

NOVEMBER 19, 2008
WAYNESBORO, PA 17268
REGULAR MEETING

Council President Craig Newcomer 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, C. Harold Mumma, Craig Newcomer, Charles McCammon and Ronald Martin (Jason Stains was absent)

Mayor Richard Starliper

Borough Staff – Lloyd R. Hamberger, II, Borough Manager
Denny Benschoff, Maintenance Superintendent
Dan Sheffler, Zoning-Code Enforcement Officer
Kevin Grubbs, Head of Engineering Services
Melissa Dively, Borough Solicitor (Salzmann Hughes, PC)
Mark King, Police Chief
Dave Martin, Fire Chief

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

APPROVE MINUTES: Councilman McCammon made a motion to approve the minutes of the October 15, 2008 special meeting (as written), the October 15, 2008 regular meeting (as amended), and the November 5, 2008 regular meeting (as written). Councilman Greenawalt seconded; the motion passed unanimously.

ACCEPT REPORTS: Councilman McCammon made a motion to accept the reports of the Code Enforcement Officer, Police Chief and Fire Chief, as presented. Councilman Greenawalt seconded; the motion passed unanimously.

COMMITTEE REPORTS

PERSONNEL COMMITTEE: No report.

PROPERTY AND PUBLIC SAFETY COMMITTEE: Councilman McCammon questioned if the issue regarding the lighting of “Becks Curve” has been discussed yet. It was noted that it will be discussed at the Street Committee’s next meeting.

STREET COMMITTEE: Councilman Martin reported that the Street Committee will hold their next meeting on Friday, November 21st, at 9:00 a.m., in Borough Hall’s first floor conference room.

INTERGOVERNMENTAL COMMITTEE: No report.

DOWNTOWN REVITALIZATION COMMITTEE: President Newcomer reported that the ordinance regarding proposed parking modifications for downtown is on the agenda this evening for discussion. In addition, he noted that the Rental Inspection Program Committee will hold their first meeting on January 7th.

FINANCE COMMITTEE: No report. Mr. Hamberger noted that Council will hold a budget meeting in the first floor conference room immediately after the regular meeting this evening.

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

“On November 7th, along with Chief King and Council members Stains, Mumma and Newcomer, I attended the Franklin County Drug Task Force meeting. Of particular importance was the increased number of arrests made with the addition of an officer from the Waynesboro Police Department.

Also on the 7th, I viewed the Crosswalk “Sting” Program. There were approximately 16-18 warning tickets issued.

On November 11th, I was invited to attend St. Andrews School Program for Veterans Day. The school children presented a very nice program.

On November 12th, along with Chief King, I attended the program on Law Enforcement Issues and Liability, focusing on criminal and civil actions.”

Mr. Hamberger advised that the oral interview portion of the civil service examination for Police Officer has been completed, and the physical agility portion will be held on Saturday, November 22nd, at 9:00 a.m.

SOLICITOR'S REPORT: Solicitor Melissa Dively advised that she will be preparing two (2) ordinances for Council's consideration with regard to changes in the Tax Code that affect the police pension and non-uniformed pension plans.

PUBLIC COMMENT - ITEMS ON AGENDA:

Paul Gunder - Mr. Gunder noted that he was speaking with regard to proposed modifications to the Off-Street Parking Ordinance, as presented by the Planning Commission. He noted that there is much to be excited about the future of downtown Waynesboro, due to the following: the creation of a very pro-active Mainstreet Waynesboro, Inc. (complete with Downtown Manager), use of grants, new traffic signals, Center Square makeover, matching funds for facade improvement grants, efforts of downtown property owners, Borough/Township Joint Comprehensive Plan, street lights, trees – a lot of momentum has been gained. He noted that the statewide Building Code adopted a few years ago mandates all municipalities to require inspections with strict enforcement of codes and ordinances. He applauds this for quality and safety reasons, but it also means that off-street parking requirements must be firmly imposed for both residential and commercial properties. Parking for building owners on Main Street has become an economic issue – for example, large, one-tenant storefronts cannot be made into multi-tenant commercial spaces without creating off-street parking. (He added that there are only two storefronts along Main Street which could serve as potential locations for restaurants because they are “grandfathered”.) The future of Main Street Waynesboro is small shops, restaurants, professional offices and services ... many of which could probably not locate downtown under the present ordinance. Many building owners were present at this meeting, and Mr. Gunder spoke on their behalf to ask that Council move swiftly through the process to review and adopt modifications to the Off-Street Parking Ordinance, as proposed by the Planning Commission, as these modifications would alleviate the burden and promote economic success of their buildings and our downtown for the years that lie ahead.

