

SEPTEMBER 7, 2011  
WAYNESBORO, PA 17268  
REGULAR MEETING

Council President C. Harold Mumma called the regularly scheduled meeting of the Waynesboro Borough Council to order at 7:23 p.m. (immediately following the public hearing held prior to, beginning at 7:00 p.m.) with the following in attendance:

Borough Council Members – Benjamin Greenawalt, Craig Newcomer, C. Harold Mumma, Wayne Driscoll and Ronald Martin (Jason Stains was absent)

Mayor Richard Starliper

Borough Staff – Lloyd R. Hamberger, II, Borough Manager  
Mike Benshoff, Maintenance Foreman  
Dan Sheffler, Zoning-Code Enforcement Officer  
Kevin Grubbs, Head of Engineering Services  
Jason Cohen, Assistant Borough Manager  
Sam Wiser, Borough Solicitor (Salzmann Hughes, PC)

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

**EXECUTIVE SESSION:** Solicitor Wiser requested that Council hold a brief executive session to discuss contractual issues. Council reconvened to regular session at 7:36 p.m.

**APPROVE MINUTES:** Councilman Greenawalt made a motion to approve the minutes of the August 17, 2011 regular meeting, as written. Councilman Martin seconded; the motion passed unanimously.

**COMMITTEE REPORTS**

**PERSONNEL COMMITTEE:** In Councilman Stains' absence, Councilman Newcomer noted that he will present an item during the "voting" section of the meeting.

**PROPERTY AND PUBLIC SAFETY COMMITTEE:** Councilman Driscoll reminded Council and the public of the Dog Swim to be held at Northside Pool on Saturday, 09/10, from 1-4 p.m., rain or shine. All proceeds will go toward maintenance and equipment for the Dog Park (the goal is to provide drinking water for the dogs by next year). Mr. Driscoll added that he will present an item during the "voting" section.

**STREET COMMITTEE:** Councilman Martin will also present an item during the "voting" section.

**INTERGOVERNMENTAL COMMITTEE:** No report.

**DOWNTOWN REVITALIZATION COMMITTEE:** No report. Councilman Newcomer stated that a "Downtown" meeting was held recently, and Council was given information on items that were discussed at that time.

**FINANCE COMMITTEE:** No report.

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

“On August 13<sup>th</sup>, in Greencastle, I had the privilege of performing the marriage of Valarie Schnider and Evan Koons. Wish Mr. and Mrs. Koons the very best.

On August 19<sup>th</sup>, along with Borough Manager Hamberger, Assistant Manager Cohen, and Councilmen Greenawalt, Martin and Mumma, I attended the kick-off of the illuminated street name signs. Thanks to Mr. Martin for his efforts on this project.

On August 24<sup>th</sup>, along with Chief King, I attended the Chambersburg Police Department's Special Emergency Team Demo Day. This Demo Day showcased their abilities and equipment.

On September 7<sup>th</sup>, along with Borough Manager Hamberger and Councilman Mumma, I attended the mixer in Greencastle to meet with Governor Corbett.”

**SOLICITOR'S REPORT:** Solicitor Wisner reported that there were a number of deficiencies and public improvements which needed to be done in the Brimington Farm Development, but the developer failed to complete those on time. The Borough tried in good faith to work with the developer on this matter to no avail. Accordingly, the Borough is proceeding with pursuing their bond claim.

**PUBLIC COMMENT - ITEMS ON AGENDA:** None.

**VOTING ON ITEMS FROM COMMITTEE REPORTS:** Pursuant to a favorable performance evaluation for Ray Wagaman, Councilman Newcomer made a motion to grant him a step increase to salary level 10C. Councilman Greenawalt seconded; the motion passed unanimously.

After several months of review and consideration, Councilman Driscoll made a motion to proceed with arrangements to raze the former caretaker's house at the golf course. Councilman Martin requested that the motion be amended to indicate that materials of value (copper, etc.) be removed prior to the razing; and that a contractor with a trackhoe be hired to “pull” it down into a pile which the Borough's maintenance crew can then remove (in order to save money). Councilman Driscoll noted he is not opposed to that idea and amended his motion as such. Councilman Martin seconded; the motion passed unanimously.

