

OCTOBER 21, 2020
WAYNESBORO, PA 17268
REGULAR MEETING

Council President C. Harold Mumma called the regularly scheduled meeting (telemeeting via the Zoom computer platform) of the Waynesboro Borough Council to order at 6:30 p.m. with the following in attendance:

Borough Council Members -- Jarred Knott, Patrick Fleagle, Jon Fleagle, C. Harold Mumma, Dade Royer and Michael Cermak

Mayor Richard Starliper

Borough Staff – Jason Stains, Borough Manager
Kevin Grubbs, Head of Engineering Services
Sam Wiser, Borough Solicitor

Solicitor Wiser reviewed the Telemeeting Rules of Decorum for those individuals wishing to participate in the meeting.

PUBLIC COMMENTS – AGENDA ITEMS: Visitors desiring to comment on a particular agenda item will be recognized by the President to speak when the topic is being discussed.

PUBLIC COMMENTS – NON-AGENDA ITEMS:

Doug Tengler, 20 E. Second Street – Mr. Tengler summarized his written comments provided to Council prior to the meeting, a complete copy of which follows:

“Thank you for allowing me to speak during the public comments part of the agenda at the October Borough Council meeting to discuss the recent announcement by the Alexander Hamilton Memorial Free Library (AHMFL) to greatly reduce their operating hours effective October 1st due to budget problems. I am sending this letter prior to the meeting to provide you with some background information.

I served on the board of the library from late summer of 2019 until December 2019, when I resigned my position. During my brief time on the board, I began reviewing the library’s budget and financial situation. It did not take me long to discover that the library was overspending their budget on several line items, and on some of the line items the expenditures over budget were overspent by thousands of dollars. Considering the library has very limited resources that were quickly being drained, I resigned my position because I believed the library could fall into financial distress in the next year or two and did not want to be involved with the financial decline of the library.

Overall, I believe the library had a very large budget deficit for the 2019 year. The budget for the library is approximately in the range of \$350,000 to \$400,000.

It should also be noted that the library building was completely remodeled and renovated in 2014 due to generous contributions for the local community. However, it is my understanding that tens of thousands of dollars have been spent in the past two years on interior remodeling work for a building that was recently upgraded.

In prior years, the library received 1.05 mills from local taxpayers to help support their operations. In fall 2019, the County Commissioners voted to increase this rate to 1.30 mills, effective January 2020. The additional .25 mills were supposed to help local libraries with their operating expenses and I supported this increase. I estimate this millage increase for our local library was in the range of \$40,000, which was a very nice financial addition considering the size of their budget.

Prior to COVID, the library had operating hours of 10-7 Monday through Thursday, 10-5 on Fridays and 9-4 on Saturdays (although in the summer the library closed at noon on Saturdays), for a total of 50 hours per week. On September 22nd, the library made an announcement on Facebook stating that due to "extraordinary budget cuts" they would be reducing their hours to Monday, Tuesday, Thursday and Friday from 11-5. However, the Thursday hours have now been modified to 1-7 p.m. per their website. No explanation was provided to the general community regarding this decrease in hours. The new hours will only have the library open a total of 24 hours per week, with only one evening and no Saturday hours for patrons that work during the week. The library serves many low to moderate income families that rely on them for books, movies and computer/internet service and these reduced hours could clearly have a negative impact on the local community.

While I certainly understand the Borough does not operate the library and does not oversee their daily operations, the Borough does own the building and makes all of the appointments to the library board. The current situation with COVID has impacted the revenue of many local organizations and certainly understand this may have resulted in a revenue drop from some of their other sources of income such as late book fees and copier/printing revenue.

At this time, I believe the patrons, the general public and the taxpayers should be provided with some type of explanation regarding the decrease in operating hours, especially with a large increase in the 2020 millage rate. In addition, it would be helpful for the public to know what steps are being taken to correct the library's budget situation and when hours should be expected to return to normal. Perhaps a public meeting could be arranged to discuss these issues with the community who relies on their critical services.

