

The regular monthly meeting of the Borough Council of the Borough of Sinking Spring was called to order on Thursday, August 2, 2007 at 7:30 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 (absent)
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, James Oxenreider, Acting Chief (will be referred to as Chief Oxenreider for the minutes), David Schlott, Jr., Arro Consulting.

Before the roll call Mr. Schmidt requested a moment of silence in memory of the victims of the bridge collapse in Minneapolis.

APPROVAL OF MEETING MINUTES:

Mr. Zerr made a motion to approve the meeting minutes from the July 5, 2007 meeting; seconded by Mrs. Kutz. AYES – 6, NAYS – 0, ABSENT - 1; motion carried.

VISITORS:

Mr. Les Weaver will wait for Mr. Ludgate to arrive before asking his question.

COMMUNICATIONS:

There were no formal communications that needed to be addressed; however Mrs. Shade read a letter commending the playground leaders for the outstanding job they did at the “camp out.” Mrs. Shade also showed the trophy the children won. They placed first in County Kickball.

APPROVAL OF BILLS:

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

MILLER ENVIRONMENTAL REPORT:

Mr. Hillibush gave the following report from July, 2007. The June, 2007 DMR was completed and submitted to the PA DEP during the month. There were no violations. Six (6) commercial user permits were delivered to their perspective businesses for review and signatures during the month. Seven (7) completed commercial user permits were issued during the month. The first 2007 industrial sampling were completed, data entry and billing will follow. The 2nd quarter local limits testing, billing and data entry were completed. The total monthly flow was 19,137,300 gallons – average daily flow – 617,300 gallons – maximum daily flow – 1,033,000 gallons – minimum daily flow – 467,000 gallons, and there were no NPDES violations as of July 24, 2007. They were waiting results from July 30th and 31st. No violations are expected. The percentages of flows for the month were as follows: Sinking Spring (which contains an unmetered portion of Spring Township) – 64.2%, Lower Heidelberg – 26.6%, and South Heidelberg – 9.2%. Total rainfall for the month was 5.20 inches. The staff completed the routine operation and maintenance duties, responded to twenty (20) PA One calls. There were no service calls for the month. The staff read the collection meters five (5) times. On June 12, 2007 there was a lightning strike at the plant. All repairs are completed with the exception of the backup v-notch chlorinator cpu and the backup sodium bisulfate pump. Both of these repairs should be completed the first week of August. The staff televised approximately 400 ft. of sanitary sewer main and about 400 feet of storm water. They flushed approximately 1,088 feet of sewer main. A new plant effluent sampler head was received and placed into service. The staff serviced and inspected the collection system bio augmentation meter during the month. Mr. Butkus questioned when the new chart recorders were put in. Mr. Hillibush said about two (2) weeks prior.

REPORTS OF COMMITTEES AND OFFICES:**BOROUGH SEWER ENGINEER – DAVID SCHLOTT, JR.:**

Mr. Schlott presented to Borough Council the results of the I & I Report. It was done by the Authority and presented at their June meeting. There are some significant leaks and they were prioritized in the report. Table one (1) were visible leaks that were estimated leaks. Table two (2) was areas that appear to be potential leaks. There were gaps but nothing was leaking at that time. Table three (3) was areas that were to be treated for roots. At the last Authority meeting based on the results, ARRO should prepare some contract documents to make those repairs. Just to repair table one (1) and table two (2) would be about \$79,000.00. Mr. Schlott stated that there is a significant leak between manholes 186 and 187 on Broad Street. This does not include this portion. The Authority has taken on this project and has authorized ARRO to prepare specs and to get them fixed as quickly as possible. As far as the roots go the cost is about \$7,500.00. They could lump everything together but Mr. Schlott feels it would be advantageous to keep that separate since this section is under \$10,000.00. Mr. Schlott explained what would be in the specs. ARRO recommends that since this is maintenance, that the Borough reimburse the Authority for the cost associated with the I & I repairs. The DEP got a report that the leak on Broad Street was leaking out 50,000 gallons into the waterways of the Commonwealth. Mr. Schlott stated that was not true. It is water leaking into the system. It is high unlikely that water would be leaking out. ARRO talked to DEP and they want to see what direction the Borough and Authority is leaning towards before any letters or anything is generated. Mr. Schlott recommends that representatives from the Borough sit down with representatives from the Authority and decide what repairs will be done

