

The regular monthly meeting of the Borough Council of the Borough of Sinking Spring was call to order on Thursday, May 3, 2007 at 7:28 p.m., at the Sinking Spring Borough Hall, by President Lawrence Schmidt. After the Pledge to the Flag, Regina Shade called the roll reflecting the following Council Members present:

- Lawrence Schmidt
- James Zerr
- George Butkus
- Bruce Light
- Barbara Kutz
- Stewart Wenrich
- Dennis Leiby

Other officials present were: Mayor Clarence Noecker; Charles Fitzpatrick, Borough Solicitor; Regina Shade, Borough Secretary/Treasurer; who recorded the minutes of the proceedings.

Others present were: Robert Ludgate, Jr., Ludgate Engineering, David Schlott, Jr., ARRO Consulting, and Michael Hart, Public Works Director

APPROVAL OF MEETING MINUTES:

Mr. Light made a motion to approve the meeting minutes from the March 28, 2007, April 5, 2007, and April 25, 2007 meetings; seconded by Mrs. Kutz. AYES – 7, NAYS – 0; motion carried.

RESOLUTION:

Mr. Hart stated that PENNDOT has instituted a limit of 100 tons of liquid asphalt if you want to use Liquid Fuels money. We will need to pass this resolution stating we are under the 100 tons of liquid asphalt. This will get us the pricing for this project. Mr. Light made a motion to pass the resolution; seconded by Mr. Zerr. AYES – 7, NAYS -0; motion carried.

BID OPENING:

Mrs. Shade opened and read the following bids:

Brubacher Excavating -	\$127,760.85
EJB Paving -	121,710.00
Windsor Services -	125,725.00
Burkholder Paving -	130,235.00
(Division of Martin Limestone)	

The low bid went to EJB Paving. Mr. Wenrich made a motion to grant the contract to EJB Paving pending review by our Engineer, Public Works Director, and Solicitor; seconded by Mr. Light. Mr. Schmidt called for a roll call vote. AYES – 6, NAYS -1 (Mr. Butkus); motion carried.

VISITORS:

The first visitor was Mrs. Jeanette Dunkelberger. Mrs. Dunkelberger questioned why it would be necessary to move all the stacks of books to replace the carpeting. She feels since the carpet comes in blocks we should be able to cut the carpet to fit around the stacks of books instead of moving all of them. Mr. Leiby recommended she come to Council. A discussion ensued. Mr. Ludgate stated it can be cut around the stacks. It is Council's decision but down the road the Library must remember why there is no carpet under the racks. The new rug comes in squares and if they wear or become stained, all that would need to be done is replace the soiled or worn ones. The whole carpet will not have to be replaced. Mr. Wenrich feels this might change the installation costs as it will require the installers to do more work. Mr. Leiby feels it should be decided on by Council as we are paying for it. Mr. Ludgate stated this would be part of the piggy back contract. Mr. Ludgate feels there would be an "up" charge as there would be more work to this type of installation. Mr. Light questioned if this would be feasible. Mr. Ludgate stated if it is imperative that the Library stays open then you have your answer. It would be easier for the installer to have everything off the floor and just lay the carpet. Mr. Ludgate reminded Council there would be the cost of removing the books, storing, and replacing the books as well. A discussion ensued. Mrs. Kutz stated the cost of the carpeting would be \$14,706.00 according to the one (1) meeting she attended. Mr. Ludgate will get a price on the carpeting, doing it the original way and then piecing it around the racks. Mr. Butkus said that in addition to the carpeting we should check and see if there are civic groups lined up to move the books. Mr. Ludgate will report back to Council. The other question she had was whether Council will be voting on disbanding the Authority that evening. Mr. Schmidt said no.

