

OCTOBER 17, 2012
WAYNESBORO, PA 17268
REGULAR MEETING

Council President Jason Stains called the regularly scheduled meeting of the Waynesboro Borough Council to order at 7:30 p.m. with the following in attendance:

Borough Council Members – Benjamin Greenawalt, Craig Newcomer, Darrel Potts, Jason Stains, Wayne Driscoll and Michael Cermak

Mayor Richard Starliper

Borough Staff – Lloyd R. Hamberger, II, Borough Manager
Denny Benschhoff, Maintenance Superintendent
Dan Sheffler, Zoning-Code Enforcement Officer
Kevin Grubbs, Head of Engineering Services
Jason Cohen, Assistant Borough Manager
Dave Martin, Fire Chief
Jim Sourbier, Police Chief
Sam Wiser, Borough Solicitor (Salzmann Hughes, PC) - *arrived late

PLEDGE OF ALLEGIANCE: Mayor Starliper led those present in the Pledge of Allegiance.

COMMITTEE REPORTS

PERSONNEL COMMITTEE: Councilman Cermak reported that he received a favorable performance evaluation for Larry Freeman, however no action was required. He will present several items during the “voting section” of the meeting.

PROPERTY AND PUBLIC SAFETY COMMITTEE: No report.

STREET COMMITTEE: No report. Councilman Potts thanked Councilman Driscoll for filling-in during his absence. He noted that the next Street Committee meeting is scheduled for Wednesday, 10/24, at 9:00 a.m.

INTERGOVERNMENTAL COMMITTEE: President Stains stated that they have still not heard back from Quincy Township regarding the fire contract.

DOWNTOWN REVITALIZATION COMMITTEE: Councilman Newcomer reported that a Downtown Revitalization Committee meeting was held the previous day. Several items were discussed, including the stormwater management project which will begin at Potomac/Main Streets. (Kevin Grubbs will advise property owners when more information is received.) Mr. Newcomer noted that the sidewalk café zoning amendment is in the hands of the County and Borough Planning Commissions.

Mr. Newcomer requested that Harry Morningstar report on the banner project he described at a previous Council meeting. Mr. Morningstar advised Council members that all the banners have been sold; and the money is being collected for the proofs and the first year’s rent. The banners will be prepared by a local artist and printing firm, and they are hoping to have them installed after the Christmas decorations are removed.

Mr. Newcomer requested that Pat Fleagle give a report on Market Days, which was held the past weekend. Mr. Fleagle noted the event was extremely successful. He added that the Police Department and Fire Police did an excellent job of re-routing traffic for the street closing. Some suggestions were also received which could possibly make the event better next year.

Councilman Newcomer asked the status of the Rental Inspection Program. Mr. Hamberger noted that, due to the 2013 budget process, it will be discussed again in January. Mr. Newcomer stressed the importance of such a program, and discussion ensued regarding a commercial building downtown which is in violation of the Building Code and Zoning Ordinance. Mr. Hamberger advised he will discuss the matter with Solicitor Wisner. Mr. Newcomer requested that the Rental Inspection Program be placed on the agenda for discussion/action at the January meeting.

*Solicitor Wisner arrived at 7:41 p.m.

FINANCE COMMITTEE: No report. Councilman Greenawalt reminded Council members that a budget meeting will be held immediately following this meeting.

MAYOR'S REPORT: The Mayor's Report was as follows –

“On October 6th, along with Chief Sourbier and Chief Martin, I helped judge the scarecrows and chili contest. Our congratulations to all.

On October 7th, I helped to kick-off the 41st Crop Walk in Waynesboro. Waynesboro is the second oldest Crop Walk in PA. Once again, thanks to all who walked or sponsored someone.

On October 9th, I attended the Waynesboro Fire Police meeting.

On October 11th, I attended the Waynesboro Chamber of Commerce's Annual Dinner meeting. Congratulations to Mr. Curtis Mummert on the RSF Angle Award. Mr. Jeff Mace was the speaker on the life and legacy of Landis Whitsel.

On October 13th, I performed the marriage of Renee Siegrist and Keith Bachtell. Later that day, I performed the marriage of Patsy Fiorenza and Daryl Burns. Our congratulations to both Mr. and Mrs. Bachtell and Mr. and Mrs. Burns.”

Mayor Starliper advised that this is the second (or third) year that the Waynesboro Police Department has not qualified for the COPS grant to hire additional officers.

SOLICITOR'S REPORT: No report. Solicitor Wisner apologized for being tardy. He requested that Council hold a brief executive session for a matter of litigation. They adjourned to executive session at 7:45 p.m. and reconvened to regular session at 8:14 p.m.

PUBLIC COMMENT - ITEMS ON AGENDA: None.