It would also be helpful if the AHMFL would agree to provide the following information to the Borough and myself, so that a complete review of their finances during the past several years can be completed. Specifically, the following information: Income

Statements compared to Budget for the 2018 and 2019 calendar year and also the same for the nine months ended September 30, 2020. Also, copies of the Balance Sheet for the periods ended December 31, 2018 and 2019 and as of September 30, 2020. If this information can be provided, I am willing to provide a brief written report to Borough Council regarding their finances and operations during the past several years. I have been licensed as a CPA for over 25 years and believe my review may be beneficial to the Borough, the local community, and patrons that rely so much on their services.”

Councilman Pat Fleagle – Mr. Fleagle responded to Mr. Tengler’s comments as follows:

“Thank you Mr. President. Without objection, I’d like to take off my hat as a Borough Councilman and respond to Mr. Tengler’s remarks as President of the Alexander Hamilton Memorial Free Library Board of Directors. I was appointed to this board almost six years ago and according to our by-laws will be stepping aside in January of 2021. I ascended to the Presidency of that board in late 2019 when our then president had to resign due to a health issue in her family. I must say that this position has been a daunting task but I have been a faithful library patron for over sixty five years and was in fact, the honorary chairperson of the 2 Million dollar capital expansion campaign. I have been blessed with a dedicated and professional board of directors in the six years I have served.

The library has consistently over the past decade had to dip into endowment funds to pay for ongoing operations. The Borough stopped allocating funds several years ago which, frankly, as a member of Borough Council I understand. Although a newly renovated building was a remarkable achievement for this community, it brought additional costs which were not absorbed by this community or certainly local government. That being the case, we have persevered in providing the services to folks in our community that, as Mr. Tengler points out are lower income and have no other place to turn to for resources such as ours.

I was rather taken aback by Mr. Tengler’s concerns. We welcomed him to our board in late 2019 and were counting on his expertise in finances and appointed him our treasurer. We, at that time, had engaged an accountant to make sure that record keeping properly reflected our financial shape. We indeed were operating at a deficit in our budget which we were accustomed to in the past but funds from an endowment and unexpected donations and legacies kept our financial heads above water.

We have since that time been blessed to have a new dedicated financial staff person. Our executive director has made extensive improvements which have made the library totally handicapped accessible and has created what we term a “Maker Space” for programs and workshops totally with non-operational grants and dedicated donation monies. I might add that the addition of the lift which made our library, an 1812 building, totally handicap accessible. This was done in mid-budget year but we took the bold step of continuing with it because we felt it was our top priority. Our building is on the National registry and adding such amenities, as you know, are a logistical nightmare.

Our new financial employee has brought a professionalism to our operation that allows us at an instance to ascertain our financial status. Much of the spending on capital equipment and staff operating hours has been dictated by the state so there is very little discretion in spending state and Franklin County financial monies. We have been granted some waivers to those requirements in this COVID year but during the time period Mr. Tengler referred to we were required to abide by those restrictions. We have instituted, right in the middle of COVID unfortunately, a sustaining giver program which goes a long way to provide a consistent monthly donor base. I and other board members are part of that giving base now and I would encourage members of Borough Council to step up with a monthly pledge to their library.

At a time during the COVID crisis our library made every effort to maintain its staffing levels since, next to our patrons, staff are our primary concern. We were the last of the County libraries to reduce staff and hours. Others had done it months before. Should we have taken that step earlier? Probably, but we decided to err on the side of conserving those faithful employees that serve our public so well. As far as the hours chosen to be open, they are based on current traffic periods. The highest pattern times are covered. I would encourage you to compare the hours of operation we have gone to with other libraries in the area and I think you will be surprised that we surpass many of them.

Even though these are rather tenuous times, the Alexander Hamilton Memorial Free Library is debt free, maintains a solid endowment, and are looking at having a balanced budget for 2021 presented in a month or two. I would be more than happy to provide any financial information, including audits, to Mr. Tengler, this Borough Council, or any other member of the public for that matter, for any number of years that they request. I think you will see that we have operated remarkably well in these times and still provided one of the best equipped and run libraries in this county.

If I and the board leave any legacy to this library and community, it is to leave the library in a good operational and financial shape that will ensure its existence for years to come. I think we are well on our way to doing that.”