The next visitor was Mrs. June Duncan of Broad Street. She wanted to discuss the plans for the golf course. She does not object to an over 55 community, but she does object to a three (3) story building going up in front of her and her neighbor's properties. Mr. Schmidt stated he spoke to her on a number of occasions and there has been no plans submitted. They did show a concept plan which had the building but nothing formal has been submitted. When plans are submitted they will go to the Planning Commission and then the process will begin. Mr. Ludgate explained how the process works if they submit plans to us. Mrs. Duncan stated she heard that improvements were going to be made to Broad Street. She wondered what those improvements were. Mr. Ludgate believes that the improvements she is talking about are the improvements to Penn Avenue as opposed to Broad Street. Mr. Zerr and Mr. Ludgate, Sr. met with officials from PENNDOT and they were referring to some changes along Penn and Cacoosing intersection. Mrs. Diane Yarger stated there is a height requirement mentioned in there of 45 feet. She feels this is extreme. She feels if an industrial firm in an industrial area needs to come to the zoning hearing board for a variance to put up a silo to 38 feet why would Council allow a building in a residential area to be 45 feet. Mr. Ludgate stated we do allow that height in our R-6 district. Mrs. Yarger feels this is way out of line for an R-1 district. Mr. Ludgate stated Council listened to a lot of testimony when they advertised for the hearings. Mrs. Yarger feels they should have been informed. Mr. Butkus questioned what the height limit is in an R-1 district. Mr. Ludgate said 35 feet. A discussion ensued. They questioned how it got passed. Mr. Fitzpatrick stated it has not past yet. He continued that this height has been in the ordinance since he became involved in the process. The Ordinance went before our Planning Commission, the Berks County Planning Commission, and it went before Council in public hearings. Mrs. Duncan and Mrs. Yarger stated they did not receive notice of the meetings. Mr. Fitzpatrick stated we gave notice in accordance with the law. It was advertised in

VISITORS(cont'd):

the newspaper two (2) consecutive weeks and we did that. They feel we should notify the property owners. Mr. Fitzpatrick stated it is advertised in the way it was supposed to be. A discussion ensued as to how the Ordinance was advertised. In the advertisement it stated that a full copy of the Ordinance was at the Borough Hall, and at the Berks County Law Library. It was for review a good six (6) months at least. Mrs. Yarger questioned why they should read the paper every night to see if Council is going to allow for a three (3) story building. She feels we should have mailed all the residents a personal letter. Mr. Ludgate stated the public meetings that were held were very well attended. They were not sparsely attended. Mrs. Yarger stated that you must let surrounding residents know when a zoning hearing is to take place. Mr. Ludgate explained the difference. Mrs. Yarger feels this is more than a zoning variance. We advertised twice for the meeting. Another discussion ensued. Mr. Fitzpatrick stated if conditional use is granted then they have the right to build the three (3) story building. He does not feel we can force them to come in under the 45 feet. Mr. Ludgate stated the reason for the meeting tonight is whether Council should amend the ordinance. Mrs. Duncan feels Council should not amend the Ordinance. Mrs. Yarger feels Council should not pass this and revisit the Ordinance. They would like to have more input into this. Mr. Ludgate stated that the Planning Commission meetings are advertised. They are public meetings. Mrs. Duncan stated they do not understand what they are talking about. The Planning Commission is where this starts. There were people who attended the public hearings. The room was full, so people did know about this. Mrs. Duncan stated this is being spread by word of mouth and it should not be. Mr. Schmidt stated they do advertise it; we post it, what else should we do. He continued do you think we should knock on everyone's door and tell them what is being considered? She feels that everyone within 500 feet should be notified. Mr. Fitzpatrick stated we advertise the way the law requires. The law requires that when you amend the Ordinance you provide notice of a hearing. You put two (2) notices in the newspaper. We did that; we had a hearing. We did it again; we had another hearing. Then Council decided a third time to advertise for enactment. We advertised three (3) times for the Ordinance and held four (4) meetings to discuss the issue and this is all after the Planning Commission met to review it. Mr. Fitzpatrick said the Planning Commission considered it very seriously. They reviewed it and recommended it to Council. Mr. Fitzpatrick explained the difference between a zoning variance and a conditional use change to an Ordinance. A conditional use comes before Council and zoning variance comes before the Zoning Hearing Board. Mrs. Yarger did not care about the other conditions. Her concern was changing it from 35 feet to 45 feet. She does not want to see that happen. Mr. Fitzpatrick stated they must pass the Ordinance in the form it was advertised. We could amend it but we would then have to re-advertise the notice for adoption. Mrs. Duncan still does not want that building in front of her house. Mr. Fitzpatrick again stated that Council had hearings to discuss this and nothing was said about the height at that time. Nobody complained about the height, not one (1) person. Mrs. Duncan was in Florida but she heard that at those hearings the people from down at the other end of Broad Street were there. She feels they would not complain as this will not impact them. It won't be built in front of their house, she continued. Mrs. Duncan continued to talk about the height of the building. Mrs. Kutz asked if she saw pictures of the buildings. Mrs. Duncan stated she went to Stackhouse and saw the plans. Mr. Scott Robitzer stated that the top of the clubhouse currently is higher than three (3) stories. Mrs. Yarger stated that was a far distant from her. Mrs. Duncan stated that Mr. Michael McCormick didn't want the building any smaller or farther away because they are going to use that for marketing purposes. Another gentleman feels that Council is oblivious to the