VOTING ON ITEMS FROM COMMITTEE REPORTS: Councilman Cermak reported that Deborah Hoff's term on the Planning Commission was due to expire on 10/20; and she has expressed interest in serving instead on the Zoning Hearing Board. Accordingly, he made a motion to appoint Deborah Hoff to an unexpired term on the Zoning Hearing Board; said term to expire on 01/01/2014. Councilman Newcomer seconded; the motion

passed unanimously. Mr. Hamberger asked that anyone interested in filling the vacancy created on the Planning Commission contact him.

Councilman Cermak noted that he received incomplete information regarding an appointment to the Fire Police. Additional information will be obtained, and the matter can be discussed at the next meeting.

CONSIDER APPROVAL OF CONSENT AGENDA: Councilman Greenawalt made a motion to approve the Consent Agenda. Councilman Driscoll seconded; the motion passed unanimously.

RESOLUTION FOR
COUNCIL MEETING OF OCTOBER 17, 2012
“CONSENT AGENDA”

WHEREAS, the Mayor and Borough Council have either previously discussed or considers certain agenda items to be of a routine nature; and

WHEREAS, items of the nature noted in the paragraph above generally meet with the consensus approval of the Mayor and Borough Council.

NOW, THEREFORE, on motion of Councilman _____, seconded by Councilman _____, by a vote of _____, it was resolved that the following items are approved by the Mayor and Borough Council:

Award of Contracts: N/A.

Routine:

1. Approval of minutes - October 3, 2012 (Regular Meeting)
2. Accept reports of the Code Enforcement Officer, Police Chief and Fire Chief - September, 2012.
3. Pay Bills - Voucher Lists dated 09/28 and 10/10 (and any others following preparation of this agenda).

Previously Discussed: N/A.

UNFINISHED BUSINESS

UPDATE ON STORM SEWER PROJECT: Kevin Grubbs reported that, as of today, Dennis Black Engineering has submitted information to PENNDOT's Permitting Division for the revised permitting, and Sam Wiser has been working with the Permits Manager to expedite the matter. They are also awaiting a subcontractor's submittal on the portion of the project being constructed by Fayetteville Contractors. Once that information is received, as well as the final easement agreements required, they will be ready for settlement.

Mr. Wiser reported that settlement has been scheduled for mid-December, and they are gathering the necessary information and documents at this time. Once they are all received, the information will be forwarded to PENNVEST.

MOBILE ADVERTISING: Mr. Stains noted that this item is being deferred until the first meeting in November.

UPDATE ON BRIMINGTON FARMS: Solicitor Wiser noted it has been quite some time since Council starting talking with the property owner of Brimington Farms - Phase I, which is DLM, LLC. The Borough declared them to be in default of their obligations, due to the lack of completion of various public improvements on the property, which included road work, some water/sewer work, and other work as well. Because we declared them to be in default, a claim was made on the bond held by the Borough for the work being done. Mr. Wiser

stated that the bond is issued by Lexon Surety, which is the 12th largest issuer of bonds in the United States; and they have been working with Lexon Surety and their agents to try to resolve the matter. He continued that they have acknowledged that there is work that needs to be completed; and the Borough has been told that they have obtained estimates for that work, however no progress has been seen.

Mr. Wisner noted that Borough Council authorized filing suit on those bonds early in 2012, and a writ of summons was filed on 05/16/2012. After the writ of summons was filed, some action was seen from Lexon and some increased activity from their representative (Chris Parrish); however it seems that the Borough has been getting the run-around since that time. The Borough has continually asked for an update on the status of the improvements to be completed, and continually receives responses indicating "they are working on it". The Borough has been very persistent with them, but has seen very little progress.

Mr. Wisner noted that this situation is very disappointing, as it is a great disservice to the residents in the development who have homes along those unimproved streets. It is also a disservice to the Borough this winter when they are faced with the issue of streets (that don't belong to the Borough) that are in need of plowing and other maintenance. He added that the Borough's options are limited, other than continuing in the litigation with Lexon (and they would like to avoid litigation, because of the potential costs).

Mr. Wisner mentioned that Lexon's website proudly states that neither of their companies are in any financial distress whatsoever, they enjoy nearly \$200,000,000 in liquidity, and they have very little debt. He therefore finds it hard to believe that they can't come up with the amount of money necessary to complete the improvements at the Brimington Farms Phase I parcel.

It is very disappointing that the Borough has received the run-around by one of the employees ... and he recommended that Council authorize and direct a letter be written to David Campbell, the corporation's CEO, regarding Council's disappointment and the nature in which this situation has been handled by Chris Parrish. The Borough was promised initially in the spring that this work would be completed by the end of the paving season; and now it is mid-October, the paving season is over, and nothing has been done. That is a huge disappointment to all of us, as we were trying to help the residents at Brimington Farms. Mr. Campbell should be made aware of the inaction by his employees; and the Borough is aware that they proudly state they have plenty of capital, but it is not being used for making these improvements.