BOROUGH SEWER ENGINEER – DAVID SCHLOTT, JR. (cont'd):

there. The tentative plan is to put an alternate item in to replace manhole 186 to 187, both manholes and the line. Mr. Butkus stated that the line will be replaced with fifteen (15) inch. He got that information from the Authority. Mr. Fitzpatrick questioned why would we upgrade that to the fifteen (15) inch? Mr. Butkus stated that was due to the amount that flows through and to that line. Some of this burden would be placed on developers when they want to develop that area. Mr. Schmidt feels that we should approve the \$79,000.00 but not include Broad Street. There is a development going in over there and that needs to be considered. There are some other issues too. Mr. Schmidt feels we should move rapidly to make those repairs and wait a week or two for Broad Street till we see where these other items might be. Mr. Wenrich questioned the 50,000 gallons, was that a day? Mr. Schlott stated it was. Mr. Wenrich questioned where the 50,000 gallons is coming from. Mr. Schlott stated it was ground water and it was coming from various locations between manhole 186 and 187. Mr. Wenrich questioned if 50,000 gallons a day wouldn't create a huge sinkhole. Mr. Butkus stated most of the time but depending on the soil it might not necessarily create one. Mr. Ludgate stated that the pipe is acting as a drain. It is located from Miller Drive to Kirkwood. Mr. Butkus made a motion to reimburse the Authority for the estimated cost \$79,000 for tables one (1) and two (2) with the option of doing Broad Street which is manhole 186 to 187 as a separate item; seconded by Mr. Wenrich. Mr. Fitzpatrick wanted to make sure of the size of the line. Mr. Butkus stated it is currently a ten (10) inch line but at some point in the future it will need to become a fifteen (15) inch so instead of digging it up now and putting in the ten (10) and have to dig it up later to put in a fifteen (15), we should just put in the fifteen (15) now. There are four (8) inch lines flowing into the ten (10) inch line now. Mr. Schmidt called for a roll call vote. AYES – 5, NAYS – 1 (Mr. Zerr), ABSENT – 1; motion carried. Mr. Butkus and his committee met and since the lightning strike, they feel it might be prudent to set up two (2) separate maintenance accounts, one (1) for the plant, and one (1) for the sewer lines. Mr. Schmidt stated we will be beginning budget negotiations in the next few months and we can certainly talk about it; however he wanted to remind everyone of the division of responsibility between the Borough and the Authority. Some of the issues that the Authority is being very active in, and he was appreciative about that, are the Borough's responsibility. He does not want anyone to think that Council is "shirking" their responsibility. Mr. Schmidt has heard comments that this Council does not want to do anything, and he stated that is not true at all. The Borough has been very proactive in doing repairs when they have been brought to light. He just wanted that mentioned for the record. Mr. Butkus made a motion to authorize Mr. Schlott to get three (3) quotes for treating the root problem from specialty companies as mentioned in table three (3) not to exceed \$10,000.00 although ARRO's thought is it should be about \$7,500; seconded by Mr. Leiby. Mr. Schmidt called for a roll call vote. AYES – 6, NAYS – 0, ABSENT – 1; motion carried. Borough Council asked ARRO to do some specs for repainting the primary digester at the sewer plant. The estimated cost was \$15,000.00. The tank has a capacity of about 160,000 gallons of sludge that is presently in the tank. It will take about two (2) months notice, Mr. Hillibush can begin drawing down on this to minimize what will needed to be hauled away. To take this to the Berks County Wastewater Treatment Center will cost about \$4,000.00 to empty the tank. Once the tank is emptied there will be temporary measurers to take the waste active sludge which is anywhere between 10,000 to 14,000 gallons a day. The cost to transport the sludge is about \$5,000.00 a day. Once the contractor begins, it should take no more than three (3) weeks. The auxiliary costs will cost more than to repair the bridge. Mr. Leiby questioned if we could place the sludge in the reed beds. Mr. Schlott stated not with the bio augmentation process. A brief discussion ensued. Mr. Hillibush explained

BOROUGH SEWER ENGINEER – DAVID SCHLOTT, JR. (cont'd):

that we would overload the reed beds with this much sludge. In addition, we don't want to start the bio augmentation all over again. Mr. Schmidt questioned if we could put a penalty clause in the specs that they would be charged so much if the project is not completed by a certain time. The answer was yes. A brief discussion ensued as to how long it will take to get the project done. Mr. Schlott will amend the bid document. A discussion ensued as to the time it might take to do this project. Mr. Schlott will see that Mr. Fitzpatrick gets a copy of this for his review. Mr. Butkus wondered if Council wanted to review the document after Mr. Fitzpatrick. If we authorize in September they can open in September or we could work on a shorter time line, Mr. Schlott stated. Winter is approaching. Mr. Butkus made a motion based on Mr. Fitzpatrick's review that we authorize ARRO to place this out to bid reflecting the changes here so that we can have bidding prices at our next Council meeting; seconded by Mr. Leiby. AYES – 6, NAYS – 0, ABSENT – 1; motion carried. A discussion ensued as to replacing the pipe to larger pipe while still having a smaller pipe wouldn't that create a problem. Mr. Schlott stated no, and he explained why. The next question was how long would it take to replace the line? Mr. Schlott stated about two (2) weeks. He explained how it will work.