VISITORS (cont'd):

concerns the people that live across the street from the proposed building have. Mr. Maras, Attorney for Traditions, stated they attended a lot of Planning Commission meetings. They originally wanted the building to be 48 feet; however the Planning Commission stated no higher than 45 feet. He continued that the location or height of the building has nothing to do with marketing. People will only see a rooftop. In addition, there will be additional setbacks and plantings. This is not right up against the property line on Broad Street. Mrs. Yarger stated it is only 150 feet. Mr. Maras then displayed how far 150 feet is. The trees are going to stay. A conditional use hearing or hearings will be held. They will be back here for those hearings as well. Mrs. Duncan asked Council to please not do this to them. They have their life savings tied up in their home or homes. Mrs. Kutz asked them what they would like to see go in there. Mrs. Duncan doesn't mind the over 55 community. Mr. Leiby stated there was a proposal for a shopping center. Mrs. Yarger stated that Council keeps talking about a shopping center; however she believes that is just a red herring. Mr. Leiby stated that Mr. Ludgate, Sr. testified about it. Mr. Zerr stated he went to a meeting with PENNDOT regarding this issue. Mr. Zerr would like to see it go commercial as he ran on revitalizing Penn Avenue and having that zoned commercial would help the tax base. Once again Mrs. Duncan feels Council is not being considerate of its residents. Mr. Schmidt stated we are moving on; this will be voted on later in the meeting.

The next visitors were Julieann and Neil Putt. They live at 58 Evans Avenue. She has two (2) issues to discuss. One (1) is the noise level at the fire company and the other is the speeding on Ruth Street. During the last year when the fire company hosts a live band the noise level has increased. At first she thought she was the only person who was annoyed by the sound; however now since more live bands are being booked and she has spoken to other people, she finds she is not the only one concerned. They are concerned how loud it will be when they begin opening their windows. Contacting the police does not seem to be very effective to this point, she continued. She was wondering what recourse they have if it keeps on being a nuisance. Mr. Butkus knows this issue has come up before but he was wondering if anyone has contacted the fire company to see if this can be worked out before anything too drastic is done. Mr. Zerr stated this is a sensitive issue and he is not prepared to make a statement. It is more than a noise level issue. It is being worked on. Mr. Schmidt stated that they should continue to call the police. The second issue is the speeding on Ruth Street. She believes that Ruth Street from Evans Avenue to Willow Glen Park is being used as a drag strip. They rev up their engines and speed down. Mr. Zerr stated that they are aware of this problem as well. Mrs. Putt does not believe this is tied in with the social hall at all. Mr. Zerr stated it is a separate issue. It does take time. They thanked Council for allowing them to voice their concerns.

COMMUNICATIONS:

Mrs. Shade read a letter dated May 3, 2007 Deb and Harold Dietrich. They were still concerned about the noise coming from the social quarters of the fire company when bands perform. A discussion ensued as to the decibel level and how high it can be. Mr. Ludgate stated 64 dB at the property line is acceptable. A discussion ensued as to decibel levels. Mr. Fitzpatrick feels that this should be turned over to the police department. The Borough does not have a decibel meter. Mr. Zerr gave Mr. Fitzpatrick of our current Ordinance regarding decibels. Mr. Ludgate reviewed the Ordinance we currently have and explained how to interpret them. Mr. Fitzpatrick will look into this. Mr. Hart stated an average decibel meter is about \$400. We then need to have it

COMMUNICATIONS(cont'd):

calibrated and certified. Mr. Ludgate agrees, it is to the Borough's advantage to have one for zoning issues. Mr. Wenrich made a motion to purchase a decibel meter and have it calibrated and certified; seconded by Mr. Light. AYES – 7, NAYS – 0; motion carried.