Bruce Dreisbach, Mainstreet Waynesboro Manager – Mr. Dreisbach noted that Mainstreet Waynesboro, Inc. represents 100+ businesses on Main Street. One of his jobs is to recruit new

businesses to Main Street using the \$500,000 in state funding obtained by Senator Punt. When walking prospects through available spaces (especially restaurants), he discovered that the current parking regulations prevent most new businesses which could build downtown foot traffic from moving in. He noted that the following restaurants have been turned away because of these regulations – Main Street Deli from Chambersburg, Bentley’s Bagels from Hagerstown, The Plum Restaurant from Hagerstown, Café Del Sol, Jade Cottage from Blue Ridge Summit, Homestyle Restaurant, Joe’s Hot Dogs from Mont Alto, Gary Carter (who runs a restaurant in Hagerstown), Jane Cline (who runs a different restaurant in Hagerstown), Carbaugh and Wills (who want to open a sports pub), the European Bistro, an Italian restaurant, a Mexican sit-down restaurant, the Country Deli & Market, and Chuck E. Cheese. While adding restaurants is the important thing to restoring the downtown, under the existing regulations there are three (3) locations where a restaurant could be placed – 1) former John Wallace, 2) former Substation, and 3) former Sheetz – two of which either have seating or parking, but not both. Councilman Martin questioned if there would be sufficient parking to the rear of the properties on the north side of Main Street; and Mr. Dreisbach responded that he has not found enough parking at those locations. Having done an inventory of lost businesses on Main Street, over the last 30 years there have been 50+ “solid” businesses with large customer bases that have left (including 9 restaurants). He feels that the parking regulations adopted in the 1980’s and 1990’s are one of the reasons these businesses have not been replaced. Parking was also inventoried – on-street metered parking during the business day ranges from 16-22% occupancy (80% is free and available for use by the businesses for their customers). Under current regulations, however, a building owner would have to purchase two (2) buildings and tear one down to supply adequate parking. Doing this would destroy the architecture of the Borough, which is one of the best assets in building the downtown. Mr. Dreisbach noted that other communities that have successfully rebuilt their downtowns have eased the parking regulations in a manner similar to what the Planning Commission is proposing. These new regulations will bring in better business tenants, and increase businesses and (ultimately) the tax base that supports the Borough ... and it won’t cost anything to implement. Councilman Martin noted that the proposed ordinance provides certain regulations for existing buildings, and new buildings would have to meet the Code. He asked why they wouldn’t want the same regulations for both. Mr. Dreisbach noted that the Pennsylvania Downtown Center Director commented that this Code would work great on Potomac Street – where you could clear a large space, put up a building and provide the appropriate parking spaces. The problem is, however, that the Borough has a 100-year old infrastructure and a downtown that was designed for walking. If downtown buildings are knocked down and replaced with new, the Code would work. If you want to retain the historic integrity of the downtown, however, you would have to have different regulations for that historic infrastructure (just as Chambersburg, Carlisle and others have done). As there is parking behind the Main Street businesses (on the Trinity and Rotary parking lots), the Planning Commission attempted to take the most conservative approach to change nothing but the specific elements that are keeping businesses from moving into those buildings today. Councilman Martin questioned if the Rose Manor building were changed to commercial (as a restaurant, perhaps), would they be allowed to use on-street parking; and Mr. Dreisbach noted that they would. Mr. Martin noted his concern because “that is a lot of floor space”. Councilman Martin also commented that Council has been discussing the possibility of building a Senior Center downtown (with approximately 70 units); and he asked if Mr. Dreisbach would be in favor having it downtown. Mr. Dreisbach commented that, in a retail core, it is best to have smaller “gaps” between retail stores ... i.e. the more you can fill in those gaps with retail stores and restaurants, the more time people will actually spend shopping on Main Street. Senior housing is great for the downtown, but he feels it would be best a block or two off Main Street (because they could utilize all those facilities, but the retail concourse on Main Street would not be affected). Councilman Martin asked, if Council adopts this, is Mr. Dreisbach assuring them that there will be restaurants coming? Mr. Dreisbach responded “absolutely” – he suggested that it be done in a timely manner, because there are six (6) months left on Senator Punt’s money (what isn’t spent goes back to the Commonwealth of PA). He added that if restaurants can be placed with that funding, he wouldn’t need grant money to get retail businesses who want to be next to a restaurant that is generating foot traffic. Councilman Martin asked Stephen Monn (a member of the Planning Commission) how long they have been working on this ordinance ... about 3 months? Mr. Monn

