

The regular monthly meeting of the Borough Council of the Borough of Sinking Spring was call to order on Thursday, July 5, 2007 at 7:30 p.m., at the Sinking Spring Borough Hall, by President Lawrence Schmidt. After the Pledge to the Flag, Elizabeth White called the roll reflecting the following Council Members present:

Lawrence Schmidt  
James Zerr  
George Butkus  
Bruce Light  
Barbara Kutz  
Stewart Wenrich  
Dennis Leiby (absent)

Other officials present were: Mayor Clarence Noecker; Charles Fitzpatrick, Borough Solicitor; Elizabeth White, Administrative Assistant; who recorded the minutes of the proceedings.

Others present were: Robert Ludgate, Jr., Ludgate Engineering, James Oxenreider, Officer in Charge, Harry Reinhold, Liberty Fire Company.

**INTRODUCTION:**

Mr. Schmidt introduced our new acting Chief, James Oxenreider.

**APPROVAL OF MEETING MINUTES:**

Mr. Light made a motion to approve the meeting minutes from the May 3, 2007 meeting; seconded by Mr. Wenrich. AYES – 6, NAYS – 0, ABSENT - 1; motion carried.

**VISITORS:**

There were no visitors.

**COMMUNICATIONS:**

There were no formal communications that needed to be addressed.

**APPROVAL OF BILLS:**

Mr. Light made a motion to pay all the bills; seconded by Mrs. Wenrich. AYES – 6, NAYS – 0, ABSENT - 1; motion carried.

**MILLER ENVIRONMENTAL REPORT:**

Mr. Hillibush was on vacation. Mr. Butkus stated the total monthly was 19,032,100 gallons; average daily flow 634,400 gallons; maximum daily flow – 916,000 gallons; minimum daily flow – 507,000 gallons. The following percentages are each municipality’s contribution to the plant.

**MILLER ENVIRONMENTAL REPORT (cont'd):**

Sinking Spring (which includes an unmetered portion of Spring Township) – 68.5%, Lower Heidelberg Township – 22.4%; and South Heidelberg Township – 9.1%. Total rainfall at the plant was 5.50 inches. A brief discussion ensued as to the damage from the power surge and where we stand in getting everything up and running.

**REPORTS OF COMMITTEES AND OFFICES:****BOROUGH ENGINEER - ROBERT LUDGATE, JR:**

Mr. Ludgate stated Council had authorized Ludgate Engineering to take a look at a stormwater complaint on Mt. Home Road. Mr. Ludgate stated he saw the photos. He stated that there are two (2) sources of the water. One (1) is coming from the old quarry at Miller's. They had backfilled the quarry and the berm was constructed along the railroad tracks. Mr. Ludgate stated the earthen berm has failed. Muddy water is coming from the Miller property onto the railroad and eventually onto Mt. Home Road and then through the properties. The second source is the Sun Oil Tank Farm. They are pumping out. Mr. Ludgate stated that the berm on the Miller Property will need to be repaired. They stated it will be fixed by the weekend. They will plant some fast growing rye grass as well. He has not had a chance to talk to Sun Oil. He feels after the storm stops; that is when they pump out their muddy water. These are the two (2) sources. The real problem is that we can't get them into the stormwater project that was created on Mr. DiBiasi's property. The elevation will not work. What would work is catch basins on the Miller side of the road and pipe going under the railroad and picking up our stormwater on the other side of the private railroad. Mr. Schmidt questioned if this was one (1) of the things that was discussed when they were out there. Mr. Ludgate stated it was. This is not a Borough caused problem. This is stormwater mismanagement from two (2) sources. It is not the railroad's fault. Mr. Ludgate feels we need to get these two (2) properties to retard their stormwater and clean up the mud. We will need to talk to PENNDOT about installing a stormwater management system since it is their road. PENNDOT had wanted us to take over that road but Council stated not with the shape that road is in and not with the stormwater problem. He feels that PENNDOT will want us to take over the road. Mr. Ludgate stated with Council's permission he would like to say that we don't want the road; we just want to talk about the stormwater issue. He does not feel it is the Borough's expense to do this. Mr. Wenrich stated you can't have the dikes open. They are to contain 110% of what that tank contains. They can release said waters. Mr. Wenrich stated they can't be open. A brief discussion ensued. Mr. Wenrich feels they need to be monitored. The flow out of Miller's was tremendous. The quarry is 98% backfilled. Miller promised to plug their hole as Mr. Ludgate suggested. In addition, he will talk to Sun Oil. The muddy part will be cleaned up easily. The volume of water is not an easy solution. We need PENNDOT to correct the problem. A discussion ensued as to the backfilling at Miller. The Borough did not know about the filling in. DEP is the one (1) who regulates the filling in of the quarry. This is a violation of the Clear Water Act not a Borough Ordinance. Mr. William Moser questioned what would happen if PENNDOT does not want to fix the problem. Mr. Ludgate stated that no can discharge muddy water. The next issue would be is this more muddy discharge then we use to receive years ago. Mr. Ludgate stated he can recall that there was discharge. He can't recall it being muddy though. He feels Miller is the major change. A discussion ensued.