SEWER AND SANITATION – GEORGE BUTKUS:

Mr. Schmidt asked Mr. Butkus if any work has been done on the trash contracts. Mr. Butkus stated that he has met with his committee. They have a few recommendations. The first being what would the cost be to have the haulers do the billing? While we aren't sure that we will go that route, we want to see the cost. The second would it to see how much of a difference it would make if we got away from two (2) bulk cleanups a year to maybe one (1) bulk item a week or a month. The other item was one (1) or two (2) pickups a month. They would also like to see the cost of a two (2) year and a three (3) year contract. Now, we are on a three (3) contract. Mr. Zerr questioned if they thought about a five (5) year contract. Mr. Butkus has no problem with that the only concern is whether a hauler will commit to a five (5) year contract. They will probably add an escalation clause. Mr. Fitzpatrick will do the specs and see that Mr. Butkus reviews them. Mr. Butkus made a motion to authorize Mr. Fitzpatrick to draw up the specs for trash haulers based on the limited modifications as listed above; seconded by Mrs. Kutz. AYES – 6, NAYS – 0, ABSENT – 1; motion carried. It was decided to leave it at once a week. A discussion ensued as to pick up days. Mr. Biggs stated our current trash hauler is great. Mr. Hart showed a new sticker that will be placed on trash that is not picked up. There are different reasons for this. These stickers will explain to the homeowner exactly what the problem is if their trash is not picked up.

The Household Hazardous Waste Pick Up will be at First Energy Stadium on October, 13th. The Household Electronics day will be on October 27th at First Energy Stadium as well.

ADMINISTRATION – STEWART WENRICH:

Mr. Wenrich stated that we are currently interviewing for the secretary position. He hopes by the next meeting we will have some answers.

ADMINISTRATION – STEWART WENRICH (cont'd):

At a committee meeting it was brought up that our Public Works Director has met some of the requirements. Mr. Wenrich made a motion to give Mr. Hart a raise of \$1,500.00 per year; seconded by Mrs. Kutz. Mr. Schmidt explained what the commitment was to Mr. Hart in regards to the completion of certain courses. Mr. Wenrich explained this is less money we will be giving to our engineering firm and more money that will be staying in the Borough's coffers. Mr. Schmidt called for a roll call vote. AYES – 6, NAYS – 0, ABSENT – 1; motion carried. Mr. Butkus questioned since we are now doing inspections in house do we need any additional insurance. Mr. Fitzpatrick stated we have governmental immunity with building inspectors. Mr. Fitzpatrick does not know exactly what the amount is. He does not believe we should need anymore. He will check with Mrs. Shade on the exact amount.

MAYOR NOECKER:

The Mayor has nothing to report at this time.

RECREATION – BARBARA KUTZ:

Mrs. Kutz had no report as they did not meet.

LIBRARY – DENNIS LEIBY:

Mr. Leiby stated the Board did not meet. The bookcases will be moved and carpet replaced under the cases. They are looking at getting a mover currently. The carpeting will be laid in December.

PUBLIC SAFETY – JAMES ZERR:

Mr. Zerr stated the Safety Committee met and went over the noise ordinance. That item is on the agenda.

The next item was a police officer matter. He would like an executive session to discuss that matter.

The fire hydrant issue on Park Avenue was the next. Mr. Zerr stated that they reviewed the fire hydrant plans as PA American is to do the water line down there. The final plan showed that they will not be coming right up Penn Avenue. We can't put a hydrant at the corner of Penn and Park Avenue. The distance between the last hydrant in the Borough at Penn and Wynnewood to Park Avenue and Penn is 1,132 feet. PA American's proposal is to stop 135 feet prior to the Borough line, come back along and under the creek and all the way down and come across just before Ruth Street. The distance from that hydrant to Penn is 562 feet. Mr. Zerr would like Council's approval to enter into negotiations with South Heidelberg Township and PA American Water to see if we can have a hydrant put just on the other side of the bridge where they are going to come back to Ruth. That will cut the distance between Wynnewood and Park to about 620 feet. That is more realistic. All the businesses on the north side of Penn, there is not really much water down there. In addition, this will also benefit South Heidelberg if we can get them to go along

PUBLIC SAFETY – JAMES ZERR (cont'd):

with this. This might cost us about \$3,000.00. Mr. Leiby asked who will own the hydrant. Mr. Wenrich stated we still don't know who owns the hydrants. Mr. Fitzpatrick stated we think we own them. Mr. Wenrich gave Mr. Zerr the authority to contact South Heidelberg and work up a deal in the sharing of the hydrant located at the bridge on Penn Ave; seconded by Mr. Butkus. AYES – 6, NAYS – 0, ABSENT – 1; motion carried.

We have a request from the residence at 19 Spring Crest Boulevard for a handicap space. It has been reviewed by Acting Chief Oxenreider, the Mayor, and himself. There was no problem with the request. Mr. Zerr made a motion to grant the space and to have Mr. Hart post the property; seconded by Mr. Wenrich. AYES – 6, NAYS – 0, ABSENT – 1; motion carried.