replied in the affirmative; and Mr. Martin noted that Council has only had it five (5) days. He again asked for confirmation that Mainstreet Waynesboro, Inc. would prefer not to have a senior center built on Main Street. Mr. Dreisbach noted that is correct.

Kelly McGahen, 14780 Honodel Road – Ms. McGahen is the owner of *Tranquillitea* and her husband's practice is across the street. She has been in business almost five (5) years now and has filled her restaurant many Saturdays with 31 customers (full capacity), and has never had a customer complain that they could not find a place to park. Her husband has operated his practice for 21 years in town, and, again, they have never had a problem with people complaining that there is no place to park. They direct their customers to the Rotary and Trinity parking lots, but in most cases they don't have a problem finding parking at the metered spaces along Main Street.

Craig Mahrle - Mr. Mahrle noted that he owns the buildings at 80-88 W. Main Street and 90-98 W. Main Street. He agrees with comments made by Mr. Gunder, Mr. Dreisbach and Ms. McGahen. The former Beck & Benedict store has been vacant for three (3) years, as it is too large for the types of commercial tenants that are looking to locate in Waynesboro.

It needed to be "split up", but that couldn't be done under the existing ordinance unless he purchased the building next door (which he did, because it had parking to the rear from a building that had burned down several years before). However, that scenario (purchasing an additional building to get parking) isn't possible for most buildings on Main Street. Potential tenants he has talked to are unwilling to pursue obtaining a variance due to the additional "headaches" as they try to start a new business.

Doug Flanigan, 245 Philadelphia Avenue - Mr. Flanigan noted that he and several of his neighbors were present to complain about a woodstove being operated in their neighborhood. He read a formal petition, signed by 35 residents, which was presented to Council. The petition outlines their concern for the amount of pollution created (more than 100 times the amount than a traditional wood stove), which, once inhaled, can elude the body's natural purification mechanisms. They are requesting that Council create or amend existing bylaws to protect the residents from the health hazards, pollution, nuisance and interruption to normal daily life from all residential outdoor wood-burning furnaces or boilers. They "hold the government of Waynesboro accountable to its residents to making sure that this smoke pollution (particulate matter) is stopped in order to protect our health and environment". Councilman Martin noted that there was an ordinance adopted to prohibit this; but it was clarified that this particular case is "grandfathered". Mr. Hamberger stated that he is aware of the problem and has met with the Solicitor to discuss a solution.

VOTING ON ITEMS FROM COMMITTEE REPORTS: None.

UNFINISHED BUSINESS

RECREATION SET-ASIDE ORDINANCE: Mr. Hamberger noted that he has met with the Solicitor regarding the matter. Before proceeding, a recreation study will be required. She will provide information on the parameters of this study to Council before their next meeting. Councilman Martin requested that the staff and Council "move along with this as quickly as possible".

