

JANUARY 31, 2013

Special Township Committee Meeting of the Township of Hanover, County of Morris and State of New Jersey was held on Thursday, January 31, 2012, at 4:30 o'clock in the afternoon, prevailing time, at the Municipal Building, 1000 Route 10, in said Township.

PRESENT: Mayor Francioli, Members Schleifer,
Ferramosca, Brueno and Coppola

ABSENT: None

PLEDGE OF ALLEGIANCE TO THE FLAG

STATEMENT BY PRESIDING OFFICER:

Adequate notice of this meeting has been provided in accordance with the Open Public Meetings Act by posting written notices and agenda of the meeting on the bulletin board in the Municipal Building, 1000 Route 10, Township of Hanover and by hand delivering, mailing or faxing such notice and agenda to the following newspapers:

**HANOVER EAGLE
MORRIS COUNTY'S DAILY RECORD
THE STAR LEDGER**

And by filing same with the Township Clerk.

(Signed) Ronald F. Francioli, Mayor

Mayor Francioli explained to those present that the Special Meeting is being held to introduce an ordinance. No public hearing will be held this evening. Public comment can be made at the public hearing which will be held at the February 14, 2013 Regular Meeting.

OPEN TO THE PUBLIC:

Mayor Francioli opened the meeting to the public.

David Gray, Esq., of the firm of Foreman Gray, located at 760 Route 10 West, Whippany, New Jersey, representing his client Dr. Joaquin Garcia whose office is located at 53 Whippany Road and is one of the two structures to be acquired by the Township for the improvement of the intersection of Whippany Road and Parsippany Road addressed the Township Committee.

Mr. Gray advised that his client has operated Whippany Family Practice at that location for the past 20 years. For the past two years, he explained, a certain developer and the developer's attorney have aggressively pushed his client to sell the property. He questioned the need for the taking of his client's entire property. He said this will create a hardship for Dr. Garcia and his family since he is not in a position to retire. Mr. Gray requested that the members carefully reconsider the action to be taken in an effort to save the doctor's business.

Mayor Francioli stated that he had no comment to make regarding negotiations initiated by other entities. He did, however, suggest that Dr. Garcia contact the Township Engineer to obtain a copy of the traffic study prepared by an expert which study recommends the acquisition of the two properties. In addition, both the Township Attorney and the Mayor assured Mr. Gray that the Township is prepared to negotiate with his client in good faith.

Resident Joe Russo advised the governing body that he has two concerns, the first being the destruction of a 214 year old building, which building is located at 57 Parsippany Road and the fact that the loss of Dr. Garcia's family practice will have a negative impact on the community.

Resident Joseph Russomano inquired whether this action had anything to do with Bayer Health Care. Mr. Russomano explained that his concern is with spending money, money the Township did not have two years ago when there was a need to downsize. The Mayor explained that the improvement is needed not only due to the impact of 2,500 Bayer employees but due to other approved redevelopment projects which will bring numerous additional motorists to town. He further explained that the additional traffic will, of course, not only impact this intersection but others in town.

A resident then asked whether consideration was given to using Eden Lane to ease the Traffic problem. The reply was in the affirmative.

Member Ferramosca then volunteered to share with everyone the rationale behind the decision as provided in a memo dated January 29th by the Township's Professional Planner. He proceeded to list the reasons.

Joseph Frazier of Adams Drive said that he was worried about Dr. Garcia, and questioned whether the Township would move the building. And, Ted Sieka suggested that a back exit at the Lucent property be taken into consideration.

No further comments forthcoming, Member Ferramosca moved the public hearing be declared closed. The motion was seconded by Member Schleifer and was unanimously passed.

ORDINANCE: NO. 7-2013 (Authorizing the Acquisition by Purchase Or Eminent Domain, Real Property Known As Block 5801. Lot 2 & 5 for I/Improvement of Whippany & Parsippany Roads)

Member Ferramosca offered the following resolution and moved its adoption:

BE IT RESOLVED, that an Ordinance entitled, “AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER AUTHORIZING THE ACQUISITION BY PURCHASE OR EMINENT DOMAIN IF NECESSARY, OF THE REAL PROPERTY KNOWN AS BLOCK 5801, LOT 2 AND BLOCK 5801, LOT 5 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF HANOVER FOR THE IMPROVEMENT OF THE INTERSECTION OF WHIPPANY ROAD AND PARSIPPANY ROAD”, be introduced on first reading.

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Township of Hanover (“Township”) is authorized to adopt an Ordinance for the preservation of public health, safety and welfare; and

WHEREAS, pursuant to N.J.S.A. 40A:12-1 et seq., the Township has the power to acquire real property for a public purpose through negotiated agreement or by the exercise of its powers of eminent domain; and

WHEREAS, the intersection of Parsippany Road and Whippany Road currently experiences traffic congestion during peak travel periods and future traffic volumes are expected to increase due to general growth in traffic volumes and traffic volumes from future developments in the immediate vicinity, thus worsening the congestion; and

WHEREAS, the intersection of Whippany Road and Parsippany Road has been determined by the Township to be in need of improvement as evidenced in the study commissioned by the Township which is entitled “67 Whippany Road Redevelopment Traffic Capacity Analysis Report”, prepared by the RBA Group, Inc., dated September 30, 2012; and

WHEREAS, the Township believes it is in the public interest to reduce traffic congestion and improve the existing and future flow of traffic in the vicinity of and at the intersection of Whippany Road and Parsippany Road to accommodate the current and anticipated future growth of traffic along this critical highway; and