The next issue was Willow Glen Park. Mr. Zerr had attended the Spring Township meeting and stated the Borough's concerns. We are in receipt of a complaint from about 35 residents from that area. Mr. Schmidt, Chief Messner, Mr. Norm Dettra, and Mr. Zerr met the day before to discuss this issue. At this point there is not much we can do as we have nothing in place to stop it. They now have a copy of the Spring Township's ordinance for special events. The Safety Committee will be looking into this and possibly adopt something like this. Part of his is land is in the Borough and part is in the Township. Mr. Zerr feels that it would benefit us both if we had something comparable. Mr. Wenrich stated they give hours of operation till 11:00 p.m. He stated the complaint he receives is if that continues till 11:00 people won't leave till 12:00 a.m. and people need to get up for work the next day. He stated in our noise ordinance that the cut off time is 10:00 p.m. He feels we should try to get the time knocked down till 10:00 p.m. Mr. Zerr again stated it will go back to the Safety Committee. Mr. Schmidt said the complaint we got was primarily in regards to the Apple Dumpling Festival. They just found out that the bulk of the attractions at that Festival did take place in the Borough. The permits that they now want to issue are for Shocktoberfest and Jingle Bell Fest of which is primarily in the Township. This is not the noise ordinance. Mr. Fitzpatrick stated Spring defines when a permit is required. He stated we are going to run into issue if the gathering took place in Sinking Spring or Spring Township. Mr. Fitzpatrick feels we should contact Spring and enter into a joint ordinance rather than each of us has separate ones. He feels it would be easier to enforce. Mr. Butkus stated by doing it that way would that would not allow our residents to complain about Shocktoberfest. Mr. Fitzpatrick hopes this would be an issue they could work together on. Mr. Fitzpatrick will talk with Mr. Jim Lillis, Spring's solicitor.

The last item was there will be a Safety Committee meeting on Friday, August 17th at 2:00 p.m. He would like the Borough Engineer to be there as this is in regards to a traffic light at Rt. 724.

UNFINISHED BUSINESS:

Fall cleanup will be Wednesday, October 24, 2007 with regular trash. Mr. Butkus explained what can't be placed out at the curb.

Flu clinic will be on Wednesday, October 17th from 1:00 p.m. to 4:00 p.m. at the Borough Hall.

UNFINISHED BUSINESS (con't):

The next item was the Main Street Project. Mr. Schmidt explained that the Main Street Project is money we would receive for revitalizing certain areas. When we started talking about Traditions, a conceptual plan was drawn up to do some things on Penn Avenue. Some on Council feel now is the time to revisit these plans. We are talking about improving Penn Avenue from Cacosing to Queen Street. What really began driving this was a seminar that Mr. Zerr, Mrs. Shade, and Mr. Schmidt attended in Annville run by Senator Mike Folmer. One of the grants that are available for this type of work is the Main Street Grant. We talked to Mr. Dean Fernsler and he referred us to some people in Harrisburg. There is a tremendous amount of money available if we decide to pursue this. We are proposing this to the audience tonight to see how the residents would feel about this project. We do not have a lot of information at this point in time. We have a copy of the map that was drawn up. We would like to find out if the general public wants us to pursue this. Mr. Schmidt feels it is imperative we do something. We have portions of the Borough that are not doing us any favors. Redeveloping these areas could give a real boost to our tax base. Mr. Schmidt turned the floor over to Mr. Zerr. Mr. Zerr stated the grants that are available have certain requirements. If we do some of the work in house the first few years, we get money for that. We can get up to \$50,000 to put a Main Street Manager in place to do just that. One of the reasons we want to do this is because that area is stagnant. We are looking at improving the intersection at Penn and Cacoosing. We would extend Cacoosing and Penn down through the back and come around the backside and extend the road. It would become reverse frontage. It would cut down on left and right turns. Mr. Ludgate held up the conceptual plan. Mr. Ludgate started explaining what the map depicts. A discussion ensued as to putting a bypass similar to what is in Lebanon in for the traffic on Penn. A long discussion ensued as to the map and the possibilities. Mr. Ludgate explained that we only have real one (1) real estate tax generating business in the Borough. If they should leave, we would be hurting. Mr. Ludgate continued that this plan would help generate not only real estate tax, but other taxes as well. This will help keep the Borough solvent and moving toward the future. It would balance out the tax base. Other agencies would need to approve the plan as well, i.e. PENNDOT, etc. Mr. Ludgate explained that the grant might require us to do an 80/20. They would give us 80% of the money needed and we would supply 20%. The 20% could be money, but it also could be labor, those types of things. The audience asked many questions and Mr. Ludgate try to answer them. He stated that some of the land would need to be condemned to make this project viable. The plan that they were looking at would raze the Boscov's building. A long discussion ensued again. Mr. Ludgate explained the 80/20 is basically to show the Governor's Center, PENNDOT, DCED, etc. that you are truly behind this project. They want to see the Borough put people on this plan, sort of "put your money where your mouth is" and show us that you are really serious about this project before we give you the money. The next phase after that would be a steering committee would be formed. Different people from different area will be on that committee. Mr. Ludgate stated West Reading was built on grant money and the salary came from grant money. Another discussion ensued about traffic flow. Mr. Ludgate explained where all the money could come from. He stated that we would do the work, present a viable plan, show what land must be taken, those types of things. We are not picking up the cost for construction. Mr. Ludgate knows this because they were the engineer on both the Hamburg and the West Reading Main Street projects. Mr. Biggs questioned if developers are interested in this "blighted" area if traffic could be controlled. Mr. Ludgate said yes, there has been. Some developers have seen the conceptual plan and are interested. They like the area; they don't like the traffic problem. Mr.