NEW BUSINESS

PROPOSED PARKING ORDINANCE MODIFICATIONS: President Newcomer noted that he supports this ordinance, but there are some changes and modifications that need to be made in the verbiage. Mr. Hamberger clarified that, as this is a modification to the Zoning Ordinance, there is a "30-day window" for review by the County Planning Commission and a public hearing must be held. This ordinance will need to be "tied in" with other sections of the Zoning Ordinance, and the Solicitor is already working on this. It was suggested that Council schedule a workshop as soon as possible to discuss this matter further – they decided on Wednesday, December 3rd, at 9:00 a.m.

Mayor Starliper commented that he has received numerous calls in favor of the ordinance proposed by the Planning Commission, as written. Solicitor Dively recommended that the ordinance “needs to be tweaked” before it is approved for advertisement.

Councilman Martin made a motion to table the matter for further discussion at Council’s workshop scheduled for Wednesday, December 3rd, at 9:00 a.m. Councilman Greenawalt seconded; the motion passed unanimously.

SUBDIVISION OF LANDS OF UNOVA INDUSTRIAL AUTOMATION SYSTEMS, INC.: Attorney Timothy Misner was in attendance, representing Unova Industrial Automation Systems, Inc., regarding the potential subdivision of the former Landis Tool Company property into three (3) parcels created because of DEP and the environmental concerns. The three parcels will have different environmental covenants restricting the uses of the parcels – A is the old plant, B is the vacant land at the corner of Ringgold and Ninth Streets, and C is the middle parcel. The most contaminated parcel is B. They attempted to make the interior parcel (Lot C) a “floating lot”, which could go with either A or B, depending on the purchaser. Parcel B cannot be used for building, because of the contamination; A is the least contaminated, where they cannot use groundwater; and C can be used for building purposes if there are vapor barriers within. A note (#1) was placed on the plan to require that C go with either A or B. (If one is sold without C, the other must take it.) It is his understanding that the Planning Commission did not like that idea, and wants them to decide now where C goes; but Unova would like the flexibility to decide when it is marketed where C goes. Accordingly, they are asking Borough Council for the ability to keep the plan as is, and let that parcel be a floating parcel (depending on the market). He clarified that the delineation of these parcels was not created by Unova ... it was created because of DEP and the environmental consultants as to what can be done on the various parcels.

Discussion followed regarding the generation of deeds and the environmental covenants for each parcel. Mr. Misner added that the deeds must contain statements regarding the contamination of the property, so that any person who uses it in the future knows about it.

Ms. Dively was asked if the Borough’s Subdivision Ordinance prevent a “floating lot”, and she noted that it doesn’t address it. It does, however, prohibit a lot creation that does not have access. It was noted that that is why parcel C must go with either A or B.

Kevin Grubbs advised that the Planning Commission was in favor of the subdivision plan, as it met all general requirements of the ordinance with the exception of Article 7, Section 5, Subsection 4 which states that “every lot or parcel of land shall abut on an improved street”. Solicitor Dively noted that there is a provision in the administrative section of the Subdivision/Land Development Ordinance to grant the modification of the requirements of one or more provisions “if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that the modification will not be contrary to the public interest and the purpose and intent of the chapter is observed”. She advised that Council can look at this situation as purely a legislative decision or that these are brownfields and difficult properties to market, and modify the requirements regarding an access road and a “floating” lot.

Kevin Grubbs noted that the Planning Commission has not approved or rejected the plan, but requested that Parcel C be revised on the subdivision plans to either be attached to A or B and re-submitted for review. Representing the Planning Commission, Stephen Monn noted that they said their rules do not allow them to do this, and that Unova needs to make a choice to attach C to either A or B, or wait until they have a sale and change the deeds at that point. There is no need to change the deed and redraw these lines before a hard customer is available ... they can always be changed at that time. But the Borough’s codes do not allow the Planning Commission to approve the creation of parcel C.