**PUBLIC WORKS DIRECTOR – MICHAEL HART:**

Mr. Hart reported that the two (2) new pieces of playground equipment are up and working properly.

The next item was Vester Place paving. Mr. Hart stated they have hit a major snag. When they began excavating and with the trucks rolling over the street many soft spots were discovered. Most of all the soft spots were over the two (2) gas mains. UGI was contacted and they had a major “fit” about us being close to their lines. They refused to give us permission to undercut the soft and yielding areas. We are now faced with trying to stabilize soft ground. They would like to put fabric down and then geotech fabric and then stone. This will hopefully secure the base. The problem is he is not sure that this will be 100%. Mr. Peter Eisenbrown along with Mr. Hart came up with this idea. Mr. Ludgate stated that this type of technique has been used by Ludgate in other areas. Mr. Ludgate said it will not work as well as if the area was drained out properly. Mr. Ludgate stated that his understating is that all utilities are there by the Borough’s sufferance. If they are in the way when we need to do road work those public utilities must address the issue. Mr. Ludgate stated the “road outranks them.” It might not be easy. We can try this approach first. Mr. Hart’s plan would work but not be 100% effective. Mr. Wenrich questioned where exactly the trouble is. They explained where the trouble is. A discussion ensued. Mr. Fitzpatrick feels that Mr. Ludgate and Mr. Hart meet with UGI to explain our position and if they fail to agree to it, it will need to come back to Council. Mr. Hart stated they don’t want us digging within 5’ of their pipe. Mr. Wenrich made a motion to authorize Mr. Hart and Mr. Ludgate to talk to UGI for a willing agreement and if they are not willing then we start whatever procedures we need to put into place so we don’t have to wait another three (3) or four (4) weeks to get it done; seconded by Mr. Butkus. AYES – 6, NAYS – 0, ABSENT – 1; motion carried. Mr. Schmidt questioned if Mr. Hart was aware with all the rain that day that the fire company was outing pumping cellars on Vester Place. It was at the alley off Woodrow.

Mr. Hart received a letter from PENNDOT about Liquid Fuels. As he was researching this he found that we do not have a lot of streets listed for Liquid Fuels dollars. A list of all streets was created and Mr. Hart will review it. He will then call Mr. Fitzpatrick and have an Ordinance drafted adding them to our Liquid Fuels list. Originally we had added them by Resolution instead of Ordinance. He figures there is about 1.7 miles of roadway. Mr. Ludgate asked if it was new construction. Mr. Hart stated some of the names of roads that he thought were not listed. Mr. Fitzpatrick feels that some of those roads were taken by Ordinance. Then we just need to copy that and send it off to Harrisburg.

Mr. Hart received the results of his test and he has passed. He is officially a residential building inspector.

**SEWER AND SANITATION – GEORGE BUTKUS:**

The trash committee had a problem getting together.

Mr. Butkus reported that no one showed up for the open house at the sewer treatment.

Mrs. Kutz stated her trash was not picked up that day. We received a few complaints

**SEWER AND SANITATION – GEORGE BUTKUS (cont'd):**

on this issue. Ms. White stated she will call them the next day. Mr. Schmidt stated we need to work diligently on the trash because we will need to go out for bids before too long. Mr. Butkus agreed.