UNFINISHED BUSINESS (con't):

Biggs was very pleased with the idea. Mr. Pachuillo would like to be involved with this project. Mr. Schmidt explained how this would work. The steering committee will be formed after we meet with all the bodies that could give us money. Mrs. Shade stated after her conversation with the State, first a core group of people is formed; which would be members of Council along with office staff, and members from the State. Mr. Brian Jerimiah from the Governor's Center is our current contact. They will come and walk the site, we need to answer their questions, and then after that the steering committee will be formed. Mr. Ludgate explained how it worked in the other two (2) municipalities. Someone questioned how many parcels would have to be taken to make this plan worked. Mr. Ludgate stated he could not give a firm answer as this is only a conceptual plan. They need to come up with a real firm plan before that can be answered correctly. Some people might need to be completely bought out while others might only loose a piece of their property. Mr. Wenrich questioned what the window of opportunity is. Mr. Wenrich wondered if we don't act on this now, someone else will get it. Mr. Zerr said "exactly." Mr. Wenrich stated we paid the money out of our taxes anyway; we might as well get it back instead of having it go to Philadelphia. We might as well take advantage of it. This money is set aside for communities just like us, Mr. Ludgate said. Mr. Zerr said if we don't go after this plan, bring business back into this Borough, and if something happens to ALCON, within two (2) years we will become part of South Heidelberg, Lower Heidelberg, or Spring Township. We owe this to our residents. We could be very solvent if we buy into this plan. Mr. Schmidt told the audience that what they were trying to get that evening was a consensus, should we move ahead with this project or not. Mr. Harting stated we seem to be trying to put ten (10) pounds of stuff into a five (5) pound bag. He stated the Planning Commission has been approached about a plan and reversing Vester Place. We have a five (5) point intersection, they will wear that pole down, he said, and eventually the pole will come down. There is $\frac{3}{4}$ of an acre there (corner of Columbia and S. Hull St.) where they want to put condos in. Those people will come out on S. Hull or they will have to go across and come out of the VFW. He wondered where that traffic is going to be dumped. He stated that the Commission will be faced with that $\frac{3}{4}$ of an acre project. Mr. Ludgate stated that probably won't happen as that developer appeared in front of Council and Council has not agreed to this at point. The zoning is not in place for this type of development right now. He can't do it. The other thing, Mr. Harting, stated is if you cut in and continue down to Clemantis and come across the railroad, you don't have a line of sight to cut off the railroad. Mr. Ludgate stated the plan in front of them right now does not include that idea. They did not go that far. Plan B has been verbalized by a resident but not drawn up. Plan B would probably be something the steering committee would look at. The only thing on the table tonight is to get rid of the blighted area. This project is what we need to talk to The Governor's Center about. Mr. Schmidt stated we are just looking for a feeling from the residents there, should Council look into this further, or do they not want to move in this direction. Mr. Schmidt asked for a show of hands. Only one (1) resident was against it. There were about 20 to 30 people in attendance. Mr. Wenrich made a motion to get this study up and rolling and do what we need to do to get to the next step; seconded by Mr. Zerr. Mr. Butkus wanted to make sure this was just a fact finding mission. Mr. Schmidt stated we only have talked briefly with the State. At this point in time, the State appears to be very interested in doing this, but it could fall flat on its face as we have not sat down with these people. We are authorizing Ludgate to draw up plans to show to the State. Mr. Ludgate stated this does not mean a construction plan at this point either.

UNFINISHED BUSINESS (con't):

This does not mean “hard” engineering just like how many properties we might need. Mr. Biggs questioned if there was money available to current homeowners or businesses on Penn Avenue that might want to “spruce” up their properties. Mr. Ludgate stated that there is and it would tie in beautifully with this project. Mr. Schmidt stated Mrs. Shade has some information on this. Mrs. Shade said there is the Elm Street Grant. There is money available for low interest money, many different avenues to look down. Mr. Ludgate stated the project would be from Borough line to Borough line and let everyone know along Penn Avenue what we are planning on doing. Mr. Schmidt called for a roll call vote. AYES – 5, NAYS – 1 (Mr. Leiby), ABSENT – 1; motion carried.