APPROVAL OF BILLS:

Mr. Light made a motion to pay all the bills; seconded by Mrs. Kutz. AYES – 7, NAYS – 0; motion carried.

MILLER ENVIRONMENTAL REPORT:

Mr. Hillibush gave the report for April, 2007. The staff completed the routine operation and maintenance duties, responded to twenty one (21) PA One calls. There were no service calls during the month. The staff read the collection system flow meter five (5) times. The plant was placed in storm mode on April 15, 2007 and taken out of storm mode on April 22, 2007. The staff televised two (2) laterals. The staff set up the I&I Spy Units. They are scheduled to be retrieved approximately the second week of May. The staff flushed 1,195 feet of sanitary sewer main. They serviced and inspected the collection system bio augmentation meters during the month. They loaded the harvested reeds into dumpsters and sent them to the landfill. The new clarifier drive gearbox was received during the month. As per the agreement with the Township of Spring, Miller Environmental installed marking posts complete with manhole numbers on the manholes, which run parallel to Sinking Spring on the Cacoosing Interceptor during the month. The scum pump parts will take about nine (9) weeks to get the power cord and cap. He talked to them about one (1) month ago. As soon as the one (1) is complete they will pull the other. Mr. Fitzpatrick stated the percentages were wrong. They should be as follows: Sinking Spring – 74.6%, Lower Heidelberg – 16.3%, and South Heidelberg – 9.1%. Mr. Hillibush stated he will make the corrections.

REPORTS OF COMMITTEES AND OFFICES:

Mr. Schmidt questioned if any Councilpersons had a report this month.

SEWER AND SANITATION – GEORGE BUTKUS:

Mr. Hillibush would like approval to move ahead with getting the parts for the maintenance of the one (1) clarifier. In addition, he would like to authorize ARRO to draw up specs for the catwalk over the digester. It needs to be sandblasted, painted and any other maintenance that might need to be done to it. They are both included into the budget. Mr. Butkus made a motion to authorize Mr. Hillibush to order the pieces he needs for the bottom of the clarifier; seconded by Mr. Leiby. AYES – 7, NAYS – 0; motion carried. Mr. Butkus made a motion to authorize ARRO to draw up the specs for the repair of the catwalk over the digester; seconded by Mr. Leiby. AYES – 7; NAYS – 0; motion carried.

The open house will be in June.

PUBLIC SAFETY – JAMES ZERR:

Mr. Zerr said there will be a pre-construction meeting Tuesday, May 8, 2007 at 9:00 a.m. in South Heidelberg for the Rt. 422 Corridor project.

The Task Force will meet May 8, 2007 at 7:00 p.m. This is the ongoing talks about the merging of the Sinking Spring, Wernersville, and Lower Heidelberg Township's fire departments.

On Wednesday, May 16, 2007 there will be a Safety Committee meeting.

Mr. Zerr received two (2) requests for handicap spaces one (1) at 635 Vester Place and another at 108 Spring Crest Boulevard. Mr. Zerr made a motion to grant two (2) handicap spaces, one (1) to 635 Vester Place and the other to 108 Spring Crest Boulevard; seconded by Mr. Wenrich. AYES – 7, NAYS – 0; motion carried.

Under the admin portion there are some items that need to be discussed. He requested an executive session before the meeting adjourns.

LIBRARY – DENNIS LEIBY

Mr. Leiby stated there was a discussion at the last Library meeting that the lighting in the back parking lot was not sufficient. Mr. Schmidt stated we had discussed this before and it was decided it was hard to add lighting as we would need to put in another pole. There was some discussed about putting lighting on the building. Mr. Hart said we could put wall packet units up that would illuminate the back of the lot. Mr. Butkus made a motion to authorize Mr. Hart to get numbers for the next month on what the cost would be; seconded by Mr. Leiby. AYES – 7, NAYS – 0; motion carried. Mr. Light had a discussion with Mr. Hart about adding lighting to the side of the building as well. He feels it is dark and on nights when we have meetings it is hard to see. Mr. Hart will put together a proposal for lighting on both the side and the back.