Mayor Starliper also commented that he has had several individuals inquire about the reduced library hours, especially since the children are not physically attending school every day. They are hopeful that this can be addressed in some way in the future.

CONSENT AGENDA: Councilman Fleagle made a motion to approve the Consent Agenda, as follows:

- A. Approve Minutes as Presented – September 16, 2020 (regular meeting) and September 29, 2020 (special meeting)
- B. Accept Reports:
 - Police Chief – September, 2020

- Ambulance Chief – September, 2020
- Fire Chief – September, 2020
- Code Enforcement/Zoning Officer – September, 2020

C. Pay Bills – Check Detail(s) dated 09/29, 10/06, 10/12 and 10/19

D. Acknowledge and Approve Personnel Matters – Recommended by the Personnel Committee

E. Resolution No. 2020-17 (Authorizing the Formal Expression of Support for the Waynesboro Street Reconstruction Project, Authorizing the Preparation and Submission of a Multimodal Transportation Fund Grant Application Requesting Funds from the Pennsylvania Department of Transportation, and Designating Officials to Execute all Associated Application and Grant Documents)

F. Resolution No. 2020-18 (Authorizing Submittal of an Application for the PA Community Development Block Grant (CDBG) Funds for the Fiscal Year 2020)

G. Resolution No. 2020-19 (Notifying all Residents about Fair Housing Rights)

H. Approval of Refund Due to Otterbein Ministries, 801 Park Street, as the Result of a Tax Assessment Appeal

Councilman Cermak seconded; the motion passed unanimously.

UNFINISHED BUSINESS

APPROVAL OF REVISIONS TO CIVIL SERVICE COMMISSION RULES AND REGULATIONS: Mr. Stains reported that the Personnel Committee met with members of the Civil Service Commission to express concern regarding inconsistencies in the application and testing process that needed to be clarified. The Commission's Rules and Regulations were reviewed by both parties and several revisions were agreed upon. Councilman Cermak made a motion for final approval of the Civil Service Commission Rules and Regulations, as revised. Councilman Royer seconded; the motion passed unanimously.

RE-AUTHORIZE CIVIL SERVICE COMMISSION TO CONDUCT EXAMINATION FOR FIRE APPARATUS DRIVER: Councilman Royer made a motion to re-authorize the Civil Service Commission to conduct an examination for the position of Fire Apparatus Driver. Councilman J. Fleagle seconded; the motion passed unanimously.

APPROVAL OF BUDGET FOR ADDITIONAL AWARD MONEY TO APPLICANTS (CDBG-CV GRANT): Mr. Stains noted that he was contacted by DCED regarding an additional award amount of \$856 for CDBG-CV funds. He requested Council's approval to include the additional money in the application for CDBG-CV funds, which is the

grant/loan program being established for local businesses. Councilman Knott made a motion for approval. Councilman Cermak seconded; the motion passed unanimously

TREE PLAN FOR STREET LIGHT PROJECT: Kevin Grubbs reported that staff members met recently with representatives of the Borough's Shade Tree Commission to conduct a walk-thru on Main Street between Broad and Franklin Streets. They have provided Council with recommendations with regard to the removal and/or trimming of trees in that area. He added that the trees recommended for removal (a total of 19; 9 of which are in Center Square) are only those that will hinder the street lights. In addition, they are suggesting that 11 trees be trimmed (3 of which are the property owners' responsibility).

Councilman J. Fleagle added that the all of the trees in Center Square will need to be removed because of the relocation and addition of street lights; but once the lighting project is completed, some of the trees will be replaced. They will be positioned, however, in locations where they will have minimal impact on the street lighting. The staff is hopeful that the lights will be installed by late summer of 2021.

Councilman J. Fleagle then made a motion to approve the tree plan as recommended by the Engineering Department. Councilman P. Fleagle seconded; the motion passed unanimously.

STREET COMMITTEE UPDATE: Council members received a copy of the Street Committee minutes from their 10/01 meeting. Councilman J. Fleagle gave an update on several items since that meeting –

- Work under the Maple Street bridge has been completed.
- Crack sealing has been completed (all 3 major housing developments were done); and they are hopeful that money will be available for this work on other streets next year.
- National Gunite is working on rehabilitation of the storm sewer box at Johnson Controls.