In response to the issue discussed regarding delivery trucks parking at the handicapped parking space on W. Main Street (in front of the Masonic Lodge), Councilman Martin made a motion that the white cones used previously on Mulberry Avenue be placed in front of the handicapped parking space to prevent trucks from parking there. (This would eliminate the need for enforcement, which would be required if “no parking” signs are erected.) Councilman Newcomer seconded; the motion passed unanimously.

### **UNFINISHED BUSINESS**

**ADOPT 2011 CDBG PROGRAM AND APPROVE RESOLUTIONS, ETC.:** Mr. Hamberger presented proposed Resolution 2011-09, authorizing 2011 CDBG allocations for Street Improvements and Administration, as advertised. Councilman Greenawalt made a motion to approve the resolution, as presented. Councilman Martin seconded; the motion passed unanimously.

**RESOLUTION NO. 2011-09**

RESOLUTION OF THE COUNCIL OF THE BOROUGH OF WAYNESBORO  
AUTHORIZING SUBMITTAL OF AN APPLICATION FOR STATE COMMUNITY  
DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR FISCAL YEAR 2011

Complete copy on file at Borough Hall.

Pursuant to discussion held at the public hearing (prior to this meeting), Councilman Martin made a motion to authorize a \$50,000 loan to Wayne Gardens LP, at 0% deferred interest and a 30-year term, contingent upon the project receiving an award of Federal Low-Income Housing Tax Credits to construct an elderly housing development. Councilman Newcomer seconded; the motion passed unanimously.

**TRAFFIC STUDY FOR OTTERBEIN CHURCH (WELTY ROAD):** Kevin Grubbs noted, at Council's last meeting, Otterbein Church representatives requested that Council make a decision this evening regarding the conditions/scope of their required traffic study. Representatives were present again this evening from Otterbein Church and Traffic Solutions.

At this time, President Mumma recommended that Councilman Martin recuse himself from discussion on the matter. Solicitor Wisner advised that he spoke with Attorney Kornfield regarding the issue, and feels that Mr. Martin is "okay" in his participation on this particular issue.

Councilman Martin made a motion that Otterbein Church be required to do a traffic study, including a study of Welty Road "before and after" (the development). Councilman Greenawalt seconded. It was clarified that this motion reiterates the motion passed previously regarding the scope of the traffic study (prior to Otterbein Church's request to exclude the study on the condition of Welty Road).

Mike Newman, Senior Pastor at Otterbein Church, explained their concern (as was expressed at Council's last meeting) – that the scope presented to them by the Borough, the majority of which had to do with traffic control related issues as provided by the Borough's ordinance, included a specific statement at the end (that they were being required to do a study of the highway conditions before, during and after construction) which they believe went beyond a traffic control issue. It is their contention that that requirement goes beyond a normal, traditional traffic study and into a highway design study. Neil Parrott (Traffic Solutions, Inc.) prepared a six-page document outlining the scope of a proposed traffic study, excluding that final statement – and Pastor Newman asked that Council accept Mr. Parrott's scope. He also requested that if Council includes what Councilman Martin is requesting, they communicate clearly why it is being requested ... because it feels to Otterbein that they are being positioned to pay for rebuilding of the road or to make some kind of contribution to that end at some point in the future ... and if that is Council's intention, they need to go on record declaring such and informing Otterbein exactly what they want.

Councilman Newcomer went on record at this time, stating that "Welty Road needs paving right now ... why should you have to pay for that?" Pastor Newman agreed.

Councilman Martin explained his reasoning for the requirement ... to protect the Borough in the future from parishioners (or anyone using the facility) requesting that the road be rebuilt. Pastor Newman stated that he could provide a letter from the church's administration/leadership that they will not request that that be done; but the Borough has a responsibility to this community to repair Welty Road whether Otterbein has a building there or not. He added that Otterbein Church is a "non-issue" in the condition of that road. Pastor Newman then asked how a highway design study would free Council from that responsibility ... everyone knows that that road is in poor condition. He added that the highway design study could be provided if Council assures Otterbein Church that it will not be used against them in the future and that they will not be responsible for rebuilding the road.