Councilman Newcomer then made a motion to authorize that a letter be written and forwarded to Mr. Campbell, as recommended by the Solicitor. Councilman Driscoll seconded, adding that he has received many complaints about not only the snow plowing, but police protection, speeding issues, etc. in the development.

From a pure business perspective, Mr. Wisner added that the CEO should also understand that another winter will add to the deterioration of the streets, and it will continue to cost more money to bring the streets up to the required specifications.

Mr. Grubbs suggested that a copy of this letter be provided to each of the residents in the development. Council concurred with this suggestion. Mr. Grubbs noted that he has been contacted on a regular basis by many of the residents. They understand the situation, and are grateful that the Borough has taken this stance to date; however their patience is wearing thin. Mr. Grubbs advised that this will be a long process, but the Borough is doing everything they can do within their power.

A vote was then called and the motion passed unanimously.

Councilman Cermak mentioned that, in other matters, the Borough can have the work done and charge the property owner plus 10% costs. Mr. Wisner noted that the improvements required in this instance are "almost seven figures"; and it would be very difficult for the Borough to find the money to complete the work. However, seizing properties to complete the improvements was mentioned as a possibility.

DATE FOR HEARING RE: ZONING ORDINANCE AMENDMENTS: Kevin Grubbs reported that the Solicitor has prepared the appropriate amendments to the Zoning Ordinance, as requested by Borough Council. A copy of the amendments will be delivered to the Franklin County Planning Commission later this week for their 30-day review and comment period. It will then be presented to the Waynesboro Planning Commission for review and recommendation at their upcoming meeting on 11/12. The amendments will then be advertised in *The Record Herald* on 11/20 and 11/27, and a public hearing scheduled for 12/05. Council can then take action on the amendments at their regular meeting to follow.

Solicitor Wisner noted that it is very difficult to amend some of the Borough's ordinances (especially the Zoning Ordinance) when there are numerous subsequent amendments. The upcoming codification project will be a great benefit in this process.

NEW BUSINESS

SALDO WAIVER REQUEST (COLD SPRING ESTATES): Kevin Grubbs noted that Council members received a waiver request by Jim Zaiger, developer of Cold Spring Estates. Mr. Wisner explained that the PA Municipalities Planning Code permits a municipality to authorize waivers to the Subdivision and Land Development Ordinance so if there is a provision the developer feels he is unable to comply with, he can make a request to Council for a waiver.

Mr. Grubbs explained that Mr. Zaiger is requesting a waiver from Article VII, Section VII-1-16 concerning street grades. No collector street should exceed a 5% grade; and they are asking for a variance to allow the street to be built at a 5.78% grade. This will be very minimal over 600 feet; and it will work out better aesthetically at the Borough's pump station. Lee Royer also mentioned that the Borough's original design for this portion of Third Street was at 5.78% in 1972. Councilman Cermak made a motion to authorize the requested change. Councilman Newcomer seconded; the motion passed unanimously.

PURCHASE OF EQUIPMENT BY WAYNESBORO VOLUNTEER FIRE DEPARTMENT (RESOLUTION NO. 2012-14): Mr. Hamberger noted that this resolution will authorize the Fire Department's purchase of equipment described in the recent past. Councilman Greenawalt made a motion to approve Resolution No. 2012-14. Councilman Cermak seconded; the motion passed unanimously.

RESOLUTION NO. 2012-14

SECTION 147(F) APPROVAL AND WRITTEN CONTRACT

The undersigned Chief Elected official of Borough of Waynesboro (hereinafter referred to as "Municipality") pursuant to section 147(f) of the Internal Revenue Code of 1986, as amended (the "code"), hereby approves that the Waynesboro Volunteer Fire Department, Inc., is entering into a Contract in an aggregate principal amount not to exceed \$354,180.00 to finance equipment or a project consisting of One (1) 2011 Rosenbauer Rescue Pumper Demo Truck which will be located at the fire house of the Waynesboro Volunteer Fire Department, Inc.

This approval is given following a public hearing held at October 10, 2012, 7:00 p.m. (Time and Date of Public Meeting) at the company's fire station (or other location which was designed in the public notice) and is solely for the purpose of satisfying the requirements of Section 147(f) of the code. **This approval does not in any way constitute any financial involvement or obligation of the Municipality.**

Complete copy on file at Borough Hall.