NEW BUSINESS

APPROVAL OF PROPOSED FRANCHISE AGREEMENT WITH COMCAST: Mr. Stains noted that this agreement has been negotiated for the terms directed by Borough Council late last year. He reviewed the terms of the 10-year agreement briefly, noting it is anticipated that the Borough will receive approximately \$96,000 in revenue in 2021.

Solicitor Wisner noted that the franchise fees are at maximum, which is 5%, and this agreement isn't significantly different than the last agreement with Comcast. One of the major hang-ups over the last few months was a recent amendment by the FCC regarding whether or not the complimentary service that has traditionally been provided to municipalities as part of a franchise agreement has to be debited from the franchise fees. That regulation is now final so any complimentary service that the Borough

receives is valued at the market rate and is debited from the franchise fees. Mr. Stains added that those locations are at Borough Hall, Maintenance Center, S. Potomac Street Fire Station and Renfrew Park.

Councilman Knott made a motion for approval. Councilman Cermak seconded; the motion passed unanimously.

AGREEMENT OF SALE WITH LUMINEST, INC. FOR W. SECOND STREET PROPERTIES:

Mr. Stains presented an Agreement of Sale with Luminest, Inc. for purchase of two (2) of the properties that we have been working on for several years through our blighted properties initiative. This is for the sale of 242-244 and 246 W. Second Street, both of which were deeded to the Borough in lieu of judgement enforcement from Michael Knott of Thurmont, MD. Luminest has put forth a proposal to redevelop these properties and has been awarded money to do so. The price for the sale is \$30,000, which had previously been agreed upon between Borough Council and Luminest. Luminest will acknowledge that they are purchasing these properties “as is”. They plan to demolish both properties and build two (2) new single-family homes. They have been to the Zoning Hearing Board and completed all the necessary requirements to move forward with this project. It is anticipated that settlement for the properties will be in November, 2020. Their goal is to begin demolition sometime over the winter months.

Councilman P. Fleagle made a motion to approve Resolution No. 2020-20, which will authorize the aforementioned Agreement of Sale with Luminest. Councilman Royer seconded; the motion passed unanimously.

It was noted that the \$30,000 proceeds from this sale will go into a separate line item in the budget for future code enforcement efforts.

REQUEST FROM MAINSTREET WAYNESBORO, INC. FOR HOLIDAY ACTIVITIES ON SATURDAY, NOVEMBER 21, 2020:

Bill Kohler (Mainstreet Waynesboro, Inc.) presented Mainstreet Waynesboro, Inc.’s proposal for holiday activities. Many other communities have “abandoned ship” on parades due to the COVID pandemic and he believes that people will be very excited and receptive of their efforts. They have attempted to spread out the parade route to ensure appropriate social distancing for many people. They propose to begin at the Navitor East parking lot, proceeding north on Clayton Avenue to E. Third Street, then proceeding west on E. Third Street to Walnut Street, and south on Walnut Street to the D. L. George parking area on E. Sixth Street. When the parade is over, Santa (w/reindeer and sleigh) will be escorted back to Center Square; and at 5:30 p.m., he will turn on the lights of the Community Christmas tree. Participants will be encouraged to eat and shop downtown; and there will be a Christmas Winter Market in Main Street Park with approximately 25 vendors.

It was clarified that E. Ninth Street from Clayton Avenue to State Hill Road will remain open to traffic, but a request will be submitted to PENNDOT to close Clayton Avenue between State Hill Road and E. Third Street. Solicitor Wisner mentioned PENNDOT’s

updated requirements regarding street closure requests on state roads, including that the event must be conducted under the Governor's guidelines on outdoor gatherings. In addition, if it is not a municipally-sponsored event, then the Borough has to indemnify PENNDOT (which puts the burden on the Borough if requirements aren't met). In addition to obtaining a Certificate of Insurance in an appropriate amount (typically \$1,000,000), the Borough should enter into an indemnification agreement with the event sponsor.

Councilman P. Fleagle made a motion for approval, contingent upon meeting these requirements and obtaining PENNDOT's approval. Councilman Cermak seconded; the motion passed unanimously.