UNFINISHED BUSINESS:

The first item on the agenda was the Ordinance for Mutual Aid. Mr. Fitzpatrick reviewed what the Ordinance would cover. He explained the Ordinance. The agreement is between the Borough, Spring Township, Wyomissing Borough and West Reading Borough. Each police force would assist the other when called upon due to emergency. Mr. Zerr stated this is first of its kind in the County. Mr. Fitzpatrick stated none of the municipalities may take advantage of this by not hiring enough personnel. The intent is for emergency situations only. Mr. Leiby questioned who decides what is an emergency? Mr. Fitzpatrick responded the Mayor, and the Chief of Police. The Mayor is in agreement with this. Mr. Zerr explained this agreement enables the Borough to utilize detective work if we ever need it. We do not need to rely on the State Police. Mr. Butkus made a motion to pass the Ordinance and sign the Mutual Aid Agreement; seconded by Mrs. Kutz. AYES – 7, NAYS – 0; motion carried.

The next item was the Zoning Ordinance change. It amended the R-1 district to allow age restricted housing by conditional use. This has been advertised. Mr. Fitzpatrick stated this has been

UNFINISHED BUSINESS (cont'd):

gone over many times. He explained what is in the Ordinance and what must be adhered to. Mr. Schmidt said this has been discussed at length over several months. In addition, if we do want to make any changes to this Ordinance, it would hold up adoption for at least another thirty (30) days. It will also need to be re-advertised. Mrs. Kutz made a motion to adopt the Ordinance as it stands; seconded by Mr. Butkus. Mr. Schmidt called for a roll call vote. AYES – 7, NAYS – 0; motion carried.

The next issue was the Ordinance changes to the West Side Emergency Management Agency. Mr. Fitzpatrick gave a brief history of this board. There are some housekeeping changes that need to be made. Mrs. Shade explained the first change entails bringing the number of each municipalities representatives down from two (2) to one (1) with an alternate. The next change is that they must go out to bid for any item over \$10,000.00 just like the municipalities do. This was also advertised for adoption. Mr. Light made a motion to adopt the Ordinance accepting the changes of the West Side Emergency Management Agency; seconded by Mr. Zerr. AYES – 7, NAYS – 0; motion carried.

The Civil Services changes were next. Mr. Fitzpatrick stated the Mayor, the Chief and members of the Civil Service Commission have gotten together and agree there should be some changes to the Civil Service rules and regulations. There are a couple of “definitional” changes he felt should be made. There are some minor additions to provisions need to be made. The applicant’s age must be at least twenty one (21) years of age, it was 18 prior. There were changes to the physical fitness requirements. There were a few minor changes. He prepared a Resolution making these changes. The rules were adopted in 1984. Mr. Wenrich made a motion to adopt the Resolution making the changes; seconded by Mr. Zerr. AYES – 7, NAYS – 0; motion carried.

The next item was the Intermunicipal Agreement with Spring Township allowing Borough residents to dump their yard waste at their sites. We need to adopt the Ordinance but it must be advertised first. Mr. Zerr made a motion to have Mr. Fitzpatrick draw up the Ordinance for the yard waste site with Spring Township; seconded by Mr. Wenrich. AYES – 7, NAYS – 0; motion carried.

The Memorial Day Parade is Monday, May 28, 2007 at 10:00 a.m. Mrs. Kutz stated it starts on Broad Street and ends up at the VFW. There will be a carnival following the Memorial Service. There will be hot dogs, sodas, and games for the children to play. Mr. Butkus stated there is no rain date. Mr. Light is still looking for Council members that will be in the parade.