PUBLIC COMMENT - NON-AGENDA ITEMS:

Harry Morningstar, Jr., owner of Furniture Market at 22 N. Church Street - Mr. Morningstar noted that Council has surely seen the emails “back and forth” from an individual complaining about the advertising campaign he has been working with the past several years, utilizing delivery trucks, a pick-up truck and mannequins. He has since discontinued their use in the community, but is hoping to find a resolution to this issue. Mr. Morningstar stated that when he began the program several years ago, he spoke with several members of Council and the staff to determine if it would be a problem. Since the economy has slowed down, he is making every effort to stay in business and making use of every asset he has. He noted that the campaign also utilizes the vehicles on signage and stationery (letterhead, envelopes and postcards) for direct mailings and upcoming sales events. It is meant to be whimsical and silly, and he would like to continue with it. He also noted that the campaign has gained a 96% approval rating from people they have surveyed. He suggested that he would like to sit down with Council to discuss the matter further.

Edward Snively, owner of Clean-Core Services, Inc., 12145 Skyhawk Drive - Mr. Snively noted that he recently experienced a poor interaction with the Chamber of Commerce, and questioned what part Council plays in encouraging businesses in the downtown when the Chamber would “rather walk away from people than answer questions”. He stated it does the town a great disservice by having an entity like this (the Chamber) who doesn’t want to talk about what they are doing to help businesses like his and others succeed in Waynesboro. He noted that this represents failed leadership on the part of the Chamber’s board. Mr. Snively also questioned why the Christmas parade was “passed on” from the Chamber to another organization? Mr. Hamberger responded that the Chamber of Commerce is an autonomous, independent board; and the Borough has no authority over it at all. Councilman Newcomer mentioned that the local Chamber ultimately reports to the National Chamber of Commerce, who could possibly answer some of Mr. Snively’s questions. Mr. Newcomer stated that he has also noticed a decline in the presence of Chamber representatives at Council meetings over the past year or two; and it was noted that Mainstreet Waynesboro has taken on many of the responsibilities with regard to the downtown businesses and events. Councilman Cermak added that the Borough’s only authority is in granting permission for the events. Pat Fleagle, who heads Mainstreet Waynesboro, stated that he has talked with Mr. Snively about his organization. He mentioned he was advised several years ago that Mainstreet Waynesboro (MSW) would eventually take over the Holiday Parade, which they are committed to making happen. Bill Hoffman, President of the Chamber’s Board of Directors, is assisting with the parade to ensure a seamless transition to MSW. Mr. Fleagle noted that he will do what he can to facilitate the Chamber’s cooperation with Mr. Snively. Mayor Starliper also mentioned that a meeting was held two (2) weeks ago regarding plans for the Holiday Parade, and he feels that everyone is working “in harmony” for the event. Councilman Newcomer noted he would like to meet with Mr. Snively following this meeting to obtain additional information regarding his concern.

REQUESTS FROM MAINSTREET WAYNESBORO, INC. RE: CHRISTMAS ACTIVITIES: Council members received correspondence from MSW regarding Christmas activities planned for the 2012 season, including the Christmas tree in Center Square, the Tree Lighting Ceremony scheduled for 11/16, and the Holiday Parade planned for 11/17. Councilman Greenawalt made a motion to approve the requests, as outlined. Councilman Cermak seconded; the motion passed unanimously. Mayor Starliper noted that MSW has already contacted the Police Chief and Fire Police for assistance with traffic control.

TRASH COLLECTION CONTRACT: Jason Cohen noted the staff is looking for direction with regard to the upcoming trash/recyclables collection contract. A mandatory pre-bid meeting was held on 10/15 with potential bidders; and following that meeting, the staff is recommending that the initial contract length be extended to two (2) years, with a provision for a one (1) year extension, at a minimum, or possibly a full three (3) year contract. He noted they feel that the per unit price is likely to go down, the longer the term of the contract, as they will be requiring the collector to provide recycling containers to each dwelling unit. As the cost of these containers will be built into the total per unit price, the longer the collector can amortize the cost of the containers, the lower the monthly per unit price. Mr. Hamberger added that they are requiring the collector to issue new, larger recycling containers because of single-stream recycling (which, if done properly, will generate more recycling than trash). Councilman Newcomer made a motion to authorize the staff to proceed with a three-year trash/recycling collection contract. Councilman Cermak seconded; the motion passed unanimously.

FOR INFORMATION ONLY: None.

COUNCIL AND STAFF COMMENTS: Councilman Cermak thanked the public for their attendance.

Pat Fleagle (MSW) announced that the Waynesboro Historical Society will present their free Frank Feather program with Judge Meyers at the Waynesboro Ambulance Squad on 10/18 at 7:00 p.m.

Fire Chief Dave Martin noted that representatives of the Fire Department will be traveling to Minnesota the week of 11/12 for final inspection of their new apparatus.

Councilman Potts stated he is pleased to be back; and noted he appreciated the phone calls, visits and cards during his absence.

President Stains welcomed Councilman Potts back, adding it is nice to have "full Council" present.

Having no further business to discuss, Council adjourned their regular meeting (to a budget meeting) at 9:08 p.m.

Respectfully Submitted,

Melinda S. Knott
Administrative Assistant