REQUEST TO RELEASE PROJECT LETTER OF CREDIT (STARBUCKS COFFEE HOUSE): Kevin Grubbs presented a request from Waynesboro GF LP to release the Irrevocable Standby Letter of Credit being held for the Starbucks Coffee House project, as well as the remaining escrow account balance of \$2,465.00. He noted that all requirements and inspections have been completed. Councilman Knott made a motion for approval. Councilman Royer seconded; the motion passed unanimously.

FINAL LAND DEVELOPMENT PLAN (SANAN PROPERTIES, LLC): Mr. Grubbs noted that SANAN Properties, LLC is proposing to construct an eight (8) unit apartment building at the corner of Mt. Airy and Highland Avenues. Plans were reviewed by the Waynesboro Planning Commission on 10/12 and recommended for approval by Borough Council, contingent upon the following requirements:

- (1) Complete the revisions for the Stormwater Management Report and Plan as indicated on the attached comment letter dated October 25, 2020 from the Borough's Consultant, Dennis E. Black Engineering, Inc.;
- (2) Submit the Project Infrastructure Cost Estimate for review;
- (3) Submit the on-site Annual Stormwater Maintenance Cost Estimate;
- (4) On Page 3 titled "Site Plan" along Highland Avenue, it is recommended to have a 6" thickness for the concrete sidewalk instead of the typical 4" since there will be consistent vehicular traffic crossing this area to enter the parking lot; and
- (5) Execution of the Agreements listed below, and submit all fees and Financial Surety required –
 - a. Developer's Agreement
 - b. Stormwater Management Operations and Maintenance Agreement for all on-site facilities

Mr. Grubbs noted that Lee Royer met with the Waynesboro Borough Authority the previous evening, and a Water Main Extension Agreement will be executed and all fees will be paid. He anticipates no issue with any of the remaining items.

Councilman Knott made a motion for approval with the aforementioned contingencies. Councilman J. Fleagle seconded; the motion passed unanimously.

MODIFY FIRE BUDGET LINE ITEM: Mr. Stains presented a request from the Fire Chief to modify budget line item 01-413-380, which is entitled “Light Maintenance” for the Fire Hall. \$35,000 was budgeted for 2020 and they have spent \$17,296 on the upgrades at the building. They would like to replace the existing furniture (which was hand-me-down items from the New Hope Shelter) with five (5) new leather recliners tailored specifically to fire stations. The proposed cost is \$749.00 each, for a total of \$3,745.00. They will give a 10% discount, making the grand total \$3,370.50. Councilman Royer made a motion for approval. Councilman Knott seconded; the motion passed unanimously.

AUTHORIZE STAFF TO CREATE AN RFP FOR A SWIMMING POOL ENGINEER: Mr. Stains reminded Council that the Borough was not successful in receiving a grant from DCNR for a pool feasibility study, and a significant amount was spent several years ago when a consultant, Councilman Hunsaker, was brought in from St. Louis, MO. No major amenity changes are being considered, but it would be beneficial for someone who is familiar with the aquatic business to make recommendations on what is necessary to keep the pool functioning. Councilman J. Fleagle made a motion for approval. Councilman Cermak seconded.

Discussion followed regarding available funds that were drawn from the ACNB loan but not needed for the Memorial Park or street light project. Councilman P. Fleagle suggested that the Borough provide a budget figure for the consultant to work with when providing recommendations for improvements.

A vote was then taken and the motion passed unanimously.

AUTHORIZE MODIFICATION OF GENERAL FUNDS TO BEGIN PHASE I OF POOLED CASH FUNDS TO SEPARATE FUND ACCOUNTS: Mr. Stains noted that discussions begin in 2019 with the Borough’s auditors (SEK) and bookkeeping firm (Cohick and Associates) regarding pooled cash in the Clearing Account. When you look at a financial snapshot and see the Clearing Account, there is a false sense of security due to the pooled nature of this account. Moving forward, they are recommending dividing the Clearing Account into separate checking accounts for the funds currently incorporated in the Clearing Account. In order to do this, we will need to complete some transfers of funds to make other funds whole. The following have been vetted by our auditors and bookkeepers, and are being requested for approval by Borough Council in order to begin Phase I of this process:

- (1) A transfer in the amount of \$135,695.93 from Fund 16, the Hospital Escrow Fund, to the Borough Combined Cash Clearing Account into the following funds –
 - a. Fund 60, Police Pension Fund - \$34,149.00
 - b. Fund 30, Capital Reserve Fund - \$20,000.00
 - c. Fund 83, Street Light Fund - \$65,130.43
 - d. Fund 01, General Fund - \$16,416.50

- (2) A transfer in the amount of \$125,243.00 from within Fund 41, the Special Streets Fund of the Borough Combined Cash Clearing Account, to the following funds –
- a. Fund 35, Liquid Fuels - \$25,256.00
 - b. Fund 12, CDBG - \$99,987

Councilman Knott made a motion for approval. Councilman J. Fleagle seconded; the motion passed unanimously.

AUTHORIZE ADVERTISEMENT OF PROPOSED ORDINANCE TO ELIMINATE THE AMUSEMENT DEVICE TAX: Mr. Stains noted that this matter was discussed at Council's previous meeting and a proposed ordinance has been prepared. Councilman Cermak made a motion to authorize advertisement of the proposed ordinance to eliminate the Amusement Device Tax. Councilman Royer seconded; the motion passed unanimously.

APPROVAL FOR SIGN IN FRONT OF THE DOVES SCULPTURE ON E. MAIN STREET: Dr. Haq was in attendance to present his request to place a sign in front of the Doves sculpture on E. Main Street to explain their purpose. Mr. Stains noted that the matter has been presented to the Waynesboro Area School Board (as the doves are located on their property) and they have granted approval. The sign would read: "The Doves of Peace represent tolerance and equality, qualities attributed to the people of this town. The two together depict a "W" for Waynesboro." Councilman P. Fleagle made a motion for approval. Councilman Knott seconded.

Discussion followed regarding the need for Council's approval. It was noted that the proposed sign meets all requirements of the Zoning Ordinance, and Solicitor Wisner recommended that Council take no action if they have no objection to the sign. Accordingly, the motion and second were withdrawn.

FOR INFORMATION ONLY

FINANCE COMMITTEE TO INTERVIEW INVESTMENT MANAGEMENT SERVICE FIRMS FOR DEFINED CONTRIBUTION PLAN: Mr. Stains noted that interviews are being scheduled with the two (2) investment management firms recommended by Rhoades Law. Hopefully there will be a recommendation for Council's action at the November meeting.

COUNCIL AND STAFF COMMENTS: Mr. Stains advised that the Mt. Airy Park project has been completed (with CDBG funds) and a ribbon-cutting ceremony will be held on 11/06 at 4:00 p.m.

On a related matter regarding CDBG funds, Mr. Stains noted that Council approved a resolution authorizing submittal of the 2020 CDBG application in the amount of slightly

over \$161,000, which will be used for the paving of W. Third Street. In addition, some of the "older money" will be re-budgeted ... the only organization who submitted a request for funding was the New Hope Shelter ... and it was decided at a recent budget meeting that \$35,000 will be designated for some repairs at their facility. Appropriate paperwork is underway to get this process moving forward.

Councilman P. Fleagle mentioned that the next Economic Development Committee meeting will be held on Tuesday (11/10) at 10:00 a.m. This change from the first Tuesday of the month was due to the upcoming elections.

Mayor Starliper questioned when the stop sign will be installed at the Waynesboro Mall's south exit onto E. Second Street. Mr. Grubbs stated that J. C. Bar Properties has been notified to install the sign, as it was a requirement of their land development plan. He will continue to monitor the situation.

Mayor Starliper noted that the lights that were installed (without permission) in the alleyway between the Beck & Benedict and Wayne Buildings are still there. Mr. Stains noted that Matt Schmidt is working with the owner of Warner's Soda Shop, who will be pursuing the matter with the Street Committee in the near future.

Having no further business to discuss, the meeting adjourned at 8:07 p.m. on a P. Fleagle/Knott motion which passed unanimously.

Respectfully Submitted,

Melinda S. Knott
Borough Secretary