The next issue was in regards to block parties. Mr. Hart explained that we have had a few residents that have requested barricades to close off public streets in the Borough. In the past, we have allowed that. The question has come up if we want to come up with a permitting process so we can have some rules in regards to this issue. This means that everyone that would be affected by the closing is notified. In addition, the street will not be totally closed for emergency personnel. We are looking for the okay for writing a policy on this or if Council even wants to get involved. Mr. Schmidt asked Chief Oxenreider his feelings on this issue. Chief Oxenreider stated we did have some discussion. We did talk about the permit and only blocking off half the street so they can get down if need be. Mr. Edward Sep questioned what the problem is. He stated they have done it for eight (8) years. The only people that need to use that street are the people that live on Ashley. If police need to come up they can come right up. The people who don't attend can come up and down the street. They have hours from about 12:00 to 7:00 p.m. They don't do it for three (3) days; they do it for one (1) day. The older people attend, that is how they meet the new neighbors. He was quite upset that Council would want to stop it. Mr. Schmidt's understanding on this is that there is concerns by the fire company, Western Berks Ambulance that they need to have access. The one Mr. Schmidt was aware of was Sylvan Place. Mr. Sep stated they do have parties three (3) times a year, with each time being three (3) days. Their party is only once a year for a few hours. Mr. Sep was not happy to pay a permit fee for the once year party. He understands if you have more than one (1) a year, the permit fee might be necessary. Ashley was not discussed at all in the meeting. Mr. Sep stated they do not have fireworks or live bands like the other area does. Mr. Wenrich stated he was at the meeting. He stated that they are trying to be fair and balanced. If someone on Woodrow wants to have a block party are we going to close Woodrow and allow them to have a party? He does not think so as it is a State road, an access road. The other issue was the liability issue of the Borough. He stated granted everyone on the block might say they aren't objecting to the party, but what about the one (1) person that does not participate. What if they have a family emergency and there was a delay in getting the help they need there, Mr. Wenrich wondered if we would have any liability in this matter. The other thing is we have Heritage Park, we have our own playground, and soon Brookfield Manor Playground where these events could happen. Mr. Wenrich understands that things have been going along with no problem, but in this day and age where everything is driven by lawyers, we have to look at that. Mr. Sep understands that, but the elderly people have a hard enough time getting up the street, much less getting to a playground for the event. He feels it is crazy. Mr. Fitzpatrick stated there is a potential liability for the Borough; however there is potential of liability in any governmental function. What they did for the last event was prepare waivers for the residents to sign. That minimizes the liability of the Borough. A discussion ensued as to fire trucks and emergency vehicles getting through. It is fairly

UNFINISHED BUSINESS (con't):

common in some municipalities to do block parties. Mr. Fitzpatrick feels it should be limited to a certain day and time per year rather than repetitive requests for block parties. Mr. Pachuillo stated so the Borough is not trying to get rid of block parties altogether but permit it so that everyone is notified. Mr. Hart said that a permit would give us a street footprint so that if food wagons come in, that they don't totally block the street. Mr. Hart stated that Ashley is fine, but other streets could get wild with these things. Mr. Sep understood that but if this is happening on a certain street maybe something needs to be done on that particular street. He feels it is two (2) different scenarios. Mr. Pachuillo stated on Sylvan they don't set up on the street, they want the street closed so the kids can play on the street. Mr. Hart stated that is another reason for the permit. We don't know what is going on. Ms. Brenda Messina questioned how other municipalities handle block parties. She knows the City of Reading allows them; did anyone contact them to see what they do? Mr. Wenrich stated that is why it is still in committee. This will still need to be worked on. We got guidelines from Spring Township. Mrs. Kutz stated that Spring charges \$100.00. Mr. Zerr stated we will need to get Spring involved anyway as one (1) end of that street is in Spring Township. By actual right if they want to block off Sylvan, those residents should go to Spring and apply there too. Mr. Butkus stated another issue is that you just can't block off a street anytime you feel like it. That is why a permit would be necessary. Mr. Fitzpatrick stated true. Mrs. Shade stated that there is a certain type of barricade that must be used when streets are closed. These signs are PENNDOT approved and must be used. We should not be using saw horses. Mr. Zerr stated we should take this back to the Safety Committee and the Streets Committee for more investigation.

The next item was the Conditional Use Hearing for Traditions. The date and time are Thursday, August 23, 2007 at 7:00 p.m. The preliminary plans and the hearing paperwork were delivered to the Borough at the same time. The plans have been reviewed once by the Planning Commission. Mr. Ludgate explained what the hearing is for. It might take more than one (1) night. Anyone that is interested in giving or hearing the testimony Traditions will give is more than welcome to attend. Mr. Pachuillo questioned the date of the next Planning Commission meeting. The date will be August 28, 2007 at 7:30 p.m. which is after the hearing.

Mr. Weaver had a question for Mr. Ludgate. He stated that about two (2) years ago when he was on Council he requested that we look at what was Brush with Success. His concern was if this place every failed and it became an eating establishment/bar that it would be a conditional use for alcohol. He wanted them to have to appear in front of Borough Council if they wanted to sell liquor even though they have a license. He would like to see this established all over the Borough. Since then, the place has failed. It was referred to the Planning Commission and they agreed we should have something in place. He said that it never really left the Planning Commission and the Borough Engineer. When Mr. Weaver questioned Mr. Ludgate, the answer was that they are working on it. He was wondering when this will be completed as they (Brush with Success) have closed its doors. Mr. Ludgate said the proposed zoning language will be reviewed by the Planning Commission. This should come in front of them at their August Planning Commission meeting. A discussion ensued as to whether we can stop someone from selling liquor if they have a liquor license. Another discussion about parking and restrictions ensued. Mr. Zerr questioned if someone buys that property and they don't have a liquor license but want to get one transferred in, can't Council block that? Mr. Fitzpatrick stated it can only be transferred with the permission of the municipality.