**ADMINISTRATION – STEWART WENRICH:**

Mr. Wenrich requested toward the end of the meeting he would like to have an executive session.

**BOROUGH SOLICITOR – CHARLES FITZPATRICK:**

Mr. Fitzpatrick also was requesting an executive session for litigation purposes.

**MAYOR NOECKER:**

The Mayor stated we are currently working twelve (12) hour shifts. He is working with the Acting Chief on getting some new ideas in place. He also reported that the Acting Chief is doing a wonderful job.

**PUBLIC SAFETY – JAMES ZERR:**

Mr. Zerr stated the Safety Committee met. They have a request for a handicap parking space on Penn Avenue. Mr. Zerr made a motion to authorize the Street Department to put in the handicap parking space and 4052 Penn Avenue; seconded by Mr. Light. AYES – 6, NAYS – 0, ABSENT – 1; motion carried.

The next item was the noise ordinance. The issue was tabled at the Safety Committee since the length of some of the ordinance was so long it was impossible to read and comment on them. The members have the copies and they will reconvene at 2:00 p.m. on July 13, 2007 to discuss the issue again.

Acting Chief Oxenreider was asked to monitor and review the situation pertaining to lines of sights on Vester and Woodrow and on S. Hull and Columbia. This will be discussed further.

Mrs. Kutz questioned about false calls to the fire company. She said that when the police come out and it is a false alarm the people get charged. She was questioning if someone makes a claim against say the fire company for noise and the police come out but the noise level is fine, Mrs. Kutz questioned if the person calling in the complaint could be fined. Mr. Zerr said that the Safety Committee could review this. Mr. Schmidt feels it might be hard to enforce that. He questioned how can you say it is a false alarm? Mr. Schmidt feels it should be talked and reviewed but it might be hard to enforce.

**PUBLIC SAFETY – JAMES ZERR (cont'd):**

Mr. Zerr stated that the traffic signal maintenance contract was received. It was turned over to Mr. Fitzpatrick, who reviewed it and felt everything was fine. Mr. Zerr made a motion to enter into the agreement with PENNDOT regarding the traffic signals; seconded by Mr. Light. AYES – 6, NAYS – 0, ABSENT – 1; motion carried.

Mr. Fitzpatrick has been giving the spec bids for the new piece of fire apparatus. He has reviewed them and he sees no problem with it. Mr. Zerr made a motion to have the Borough enter into the contract to get the fire truck that is needed; seconded by Mr. Wenrich. A roll call vote was taken as the cost is \$182,090.00. AYES – 6, NAYS – 0, ABSENT – 1; motion carried. Mr. Fitzpatrick stated it will probably need financing. We won't be doing anything for this till October or November. That is why Mr. Zerr made on request for financing at this point in time.

**RECREATION – BARBARA KUTZ:**

Mrs. Kutz stated the spiral sliding board is broken. The cost is about \$3,500.00 to repair it. The cost of a new slide is \$5,600.00. The Rec Board makes the recommendation we purchase a new slide. Mr. Schmidt questioned what is the delivery time on the slide? Mr. Hart stated about five (5) weeks. Playground season will be over by then. Mrs. Kutz questioned if they should wait; however the Rec Board did want it in. Mr. Wenrich feels if the slide is in bad shape we should replace it. Mr. Wenrich made a motion to purchase a new slide; seconded by Mr. Light. AYES – 6, NAYS – 0, ABSENT – 1; motion carried.

The next item was the two (2) benches for Brookfield playground. Mr. Schmidt thought they were ordered earlier in the year. Mrs. Kutz stated it never happened; we did get some for our playground. The price is \$917.00 and that includes shipping. Mr. Zerr made a motion to buy the two (2) benches; seconded by Mr. Wenrich. AYES – 6, NAYS – 0, ABSENT -1; motion carried. Mr. Ludgate stated we still have developer money to use. Mr. Schmidt questioned what happened to the trees at Brookfield. Mr. Ludgate stated we told them that we didn't want to see anymore new trees added but the dead ones need to be replaced. He did that. The dead ones aren't replaced. Mr. Schmidt questioned if anything has been done in regards to the people along Reedy Road having access since the fence is up there. Mr. Hart and Mr. Eisenbrown met with Ryan Homes and with Mr. Elliot regarding this item. Ryan Homes is thinking about removing a section at each home giving them access. The property owners were not aware that they own that property. They thought where the fence came to was the end of their property. Mr. Hart stated it is now up to the property owner and Ryan Homes where they want to go with it.