Discussion ensued regarding the use of fill on Parcel B, and Mr. Misner commented that DEP has not signed-off on anything yet – they are waiting for Unova to submit an approved subdivision plan.

Solicitor Dively advised that “requests for modification shall be in writing, and accompany and be part of the application for development. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of the chapter involved and the minimum modification necessary.” Mr. Misner was instructed to submit the required request for Council’s action at their next meeting. (This should open the avenue for the Planning Commission to give either their approval or disapproval.)

PLANNING COMMISSION ITEMS:

Revised Final Development Plan - Cassant, LLC - Kevin Grubbs presented a revised Final Land Development Plan for Cassant, LLC (Frick Company Credit Union) located at the corner of King Street and C. V. Avenue. They are proposing to install seven (7) additional parking spaces on the south side of the existing building. It has been reviewed by the Franklin County Planning Commission, and the Waynesboro Planning recommended approval to Borough Council. Councilman McCammon made a motion to approve the plan, as submitted. Councilman Greenawalt seconded.

Councilman Martin questioned the following items:

- Note #12 confirms that the site will not generate hazardous waste and all municipal waste, etc. will be hauled to a landfill – it was noted that this is a standard note.
- Note #14 mentions the “Township’s Zoning Ordinance” – this should be “Borough’s Zoning Ordinance”.
- Note #18 discusses steel droppings – this is also a standard note.

Councilman McCammon made a motion to amend his motion for approval, subject to the corrections as noted. Councilman Greenawalt seconded the amended motion; the motion passed unanimously.

Revised Final Subdivision Plan - John Fickett - Mr. Fickett is proposing to subdivide the property at 341-343 W. Second Street into two (2) lots. All revisions required by the Planning Commission have been made; and the Planning Commission recommended approval to Borough Council, contingent upon a minor revision in the scale in the title block from 1" = 10' to the required 1" = 20'. Those revisions have been made. Councilman McCammon made a motion to approve the Subdivision Plan for John Fickett. Councilman Greenawalt seconded; the motion passed 5-1 (Council President Newcomer opposed).

**Councilman Martin recused himself at this point in the meeting.*

Preliminary/Final Subdivision/Lot Layout - Walnut Knolls - Kevin Grubbs noted that lots #66 and #67 have been changed from four (4) duplex units to four (4) single-family dwellings. Re-alignments of the property lines have been done, and all lots meet the requirements of the Subdivision/Land Development Ordinance. The Waynesboro Planning Commission has recommended approval by Borough Council, contingent upon two (2) minor revisions (to the dimension of parking spaces and building setback lines). Those revisions have been made. Councilman McCammon made a motion to approve the Lot Layout for Walnut Knolls, as presented. Councilman Greenawalt seconded; the motion passed unanimously.

Revised Final Land Development Plan - 66 State Hill Road - Kevin Grubbs noted that Ronnie Martin is proposing to construct an 84' x 60' accessory building, which was enlarged to 94' x 60', and relocated

closer to the residence, which required an additional variance. The variance was approved by the Zoning Hearing Board, and the Waynesboro Planning Commission has recommended approval by Borough Council. Councilman McCammon made a motion to approve the Land Development Plan for Mr. Martin. Councilman Greenawalt seconded; the motion passed unanimously.

**Councilman Martin returned to the meeting.*

PUBLIC IN ATTENDANCE - NON-AGENDA ITEMS:

Joanne Wildeson, Manheim Road - Ms. Wildeson noted that she is the owner of the Mulberry Laundry Center, Mulberry Avenue. She questioned the placement of parking spaces in front of her business, and Kevin Grubbs noted they are off to the side (but well within walking distance of the laundromat). He explained that the main aisle through the middle of the parking lot is a proposed site for additional future landscaping. That area was left open per the plan, but the area was condensed by 10' to add additional parking spaces. He added that the spaces in the lot were originally 9'x18', but had to be 10'x20' to meet requirements of the Borough's ordinance. He estimated that approximately 40 overall spaces were lost in the parking lot because of this requirement.