In an attempt to simplify the matter, Solicitor Wiser explained that the Borough's ordinance requiring traffic studies (which was passed several years ago) is very broad and states the purpose of a traffic study is "to identify traffic and transportation problems associated with the adequacy of the existing transportation network and facilities to provide access to, from and through the site in light of the character and volume of traffic expected to be generated by the proposed subdivision and/or land development". This gives Council the ability to require many things in a traffic study, which could include an evaluation of the existing condition of the adjacent road.

Mr. Wiser noted that what is being asked of Council is a modification of the Subdivision/Land Development Ordinance. He advised Council not to make decisions or take any action that may bind a future Council; but if they are willing to modify the Subdivision/Land Development Ordinance, that decision could be made at this time. He noted that it comes down to whether or not Council will waive the requirement of this particular portion of the Traffic Impact Study, as modifications are at Council's discretion. Otterbein has presented Council with what they believe their hardship to be (which is a requirement for requesting a modification), and it is up to Council to determine whether or not that hardship merits a modification.

Councilman Newcomer asked for clarification on the purpose of a traffic study. Solicitor Wiser noted its purpose is stated in the ordinance ... "to delineate solutions to such problems and include the prescription of improvements to be provided by or at the expense of the applicant". Councilman Newcomer stated that Welty Road is in disrepair already; and he doesn't understand the purpose in having Otterbein do a traffic study on something that needs repaired now.

Discussion followed regarding the original traffic study requirements that were sent by Kevin Grubbs to Council for review (dated 08/04/2011) which included items contained in traffic studies received in the past. Mr. Grubbs reminded Council that this was the first request for a traffic study under the new ordinance. After receiving comments from Council via email, two (2) items were added under the existing travel characteristics – roadway conditions after construction and traffic volumes after construction; and whether or not S. Welty Road would hold up to the traffic that the project will create before, during and after construction. It was noted that there is the potential for another development that would utilize Welty Road also ... they would be asked to do the same thing. And if this requirement is waived for the church, it would have to be waived for the other developer as well. Councilman Martin stated that this would not obligate anyone ... in fact, it would "insulate" Council whereby if constituents request that the road be rebuilt, the traffic study would confirm the condition of the road before the development was built.

Neil Parrott, President of Traffic Solutions (a professional engineer and professional traffic operations engineer) provided history on Otterbein Church. He noted they have already received approval to build their new church, the footprint of which is larger than what they are proposing now, with decreased square footage and thereby less traffic than was already approved. At the very beginning, there was even a question about whether a traffic study would be needed or not. He added that they (Otterbein Church) are willing to do a *typical* traffic study as required by this jurisdiction and several others.

Mr. Parrott provided information from PENNDOT regarding their policies and procedures on traffic studies, which does not consider the existing condition of a roadway as a usual requirement (in fact, no jurisdiction he has worked has ever required this). He added that Section II of the Borough's ordinance is clear ... "If Borough Council requires a Traffic Study Impact Report to be completed as part of the development plan, pursuant to Article IV, Section IV-3-11, any roadway improvements including traffic controls, traffic signals, line painting and/or traffic islands required by the traffic study shall be the responsibility of the developer to provide". It says *nowhere* in the ordinance that it shall be the responsibility of the developer to rebuild the entire road. Mr. Parrott disagreed with Solicitor Wiser in that this is *not* asking for a modification to do a traffic study. Otterbein is only asking that they be

permitted to do generally accepted practices of regular traffic impact studies (and asking that something beyond what developers are normally asked for in a traffic study *not* be added).

Mr. Parrott stated that he also spoke with Ron Burns, former Chief of the Access Permits Division for the State Highway Administration (who reviewed all traffic studies for MD State Highway Administration) and now the “top guy” for Frederick County, who recently recrafted their entire traffic impact study guidelines. Mr. Burns was asked if he would ever require any kind of coring of the regular roadway system, and he said “no ... that is the responsibility of the State, County, or Borough. Regular maintenance of the roadway does not belong to the developer. Regular maintenance of the roadway belongs to the jurisdiction that maintains and owns that roadway.” Mr. Parrott noted that he does work in PA, WV and MD – none of which require coring of the roadway.