The picnic at the playground has been cancelled for this year. Instead we will be going to the Reading Phillies game on August 5, 2007 for a baseball game at 6:05 p.m. There are seventy five (75) seats available.

The last item was there will be no Rec Board meeting in July. Mrs. Kutz asked Ms. White to let Mrs. Shade know so she could run an ad cancelling the meeting.

**BUILDING, STREETS, AND PROPERTY MAINTENANCE - BRUCE LIGHT:**

Mr. Light stated the awning is up and completed.

The Street Committee will be meeting. He will check with Mrs. Kutz and Mr. Wenrich when they are able to meet.

**ACTING CHIEF – JAMES OXENREIDER:**

Acting Chief Oxenreider had nothing to report.

**LIBERTY FIRE COMPANY – HARRY REINHOLD:**

Mr. Reinhold stated everyone got their report for the month of June. The fire company ran 39 calls. The average turnout of personnel was 16.

They received the last of the FEMA Grant apparatus. It should be in service within the next week.

Mr. Wenrich questioned who owned the hydrants. Mr. Hart stated that Mrs. Shade was looking for something in the Ordinances and came across some information. We paid rent for the hydrants. Mrs. Kutz questioned who we paid rent to. Mr. Hart stated it was Citizens back then. She did not find anything more on this. Mayor Noecker insists that we own them. We bought them. Mr. Butkus stated we have to buy them when they need to be replaced. Mr. Schmidt stated he doesn't disagree with this but it would be nice to see that in writing some place. Mr. Wenrich made a motion to have Mr. Fitzpatrick write a letter to PA American Water Company and find out who owns the hydrants and in addition if they own them that they replace the ones that need to be replaced at their cost; seconded by Mr. Zerr. AYES – 6, NAYS – 0, ABSENT – 1; motion carried. A brief discussion ensued. Mr. Zerr questioned where we stand with the dry hydrant. Mr. Hart stated he is working on the permit. It is almost ready to go out.

**UNFINISHED BUSINESS:**

Bulk cleanup will be Wednesday, October 24, 2007. Mr. Butkus reminded everyone of what can and can't be put out for cleanup.

There will be a flu clinic on Wednesday, October 17, 2007 from 1 p.m. to 4 p.m. at the Borough Hall.

The next item was in regards to block parties on Sylvan Place. Mr. Hart said Mrs. Shade received an e-mail a few months back from someone on Sylvan Place requesting barricades for three (3) dates during the summer. Apparently, it has been passed practice to give them these barricades, Mr. Hart said. He knows one (1) person for sure who does not want the barricades on their property and that is just for staging purposes. Mr. Zerr stated he thought we had a discussion about this last year and we weren't going to provide the barricades. If they want to do this it was on their own. Mr. Butkus thought we did but he was wondering if the Borough had to close the street. Mr. Zerr stated then they are operating illegally. Mr. Fitzpatrick stated the Borough must permit it.

**UNFINISHED BUSINESS (cont'):**

Mr. Light stated that is one (1) of the items he wants to discuss with his committee when they meet. In the past as he recalled we only gave them the barricades once, but now they want it three (3) times. Mr. Ludgate stated we need to close that street properly with the proper signage. The one (1) fear that Mr. Ludgate has making the applicant responsible is that we can give them this is the type of sawhorse this is the type of sign but if they don't do it properly and yet we give them permission to close the street and someone is confused because the signage isn't clear, something could happen and the Borough could be liable. If we are going to allow it, we should do it by permit. The Borough crew should put out the proper signs; our crew picks up the signs. Ms. Kim Reifsnyder, Supervisor in Lower Heidelberg, stated they had the same type of problem in their Township. They not make them fill out a permit and leave a deposit. Their road crew puts out the barricades and then picks them up when the event is over. The reason for the deposit is to replace or repair the barricades in case they are damaged or lost. Mr. Schmidt thinks this is something to think about. Mr. Butkus added that while the committee is meeting they might want to come up with a list of roads that can't be closed for block parties. Mr. Ludgate stated we should like at this with our emergency management personnel as well, because there are other roads, not necessarily State roads, that should not be closed due to access.