UNFINISHED BUSINESS (con't):

The next issue is the Noise Ordinance. The Safety Committee has met several times in regards to this issue. They also reviewed seven (7) other noise ordinances from around the country. The Committee feels the one Mr. Fitzpatrick drafted was perfect for what they need. It is the recommendation of the Safety Committee that we bring to Council the proposed noise ordinance and have the Solicitor begin the process for adoption. Mr. Wenrich had a question, is the fine of \$300 enough. Mr. Zerr stated we can go to the State levels which are more. Mr. Ludgate stated the fine is per incident, so if they receive two (2) calls for the same site at different times the fine is \$300 per time or a total of \$600.00. Someone questioned what the limits were. Mr. Zerr said the residential, public space, open space, agricultural, or institutional will be from 7:00 a.m. to 10:00 p.m. at 60 decibels. In this zone after 10:00 p.m. to 7:00 a.m., Sundays and holidays, it will be 50 decibels. Commercial or business will be from 7:00 a.m. to 10:00 p.m. will be 65 decibels. Under the industrial at all time will be 70 decibels. Mr. Sep questioned what the industrial was before. Mr. Zerr said 75. Mr. Sep stated if someone calls in and complains all the time and it is not over 60, will anything happen to them. The answer was nothing. Mr. Biggs feels that these levels are not very loud. Mr. Ludgate agreed. Mr. Biggs stated that inside your car is 70 dba going down the highway. Mr. Pachuillo questioned what the levels are over by the mill. Mr. Ludgate feels they would be well over 70 dba. A discussion ensued as to the levels and who would control the levels and the violations. Mr. Ludgate stated in some of the ordinances he is familiar with, they allow for a spike like when the machine turns on as long as it doesn't exceed a certain limit and only so many in a given day. Mr. Butkus asked if we would have a problem with enforcement as we might be impeding their right to do business. Mr. Fitzpatrick stated this needed to be weighed into the adopting of this ordinance as we could be impeding their right. We can't be held responsible for that, we are exercising a legitimate governmental function. Mr. Butkus asked if this could hold up. Mr. Fitzpatrick stated it would. Mr. Butkus questioned if they could take us to court. Mr. Fitzpatrick stated if these limits are unreasonable for a particular use, then it would be tossed out. These noise levels have come from other ordinances that have been adopted and have been supported by the courts. They have been deemed reasonable. Mr. Fitzpatrick went on to say that we don't want to enforce every violation, but it is like the Chief does not arrest everyone going 36 mph in a 35 mph zone. He gets the violator who is absolutely abusing the law. This is how this Ordinance will work as well. Mr. Biggs questioned what is the most noise complaint. Mr. Fitzpatrick stated music at the fire company, the mill works, etc. Mr. Sep questioned if this is for the fire company. He continued that they had music there for fifty (50) years and now since she started complaining we are looking to change this. Mr. Sep stated it is considered a nuisance bar now. They were reported to the LCB. Mr. Sep stated she would call and complain, the police would come out, nothing was done, the police would leave, and she would call the police again. Mr. Sep does not feel that is right. He feels this ordinance is for the fire company. Mr. Zerr said that was not true. Mr. Sep disagreed; it is basically for the fire company. Mrs. Kutz stated that the lady tried to get a petition together and speaking to some of the neighbors, they downright refused to sign. They felt everything is under control. The neighbors feel this woman is getting out of hand. Chief Oxenreider said they are not out to arrest anyone who mows their lawn during the day. This Ordinance is a basis for the police to control the noise. They can give a warning, two (2) warnings, three (3) warnings, whatever. It is up to the discretion of the police officer. We could write a citation. The fine is not more than \$300 but they can make it whatever. The judge will

UNFINISHED BUSINESS (con't):

place the fine on the incident. Mr. Sep understands all that; however this is going to affect the fire company. Every time she complains, it goes to the LCB. Business is down. Mr. Leiby questioned if the businesses are going to be grandfathered or are we just going to go in and shut them down. Mr. Ludgate stated we can't go in and shut them down. Another discussion ensued as to what businesses can do to keep the sound down. Another discussion ensued as to the decibel levels. Someone asked how do we know what the levels are? We have our own meter. Someone complained about the noise and a trustee went out and listened and he could not hear anything from the fire company. Mr. Schmidt asked Chief Oxenreider what he has heard up there. The Chief said he has been called up there many times. He has physically gone into the home of the lady who has complained; he has gone upstairs and has heard the noise. Her windows rattle. It is annoying to them and he understands why they call. The Chief stated they have been getting warnings. Someone said now that we are able to fine the fire company; we will now be fining them \$300 each time they are called out. They should have a warning. Mr. Fitzpatrick stated that this is not necessarily true. Like any law, they must apply with discretion. The officers in the Borough will use their discretion. They don't want to create problems within the Borough. The gentleman stated they lost a lot of money when they shut down and let the bands go. He would like parameters. Mr. Butkus questioned where the reading was being taken at. Mr. Zerr stated it will be at the curb line or property line. His second question had to do with the rattling of the lady's windows. He wondered how much of that was coming through bedrock vs. the air. He knows when the trains go by it is louder in his basement then it is if you are standing on the street. Ms. Messina stated a motion went out on the floor, it was seconded and a discussion ensued. It appears that people think it is unreasonable. She feels that maybe it should be reevaluated and brought back to Council at another time. Mr. Schmidt feels that is a good idea. Mr. Butkus made a motion to table this item and have Council become familiar with the range of sounds; seconded by Mrs. Kutz. Mr. Schmidt asked for a roll call vote. AYES – 5, NAYS – 0, ABSENT – 1, ABSTAIN – 1 (Mr. Zerr); motion carried.

