

SYLVAN LAKE PLANNING COMMISSION

Minutes of the March 2, 2010 Meeting

1. CALL TO ORDER

Chairperson Menuck called meeting to order at 7:02 P.M.

2. ROLL CALL

PRESENT

Jim Bull
Paul Hungerman
Aron Lorenz
David MacGillis
John Martin, City Mgr.
Michael Menuck
Russell Meskin
Jim Schafer

EXCUSED

Joanne Eberhardt

3. APPROVAL OF AGENDA

Moved by Hungerman, seconded by Meskin, to approve the agenda.
No discussion. Motion carried.

4. APPROVAL OF MINUTES

Moved by Schafer, seconded by Meskin, to approve the minutes of February 2, 2010.
No Discussion
Motion carried.

5. MEETING OPEN TO THE PUBLIC FOR BRIEF COMMENTS

Chairperson Menuck opened meeting for public comment.

Michael Palchesko, representative for DTE is here once again to monitor the progress of the noise ordinance, its implications and impact on the DTE service center. They requested the assistance of Rick Kolano to review the proposed ordinance and offer his perspective.

Rick Kolano and Darren Brown of Kolano & Saha Engineers, Inc. provided their comments on the draft ordinance. Mr. Kolano explained his background in acoustical engineering working in acoustics, noise and vibration.

Mr. Kolano briefly explained the A and C weighting when measuring noise. He provided his opinion that areas of the ordinance are subjective instead of objective and what concerns that raises. He explained that creating an ordinance that limits the noise to "x" decibels above ambient sound is difficult because it is a "moving target." It would be difficult for a business moving into the City to know what they would have to provide as sound abatement or what levels would

be acceptable. Mr. Kolano went on to explain some of the technical aspects of sound, providing graphs of a prior study they had completed. The graph showed several spikes in the sound level due to airplanes, trains, birds, etc. The draft ordinance doesn't describe how to determine background noise. He then gave his opinion on what could be acceptable levels for different zoning districts. Another opinion was you shouldn't measure noise levels inside a home because of noise created by a refrigerator, furnace, television, etc.

Lorenz stated he agrees that a noise ordinance is very difficult, trying to create something everybody can put their hands around and is easy to enforce. Lorenz questioned if Mr. Kolano has ever seen a simple paragraph that is a good sound ordinance that is enforceable and measurable? Mr. Kolano stated no, it generally takes a few pages.

Mike Zubrzycki questioned if they had worked with boom cars with the low frequency noise which is along the same lines of using a C-weighted scale. Mr. Kolano agreed. Zubrzycki also stated it was his opinion that sound measurements should be taken at the source of the complaint, indoors or outdoors.

Avondale resident, Jeff Zumbach questioned if Mr. Kolano was being paid by DTE to present this data to the Planning Commission. Mr. Kolano stated that was correct. Mr. Zumbach stated that the numbers and discussion tonight may be skewed in favor of DTE. So far tonight nobody has talked about common decency of limiting the levels during certain hours of the night so people can sleep. You may not be bothered by a higher decibel level of common noise at 5:00 p.m. but just one spike during the night that wakes you up and can't get back to sleep is a problem.

Mr. Palchesko stated if the City would like to consult their own consultant, they would be willing to assist them in any way they see fit. The idea was not to bring in whole team from DTE, but to bring in a 3rd party entity, in this area of expertise, to give an overview picture.

Mayor Lorenz questioned if DTE brought these professionals to say that our ordinance wasn't written very well, or to say that they are here to help us write the ordinance. Mr. Palchesko stated they were brought in to help with the ordinance. DTE is concerned with the impact, but they don't understand the whole impact, so they called Rick Kolano to help them understand. Mayor Lorenz asked if they are going to consult with Sylvan Lake at DTE's expense to help create an ordinance to help all of us. Mr. Palchesko responded that they asked them to get involved and yes, if recommendations come out that are accepted by the Planning Commission that benefit the community and businesses can live with.

Commissioner Meskin questioned if DTE had a solution for the trucks being started early and making excessive noise instead of just telling us what is wrong

with the ordinance. Chairperson Menuck asked if there could be a simple sound barrier installed to deflect or change where the sound is directed to help the residents behind the property? Mr. Kolano stated their company also does three dimensional modeling to allow them to investigate those types of things.

Mr. Zumbach stated that because the proposed ordinance talks about sustained levels, DTE would not be in violation of the ordinance most of the time. It doesn't address the very short instances of loud noise.

Resident Liz Zubrzycki stated this is a different kind of noise, it is not just normal traffic noise. Her kids are being awakened by the constant beeping of the trucks backing up. Sometimes for twenty minutes. The residents are trying to be good neighbors, but she doesn't feel DTE is. This is a quaint city and most of the homes were small cottages. The business at the DTE site has changed. It is not just a service center, but a super service center. The intensity has increased dramatically. It is effecting the health of the families that live near there.