**NEW BUSINESS:**

The first item under new business is the "Stop Dumping on Berks" resolution. Mr. Butkus made a motion to accept the above mentioned resolution; seconded by Mrs. Kutz. AYES – 6, NAYS, 0, ABSENT – 1; motion carried. Mr. Zerr explained what this resolution is. It a reward someone will receive if they report someone illegally dumping in Berks according to Mr. Wenrich.

The next item is Brookfield Manor Phase I Escrow Release #19 in the amount of \$12,942.00. Mr. Eisenbrown is recommending that the letter of credit be reduced by this amount. Mrs. Kutz made a motion to release \$12,942.00 from Brookfield Manor Phase I; seconded by Mr. Butkus. AYES – 6, NAYS – 0, ABSENT – 1; motion carried.

Brookfield Manor Phase II Escrow Release #11 in the amount of \$9,785.00 was next on the agenda. Mr. Eisenbrown is recommending that letter of credit be reduced by this amount. Mr. Butkus made a motion to reduced the letter of credit by \$9,785.00 with no more escrow releases happen until the trees are replaced; seconded by Mr. Wenrich. AYES – 6, NAYS – 0, ABSENT – 1; motion carried.

Mr. Schmidt introduced Mr. James Yarger to Council as well as the audience. He is our new Planning Commission member. explained how it could be fixed using the existing lights. Mr. Wenrich stated we could be setting precedence by aiding them in getting a traffic light; we could then have to do that for all businesses within the Borough. Mr. Zerr feels it could be a liability issue as well. Mr. Schmidt called for a vote on the above motion. AYES – 7, NAYS – 0; motion carried.

**PUBLIC COMMENT:**

Mr. John Troutman of Cacoosing Avenue stated will all this rain and the construction of Brookfield Manor something needs to be done as water is backing up into his basement. It is sewer water not rain water. Mr. Butkus stated if this is the case then there is a leak in the line as the rain water should not be impacting the sewer line. Mr. Butkus stated he will talk with Justin at our sewer plant as Roger is on vacation. Mr. Troutman stated it happened once before.

Someone questioned if Broad Street was getting “ripped” up. He was wondering what the timetable was on that. Mr.

**EXECUTIVE SESSION:**

An executive session was called for by Mr. Zerr for personnel issues at 9:30 p.m.

**RECONVENE:**

Council reconvened at 9:50 p.m.

Mr. Light made a motion to accept Stephanie Burkholder’s resignation; seconded by Mr. Wenrich. AYES – 7, NAYS – 0; motion carried.

Mr. Zerr made a motion to purchase three (3) filing cabinets at roughly \$400.00 each and let the Authority have the keys if the Authority agrees; seconded by Mr. Wenrich. AYES – 7, NAYS – 0; motion carried.

**RECONVENE (cont’d):**

Mr. Butkus made a motion to place three (3) or the four (4) computers on E-Bay; seconded by Mr. Zerr. AYES – 7, NAYS – 0; motion carried.

**TREASURER’S REPORT:**General Account

Opening Balance – May 31, 2007	\$	281,306.12
PLGIT		8,481.02
Invest	Recreation	44,663.36
	General Invest	513,988.50
	To Be Paid	\$ 0.00
		\$ 848,439.00

Sewer Account

Opening Balance – May 31, 2007	\$	50,167.57
PLGIT		57,108.76
Invest	Sewer Revenue	459,485.71
	To Be Paid	\$ 0.00

\$ 566,762.04

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

**ADJOURNMENT:**

Mr. Butkus made a motion to adjourn at 9:55 p.m.

Respectfully submitted,

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Regina M. Shade  
Borough Secretary/Treasurer