WHEREAS, the Township Planning Board's Amendment to Land Use Plan Element and Circulation Plan Element to the Master Plan adopted October 23, 2012 included the recommendation to improve the intersection of Parsippany Road and Whippany Road in a manner consistent with the intersection improvements the Township has deemed necessary to undertake; and

WHEREAS, the Township has determined that in order to make the necessary improvements to the intersection of Whippany Road and Parsippany Road the Township Planner and Township Engineer recommend that it is necessary for the benefit, health, welfare and safety of the public to acquire fee simple title to the properties known as Block 5801, Lot 2 and Block 5801, Lot 5 on the Township's Official Tax Map; and

WHEREAS, the Township Committee of the Township has determined that, since the contemplated improvements to the intersection of Whippany Road and Parsippany Road will improve the traffic flow throughout the Township and the acquisition of the properties known as Block 5801, Lot 2 and Block 5801, Lot 5 on the Township's Official Tax Map will serve a public purpose and be to the benefit of the health, welfare and safety of the Township's citizens.

NOW, THEREFORE BE IT ORDAINED, by the Township Committee of the Township of Hanover, County of Morris, State of New Jersey that:

SECTION 1. The Township of Hanover be and is hereby authorized to acquire, by negotiation, contract of purchase or, if necessary, by the exercise of its power of eminent domain pursuant to N.J.S.A. 20:3-1 et seq., certain lands and/or any and all interests in such lands designated as Block 5801, Lot 2 and Block 5801, Lot 5 on the Official Tax Map of the Township of Hanover, County of Morris, State of New Jersey (collectively, the "Properties"), for the purposes described hereinabove and take such other actions necessary to take title and possession of the Properties; and

SECTION 2. The Township Attorney, any special counsel retained by the Township and the Township Business Administrator are hereby authorized to hire and employ such appraisers, consultants and experts as may be appropriate to effectuate such acquisitions, whether by negotiation or eminent domain proceedings, and to pay said consultants and experts a reasonable fee for their services; and

SECTION 3. The amount to be offered by the Township of Hanover to the record owners of the Properties pursuant to N.J.S.A. 20:3-6 shall be fixed by further resolution of the Township upon receipt and approval of an appraisal report prepared on behalf of the Township by a qualified licensed real estate appraiser; and

SECTION 4. The Township Attorney, any special counsel retained by the Township and the Township Business Administrator are hereby authorized to take any and all actions necessary to acquire the Properties and/or any interests thereto, either through negotiation or, if necessary, the exercise of the Township's powers of eminent domain; and

SECTION 5. The Mayor and Township Administrator are hereby authorized to execute and witness any documents or instruments necessary to acquire the Properties and/or any interests thereto; and

SECTION 6. The Township Administrator is hereby authorized to take all actions necessary to coordinate the Township's road improvements to the intersection of Whippany Road and Parsippany Road with the County of Morris; and

SECTION 7. If any word, phrase, clause, section or provision of this ordinance shall be adjudged by any Court or competent jurisdiction to be unenforceable, illegal or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of this Ordinance and the remainder of this Ordinance shall remain in full force and effect; and

SECTION 8. If any ordinances or parts thereof are in conflict with the provisions of this Ordinance, such ordinances or parts thereof are hereby repealed to the extent of such conflict; and

SECTION 9. All ordinances or parts of ordinances inconsistent herewith are repealed to the extent of such inconsistency.

SECTION 10. This ordinance shall take effect immediately upon final passage and publication as required by law.

The motion was seconded by member Coppola, was passed and the resolution adopted by the following roll call vote:

AYES: Mayor Francioli, Members Schleifer,
Ferramosca, Brueno and Coppola

NOES: None

Following the reading of said Ordinance, Member Ferramosca offered the following resolution and moved its adoption:

BE IT RESOLVED, that an Ordinance entitled, "AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER AUTHORIZING THE ACQUISITION BY PURCHASE OR EMINENT DOMAIN, IF NECESSARY, OF THE REAL PROPERTY KNOWN AS BLOCK 5801, LOT 2, AND BLOCK 5801, LOT 5, ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF HANOVER FOR THE IMPROVEMENT OF THE INTESECTION OF WHIPPANY ROAD AND PARSIPPANY ROAD", be passed on first reading.

BE IT FURTHER RESOLVED, that said Ordinance shall be further considered for final passage at the meeting of the Township Committee of the Township of Hanover

on the 14th day of February, 2013, 8:30 o'clock in the evening, prevailing time, at the Municipal Building in said Township of Hanover, at which time and place all persons interested shall be given an opportunity to be heard concerning said Ordinance.

BE IT FURTHER RESOLVED, that the Clerk be authorized and directed to advertise said Ordinance in full with the Notice of Introduction thereof, in the Morris County Daily Record, according to law.

The motion was seconded by Member Coppola, was passed and the resolution adopted by the following roll call vote:

AYES: Mayor Francioli, Members Schleifer,
Ferramosca, Brueno and Coppola

NOES: None

No further business appearing, Member Ferramosca moved the meeting be adjourned. The motion was seconded by Member Coppola and was unanimously passed.

TOWNSHIP COMMITTEE
TOWNSHIP OF HANOVER
COUNTY OF MORRIS
STATE OF NEW JERSEY

Joseph A. Giorgio
Township clerk