The next item was an update of the fire squad vehicle. Mr. Zerr deferred to Mr. Fitzpatrick. Mr. Fitzpatrick said that we authorized him to get financing for the vehicle. However, we first need to authorize Mr. Wentzel to negotiate the terms of the contract. The vehicle is actually going to be built and we will not acquire this vehicle till sometime next year. It would be premature to go for financing as most of the loans are only good for 90 days to 120 days maximum. We really will need to wait till November for that. Once again he said we need to authorize Mr. Wentzel to negotiate a contract and bring that back to Council for their approval. Mr. Butkus made the motion to authorize Mr. Wentzel to negotiate a contract; seconded by Mr. Wenrich. AYES – 7, NAYS – 0; motion carried.

UNFINISHED BUSINESS (cont'd):

The last issue was the bid outcome on the lawn equipment. Mr. Hart stated all the pieces are gone. We netted \$920.00.

NEW BUSINESS:

There will be a flu clinic on Wednesday, October 17, 2007 from 1 p.m. to 4 p.m. It is open to the general public. The flu shot will be available at a cost of \$25.00 and the pneumonia shot will be \$45.00. This is all tentative and if there is a shortage the clinic might need to be cancelled.

We received a resignation from Mr. Warren Bingaman. He served as the Chairman of the Planning Commission. Mr. Zerr made a motion to accept with sorrow the resignation of Mr. Warren Bingaman and direct the Borough Secretary to place an ad looking for a replacement on the Planning Commission; seconded by Mr. Wenrich. AYES – 7, NAYS – 0; motion carried.

Mayor Noecker requested permission to attend the PSAB and the Mayor's Association convention in King of Prussia. It is a four (4) day convention. Mr. Butkus made a motion to send the Mayor to the convention at a cost not to exceed \$500.00; seconded by Mr. Leiby. AYES – 7, NAYS – 0; motion carried.

PUBLIC COMMENT:

Mrs. Yarger questioned what kind of background is needed to serve on the Planning Commission. Mr. Ludgate stated she had a good background as her field is engineering.

EXECUTIVE SESSION:

An executive session was called for by Mr. Zerr for personnel issues at 9:00 p.m.

RECONVENE:

Council reconvened at 9:30 p.m.

Mr. Light made a motion to give a 4 1/2% raise to our street crew retroactive to January 1, 2007; seconded by Mr. Butkus. AYES – 6, NAYS – 0, ABSTAIN – 1 (Mr. Zerr); motion carried.

Mr. Zerr made a motion to accept the resignation of Miss Holly Guldin; seconded by Mr. Light. AYES – 7, NAYS – 0; motion carried. Mr. Zerr made a motion to hire Mrs. Stephanie Burkholder as a clerk at a rate of \$10.50 per hour to go to \$11.00 per hour after six (6) months probation; seconded by Mr. Butkus. AYES – 7, NAYS – 0; motion carried. She will be starting Monday, May 6, 2007.

TREASURER’S REPORT:

General Account

Opening Balance – April 30, 2007		\$	172,464.07
PLGIT			8,481.02
Invest	Recreation		44,603.41
	General Invest		513,798.65
	To Be Paid	\$	<u>20,293.01</u>
		\$	719,054.14

Sewer Account

Opening Balance – April 30, 2007		\$	62,019.53
PLGIT			57,102.32
Invest	Sewer Revenue		459,019.41
	To Be Paid	\$	<u>25,542.14</u>
		\$	552,599.12

Motion made by Mr. Light to accept the Treasurer’s Report; seconded by Mr. Leiby; AYES -7, NAYS – 0; motion carried.

Mr. Zerr and Mayor Noecker will be going to a special signing of the Mutual Aid Agreement at the Borough of Wyomissing.

Mr. Hart stated there is one (1) property on Vester Place that did not comply with the curbing request. He sent them another certified letter giving them till May 11th. Mr. Hart would like Council’s approval to hire a contractor to take care of this if they do not do it themselves. Mr. Leiby made a motion to allow Mr. Hart to hire a contractor to make the necessary repairs to the curbing on Vester Place; seconded by Mr. Zerr. AYES – 7, NAYS – 0; motion carried.

ADJOURNMENT:

Mr. Butkus made a motion to adjourn at 9:43 p.m.

Respectfully submitted,

Regina M. Shade
Borough Secretary/Treasurer