After further discussion, it was suggested that the Street Committee review the matter and report back to Council.

FOR INFORMATION ONLY

INVITATION TO ATH&L FIRE COMPANY FAMILY DINNER (DECEMBER 8, 2008): Council members received an invitation from the ATH&L Fire Company for their annual Family Dinner on December 8, 2008. Those wishing to attend were asked to respond to Melinda Knott as soon as possible.

REQUEST RE: WELCOME HOME OF LOCAL VETS TROOP C, 2-104TH CAVALRY (RSTA): Mr. Hamberger presented Council with a request from George Kohler for donations toward transportation costs to bring the troops back to Waynesboro for the holidays. The information will be provided to the press for publication. While Council feels that it is a worthwhile cause, the Borough Code prohibits them from making a donation.

PAY BILLS: Councilman Mumma noted that Check Nos. 47286, 47287, 47340 and 47350-47354 will be voided; and he made a motion to approve the payment of Check Nos. 47288-47339, 47341-47349 and 47355-47418. Councilman McCammon seconded. Councilman Martin commented that, again, he just received information on the bills at this evening's meeting and he is not willing to vote on them. President Newcomer agreed that the vouchers should be given to Council with adequate time for their review. After time was allowed for a brief review, a vote was called and the motion passed unanimously.

COUNCIL AND STAFF COMMENTS: Mr. Hamberger stated that Council will hold a budget meeting in the first floor conference room immediately following this meeting.

Councilman Martin noted that he will personally donate \$100 toward the requested \$1,200 for the Local Vets Troop, and he challenged others to match his donation.

Denny Benshoff reported that leaf pick-up is progressing at the speed of approximately 8 loads/day. He added that the Maintenance Department got behind schedule due to their work at the Rotary parking lot.

Police Chief King advised that Ex (the K-9) was put down on November 7th, due his cancer. Private cremation services were donated by the Waynesboro Veterinary Clinic. Dr. McCullough noted that he was proud of the work Ex did for the community, and he was truly a hero. Mr. King noted that, as of today, the Police Department has received donations of \$3,353 toward the next K-9.

Fire Chief Martin reported that the volunteers of both companies took delivery of 19 sets of wildland gear (paid for through a matching State Forestry grant), which will enable the firefighters to operate more efficiently in hot weather with lighter gear and will save “wear and tear” on structure firefighting gear. The cost of the gear is approximately \$400.00/set, compared to \$2,000/set for the structure firefighting gear.

Councilman Martin informed Chief King that he was pleased with the recent crosswalk “sting” conducted. Chief King advised that this study was conducted by the Smooth Operator Program (aggressive driving enforcement); and their plans are to conduct a second one before the end of the year – but this time there will be no warnings, only citations. Councilman Martin requested that the Police Department keep an eye on the crosswalks while they are on patrol. The Borough has painted the crosswalks and installed fluorescent signs, but he noted that enforcement has to take place if they are to be safe. Chief King noted that, in addition to the upcoming study, they will continue with individual enforcement as well. Also, Councilman Martin requested that they be aggressive with individuals who are parking trailers on streets.

Councilman Greenawalt noted that he attended Senator Punt’s press conference regarding the Center Square project and new traffic signals, as well as the Drug Task Force meeting in Greencastle.

Mayor Starliper requested that an article be placed in *The Record Herald* asking that individuals attending the upcoming Tree Lighting Ceremony and Christmas Parade bring along a canned good to be donated to the Waynesboro Human Services for distribution. A collection box will be placed outside the Downtown Manager’s office.

Council President Newcomer reported that he and Councilman Mumma were invited recently to visit the *Extreme Home Makeover* at South Mountain. He noted it was impressive to hear comments from the California producers and crew about how nice our town is. He also commended Officer Shawn Adolini (who took off time from work) to volunteer as head of security.

Having no further business to discuss, the meeting adjourned at 7:55 p.m. on a McCammon/Mumma motion which passed unanimously.

Respectfully Submitted,

Melinda S. Knott
Administrative Assistant