Solicitor Wisner stated his legal opinion that the Borough has made a determination of the requirements of the ordinance and has issued a letter stating those requirements. If the developer doesn't like the requirements, he can request a modification of Council of those requirements.

Councilman Martin repeated Mr. Parrott's statement that maintenance of the roadway is the responsibility of the municipality. Mr. Parrott agreed, noting it is *not* the church's responsibility *now or in the future* to rebuild this road. Mr. Martin stated he is simply trying to document the condition of the roadway before and after construction.

Pastor Newman noted he is “surprised” at the idea that the corporation of Otterbein Church cannot speak on behalf of its members, as the corporation is the developer of the new church at Welty Road; and granted, the corporation exists of members. He reminded Council, however, that those members are residents of this community; and if they believed that Welty Road needed to be rebuilt for the benefit of the church, they would have already been here for that purpose.

Mayor Starliper noted his opinion that if Council (as a whole) didn't approve the additional items on the traffic study scope, then they shouldn't be included. Councilman Newcomer concurred. Councilman Driscoll stated he supports Otterbein “100%” in that they don't want to be “put on the hook” to rebuild the road.

President Mumma called for a vote, but Councilmen Martin and Greenawalt withdrew their motion/second. Councilman Martin then made another motion that Otterbein Church be required to do a traffic study, excluding the core pourings for the before/after on Welty Road (essentially approving the 08/08/2011 proposal submitted by Traffic Solutions). The motion passed unanimously.

## **NEW BUSINESS**

### **REQUEST FOR LETTER OF SUPPORT (WAYNE GARDENS ELDERLY HOUSING COMPLEX):**

Councilman Newcomer made a motion to approve the preparation of a letter of support for the Wayne Gardens elderly housing complex, as proposed by the Borough Manager. Councilman Martin seconded; the motion passed unanimously.

**LETTER OF CREDIT (SAM CAMPBELL):** Kevin Grubbs noted that he has received a request from Sam Campbell to release the financial security, in the form of a Letter of Credit No. 5713 in the amount of \$18,700, for the cost/installation of the on-site stormwater facilities at 222-230 Mt. Airy Avenue. He noted that these were installed in accordance with the land development plan and inspected by the Borough's Engineering Department on 08/08/2011. Mr. Campbell also entered into an agreement with the Borough for the ownership/maintenance of the facilities on 07/29/2009. Councilman Martin made a motion to approve the request. Councilman Greenawalt seconded; the motion passed unanimously.

**PONY RIDES ON MARKET DAY:** Mainstreet Waynesboro, Inc. is requesting permission to provide pony rides for the public on Market Day (10/01) in the alley between Re/Max and Furniture Market (which is closed to traffic). Mr. Hamberger noted that he has no problem with the request, and has been assured that the pony's hooves will not damage the surface of the alleyway. Councilman Greenawalt made a motion to approve the request. Councilman Driscoll seconded; the motion passed unanimously.

**BIDS AND REVISIONS FOR STORM SEWER PROJECT:** Mr. Hamberger noted that the bid documents for Phases 2 and 3 of the storm sewer project required potential bidders to attend a pre-bid conference. Only two (2) potential bidders were in attendance ... and not wanting to preclude any others from bidding, a mailing was prepared/sent removing that requirement. Councilman Newcomer made a motion to affirm the staff's actions with regard to removing the requirement for attendance at the pre-bid conference. Councilman Driscoll seconded; the motion passed unanimously.

**PARKING AND TRAFFIC REGULATIONS UPDATE:** Kevin Grubbs noted that he sent Council a proposed amendment to Ordinance No. 688, which will incorporate approvals granted over the past six months for the installation of signs, etc. into the existing Parking and Traffic Ordinance. Councilman Martin made a motion to authorize advertisement of the proposed ordinance for consideration at Council's next meeting. Councilman Greenawalt seconded; the motion passed unanimously.