Mr. Zumbach stated most of the property is in Bloomfield Township and what do we do to get them to comply? Why does the DTE have to be here when there are several areas nearby that would not be affected by the noise?

Bloomfield Township resident Cheryl Burt stated she lives on the other side of Orchard Lake Road from DTE. She also has issues from the DTE property and feels they should be able to take care of the problems through their administration.

Resident Michael Zubrzycki stated his opinion is this is all about economics and there is a resolution to the problem. He also wanted to point out that this is about much more than noise from DTE. Zubrzycki also stated there are different specialties in sound engineers and we need to choose one based on our need. It needs to be a modern noise ordinance that will address periodic loud noises like a dumpster. Ordinances need to evolve based on the changing needs of the community.

Resident Randall Ykema stated this ordinance will address much more than just DTE. It will address trucks, cars, neighbors, etc. Putting up a berm or a wall will not eliminate the noise issues. Mr. Ykema thanked the City and Planning Commission for addressing these concerns and for DTE for presenting their ideas.

Bloomfield Township resident Geof Burt lives across Orchard Lake Road from DTE. The sound spikes that occur during all hours of the night and morning wake him up. There have been times that the noise has been so loud in the night that he and his neighbors would go outside to see what it was.

Mayor Lorenz stated we have worked on this noise ordinance for months and realize how difficult it is to create benchmarks that are easily enforceable. It is

very difficult to record instantaneous sound of 80 or 90 dba when using time-weighted averages. He acknowledged that the City has met with and talked to Mr. Palchesko on several occasions and feels he has done many things to make the DTE employees follow certain protocol. However, unfortunately the employees at times are not following that protocol. Mayor Lorenz doesn't understand why someone would have to use the dumpster or empty the dumpster at 10:00 or 11:00 at night when this facility is supposedly only operating during the daytime. We should only be discussing what is happening at night during an emergency situation. Lorenz continued to question why DTE, with all of the theft going on, hasn't installed video cameras to monitor all activity on their property. Mr. Palchesko stated they have taken a look at that but haven't made a final decision. Mayor Lorenz stated that is what we keep hearing, there's never a final decision. Lorenz continued to say this is very economically driven. There are too many economic decisions and not enough humanitarian decisions. Mr. Palchesko responded that they have made changes based on the complaints and they will continue to do so.

Mr. Palchesko stated the sound engineers have not really had a chance to get into the service center property to look at possible solutions to the noise issues. Chairperson Menuck questioned if they are going to pro-actively pursue noise abatement? Mr. Palchesko stated they will further analyze what they have and review any options.

Resident Megan Rogers bought her house on Avondale 10 years ago and noise wasn't an issue. In the last three years the noise levels have increase significantly. This is not normal traffic noise. It is the trucks backing up and dumpsters banging at 4:00 in the morning that can be heard three blocks away. The DTE trucks also drive through the neighborhood streets when there is no reason to be. They are not doing anything about it. Is it her responsibility to call every time the dumpster is banging or something else is happening?

Commissioner MacGillis lived on Atkinson across from DTE for 20 years and then moved into Sylvan Lake. He had many complaints about noise when he lived there with trucks being worked on with the overhead doors open, horns honking, equipment banging, etc. during all hours of the night. All of his complaints were ignored. Then when he moved into Sylvan Lake, he heard that the residents behind DTE had the same complaints. He doesn't see a good neighbor.

Jeff Zumbach stated we shouldn't need an ordinance to tell them not to use the dumpster at 4:00 in the morning, or unload a truck with poles at 2:00 in the morning. There are foreman and supervisors on duty that should be taking care of that. It's just common decency. Mr. Palchesko responded that they didn't know of those issues until they were told. They have responded to complaints when they hear of them.

Michael Zubrzycki stated the area has changed. The old railroad track is now a nature trail. The old 24-hour Powers Distributing is now a 9 to 5 quiet operation with Stone Soap. That whole industrial area had transformed prior to 2006 into a much quieter area. All of the old ordinances that set limits of 70 or 75 Dba were set purely to protect against hearing loss.

Chairperson Menuck closed meeting for public comment.

6. New Business:
Diesel Truck Ordinance

City Manager Martin stated this was the same language that was in the noise ordinance. We are now separating them into two ordinances.

Commissioner Schafer offered his opinion on several items of the proposed ordinance:

5.c Suggests we discuss adding public service vehicles. Chairperson Menuck feels any vehicle used for an emergency would be exempt.

5.f Feels it should include, communications, computers, lighting and climate control. The statement "the exemption does not apply when idling for cabin comfort" should be eliminated.

