinance was passed and the street was named. She said the GPS is the last "piece of the puzzle" to be addressed.

Hernan Arias, 42 Pebble Beach Drive, Eagle Rock, Hazle Township, said it has been one month since his ATV has been taken. He said the next city council meeting is on September 8, 2021. He said they need to get the "ball rolling". Perry said this ordinance has been passed. He said they need to put people on the Appeals Board. Atty. Logsdon said it is a 3-member board and 3 people are picks from city council. He stated, also, residents from the City. Arias asked if he would get notified. Atty. Logsdon said there is not even appeals form or application. Perry asked if there are standard forms for this. Atty. Logsdon said "he does not think so". He asked Arias to send a letter or an email to the City Clerk. Barletta said the City Clerk will call and "reach out" to him to get it going.

Gary Perna said Mayor Cusat thanked council for passing the Special Events Ordinance. He said this will help the City tremendously. He said they already received over 50 requests for events, this year, through out the City. He said along with the police and fire departments, they will know what streets need to be blocked off.

Comments from Mayor: No comments- absent.

Comments from City Administrator: No comments- absent.

Comments from Council: Mundie said, "see you at the wedding".

Colombo thanked the DPW Department and fire department for replacing the driveway at the Southside Fire Station. He said it was dug out in one day and reformed it for the fire trucks to drive on it again.

Adjournment: Perry motioned to adjourn the meeting. Meeting adjourned at 7:14 p.m.