**TRANSPORTATION RANKING SHEET:** Mr. Hamberger requested that Council members provide him with their responses to the ranking sheet questionnaire he distributed previously regarding transportation needs in Franklin County.

**PUBLIC IN ATTENDANCE - NON-AGENDA ITEMS:** None.

#### **FOR INFORMATION ONLY**

**CUMBERLAND-FRANKLIN COUNTY BOROUGH ASSOCIATION MEETING (09/28/2011):** Mr. Hamberger reminded Council members that the upcoming Cumberland-Franklin County Boroughs Association meeting will be held on Wednesday (09/28) instead of Tuesday (09/27) in Shippensburg. He requested that those planning to attend advise Melinda Knott as soon as possible.

**PA STATE ASSOCIATION OF BOROUGH FALL LEADERSHIP CONFERENCE (10/21-23/2011):** Council members received information regarding the upcoming PSAB Fall Leadership Conference, and were encouraged to attend at least a day's activities.

**REQUEST FOR USE OF CENTER SQUARE (RAINBOW GYMNASTICS) ON 09/17:** Jason Cohen presented a request from Rainbow Gymnastics to use the northwest quadrant of Center Square for their participation in a handstands record-setting event on National Gymnastics Day (09/17). The event will take place in the plaza at M & T Bank, utilizing the parking spaces in the Square if necessary. The event is sanctioned by USA Gymnastics and they will provide the Borough with evidence of insurance. Councilman Newcomer made a motion to approve the request. Councilman Greenawalt seconded; the motion passed unanimously.

**REQUEST FROM AMERICAN LEGION RE: REMEMBRANCE OF 9/11:** Mayor Starliper noted that he received correspondence from the American Legion explaining that a group of 350 wounded warriors will be riding bicycles on 09/11, departing the World Trade Center enroute to Shanksville and the Pentagon. They will leave Gettysburg on 09/15, and their route will include a rest stop in Waynesboro on that day. In support of the ride, Post 15 will provide water, snacks, oranges, energy bars and restroom facilities. They are requesting that the Borough establish "no parking" on Main Street from the alley beside the Library to the handicapped parking space in front of Borough Hall for

the bicyclists. The Mayor and Police Department have given tentative approval, contingent upon Council's final approval. Mr. Hamberger added that Borough Hall's restroom facilities will also be made available. Councilman Greenawalt made a motion to approve the request. Councilman Martin seconded; the motion passed unanimously.

**PAY BILLS:** Councilman Newcomer made a motion to approve the payment of Voucher Lists dated 08/26 and 08/31. Councilman Martin seconded; the motion passed unanimously.

**COUNCIL AND STAFF COMMENTS:** Councilman Driscoll again invited the public to attend the 2<sup>nd</sup> Annual Dog Swim at Northside Pool on 09/10 from 1-4 p.m. He noted the event will be held "rain or shine".

Mr. Hamberger reported that the storm drains have been cleared in preparation of the impending rains.

Police Chief King noted that the 30K Gut Check will be held on Saturday (09/17), beginning at 8 a.m. He stressed to motorists to watch out for the race participants.

Councilman Newcomer mentioned that the stop sign on E. Second Street (at the Middle School entrance) is very faded and in need of replacement. Maintenance Foreman Mike Benshoff noted he will take care of it as soon as possible. Mr. Newcomer also reminded Council members that he will be on vacation and unable to attend the 09/21 Council meeting.

Mr. Hamberger reported that he, the Mayor and President Mumma attended a meeting this day at Green Grove Gardens, sponsored by the Greencastle and Waynesboro Chambers of Commerce, during which Governor Tom Corbett was in attendance. He noted that Mr. Corbett was quite impressed with Franklin County and has strong ties to the area; in fact, his father was born in Waynesboro and is buried at Burns Hill Cemetery. He toured Manitowoc and was impressed with the financial viability of Franklin County as opposed to the rest of the Commonwealth. The Governor took some questions during the meeting, but had to leave early because of the flooding situations throughout PA.

Having no further business to discuss, the meeting adjourned at 8:55 p.m. on a Greenawalt/Driscoll motion which passed unanimously.

Respectfully Submitted,

Melinda S. Knott  
Administrative Assistant