6. Auxiliary power units - commented that auxiliary power units are often louder than the propulsion unit.

7. Violation may be enforced administratively should be changed to enforce as a civil infraction.

7. Old Business:
A. Review of Draft Noise Ordinance

Chairperson Menuck asked if there was any input from Planning Commission acknowledging that there has been a lot of information shared tonight.

Mayor Lorenz shared that he agrees the ordinance needs to be as objective as possible and enforceable. He asked DTE to review the ordinance and give us their opinion of what they feel is too subjective, understanding that it is ultimately the City's decision.

Mayor Lorenz and Chairperson Menuck suggested the ordinance be simplified if possible.

Commissioner Schafer suggested DTE submit their opinions in writing.

Discussion ensued on allowing an industrial use on industrial zoned property, but limiting the noise level to that of residential and where to read noise levels - at or within the property line. It was also questioned that lawn care implements are allowed but would exceed the allowable level. That is a value judgement - they are allowed but loud music is not. To be fair, horns, etc. should include boats.

Not properly addressing the peak noises like from a dumpster. Unruly persons not allowed but the unamplified voice is. There are two standards - Xdb above ambient and then a maximum regardless of the ambient level, if ambient is low, then the maximum is reduced. Time frame to use a snow blower is too strict. Existing air conditioners and furnaces will be allowed, but new units must meet the new limits? Public sponsored events are exempt - another value judgement. Any variance or special exemption should be approved by City Council and not have the burden placed on the City Manager.

Planning Commission would welcome written input to review from the sound engineers that were present.

City Manager Martin reminded Planning Commission that this is a police power's ordinance and not a zoning ordinance. It does not require input from Planning Commission and does not require a public hearing. It is his opinion that an informational public hearing could be held but should be done by City Council. They are the ones that need to hear the opinions of the residents and businesses.

Chairperson Menuck questioned if the Police Chief and Officers have offered an opinion on the draft ordinance. Martin stated that some of them have. They have said they will do whatever is required of them, but like some of the planning commissioners, they feel there is an awful lot to grasp with the ordinance, training on the equipment and the amount of time that could be spent investigating complaints.

Mayor Lorenz questioned where we go from here. City Manager Martin said it is time to talk to the sound professionals. The City Attorney has some of the same questions that Planning Commission has. He is not a sound engineer and will admit that he doesn't understand all of the technical aspects of the ordinance. Martin asked Mr. Palchesko if he could contact the sound engineers and review the ordinance at DTE's expense. Mr. Palchesko stated he would get back to Martin on that. Martin went on to state that we knew this was going to be a very big, difficult and sometimes an onerous ordinance. There are a lot of things that we want to accomplish and sometimes getting too specific is not always the best way to go. Simple is often better.

Mr. Zubrzycki questioned what was decided after the discussion of the draft diesel ordinance. There was no decision. Planning Commission revisited allowing vehicles to idle for cabin comfort. Chairperson Menuck stated we will revisit this again at the next meeting.

B. Outdoor Storage of Vehicles

City Manager Martin stated Commissioner Eberhardt is absent and should be here to present the information. It will be on the agenda for next month.

C. Outdoor Seating

Information was handed out at the meeting by Commissioner Bull. We should review the information and discuss it next month.

D. Zoning Ordinance Review

None.

8. City Manager Comments

None

9. City Council Comments

Mayor Lorenz feels the noise ordinance is very difficult to keep in perspective for all areas of the city. He feels it will not address everything we want it to as it is written. It doesn't address peak noises or disturbances from one property to another property.

Councilman Meskin said there was a lot of very interesting information presented tonight and hopes we can keep moving forward.

10. Planning Commission Comments

Commissioner Bull - No comment

Commissioner MacGillis - Questioned if we have jurisdiction on the lake or is it Oakland County? Martin said we can but we do not have any watercraft.

Commissioner Hungerman - No comment

Commissioner Schafer - Questioned if the Planning Commission has a budget to hire a consultant? Martin state there is line item in the budget and this has already been discussed at City Council. It is time to hire a consultant if we are to continue investigating this and other ordinances.

Chairperson Menuck - Said ordinances won't make people be good neighbors. Could Mr. Palchesko meet with the sound engineers, show them the areas of concern and come up with a solution? He thanked Mr. Palchesko for attending and bringing the engineers with him.

11. Adjournment

Moved by MacGillis, seconded by Bull to adjourn the meeting at 9:11 P.M.

No discussion.

Motion carried.

John Martin, Acting Sylvan Lake Planning Commission Recorder

SYLVAN LAKE PLANNING COMMISSION
February 2, 2010

Mike and Liz Zubrzycki, Sylvan Lake
Mike Palchesko, DTE representative
Rick Kolan, Kolano and Saha Engineers
Darren Brown, Kolano and Saha Engineers
Megan and Jeff Zumbach, Sylvan Lake
Randall Ykema, Sylvan Lake
Geof and Cheryl Burt, Bloomfield Township