NEW BUSINESS:

The Community Development Block Grant was the only item under new business. Mr. Hart applied for the grant. The scope of the project would be the reconstruction of Park Avenue. It would be the sub base of the road, the road surface and the possibility of under draining. The grant he is looking for is \$270,000.00. Mr. Butkus made a motion to move with the grant process; seconded by Mrs. Kutz. Mr. Schmidt asked for a roll call vote. AYES – 6, NAYS – 0, ABSENT – 1; motion carried.

PUBLIC COMMENT:

Ms. Messina questioned what the parking will be like at the new Railroad House Restaurant. They are renovating the building and it appears they added on an addition that is almost as big as the original part of the building. She was wondering where the parking will be. Mr. Ludgate stated the property that it sits on is huge. It extends behind them. It goes all the way back to the building next to Mr. Butkus' building. The plans include turning that into a paved parking lot. In addition, he has heard that they are negotiations with Norfolk Southern to enter into a long term lease for the

PUBLIC COMMENT (cont'd):

property right along the railroad tracks. Ms. Messina questioned if they have an occupancy permit because the prior two (2) Thursday evenings there have been people there. It appears to be a baseball team. Mr. Ludgate stated they are under a current stop work order not for that reason but because they need to take their plans to L&I for ADA approval. We did approach them on this and we were told that they were people who were working on that project and they were having some beers after work. Mr. Hart did meet with them about those issues. Mr. Hart informed them they can't do that, and they agreed they will not do that again until he receives his permit. Mr. Francis Butkus questioned if the records did not show from a public hearing that the size of the business was not to be changed. The Mayor stated the license was held in escrow by the prior owners but he did not recall anything about the changing of the property itself. This would be the zoning decision for the Railroad House. Mr. Ludgate does not recall that being part of the decision. Mr. Fitzpatrick agreed. Mr. Leiby questioned wasn't there a hearing about the addition and the enlargement as he doesn't remember anything about that. Mr. Ludgate said he did not see anything in the testimony about that. In addition, there was nothing in the decision that restricted them from applying for a permit. They have put an addition on for a freezer and for a deck. The side is where the ADA ramp will go. Ms. Messina stated the addition is huge. It is almost the size of the front half. It has a roof and it is studded out. It does not look like a deck. It appears to have a picture window. Mr. Butkus agreed. Mr. Fitzpatrick questioned if they had a land development plan. Mr. Ludgate stated no, they had gotten a waiver. Mr. Ludgate said their plans do not show an addition. It shows a deck. Mrs. Kutz was told that area was going to seat 75 people and it is going to be enclosed but have screens. It can be heated. It will be used all year round. Mr. Ludgate stated that was not on their approved plan. Mr. Schmidt said that sounded like a violation of the building permit to which Mr. Ludgate agreed. The County Conservation District has been out to see them about the dirt that was excavated for the parking lot. A brief discussion ensued about setbacks. Mr. Ludgate will go out and look at it.

The Paulo Brutto plan was brought up by Mr. Fitzpatrick. The plan was subject to conditions. One (1) of the conditions was the execution of a municipal improvements agreement, and the other being a non exclusive easement agreement for the benefit of the Sinking Spring Historical Society and Heritage Park. He has drafted both of the agreements. Everyone has reviewed the agreements. He wanted Council to approve them. He would like Council to authorize the release of the plans once a letter of credit is received. He has seen the agreement but does not have one in hand. Mr. Leiby made a motion to authorize the agreements; seconded by Mr. Wenrich. AYES – 6, NAYS – 0, ABSENT – 1; motion carried.

The next issue was a sewer bill that was too high. Ms. Valero was wondering if she could get a break on her bill. Mrs. Shade explained that she needs to come to Council and ask for relief. Mr. Butkus made a motion to allow her to pay her bill in \$50.00 monthly increments for the next four (4) months; seconded by Mr. Wenrich. AYES – 6, NAYS – 0, ABSENT – 1; motion carried.

EXECUTIVE SESSION:

Council went into an executive session at 10:35 p.m. for personnel matters.

RECONVENE:

Council reconvened at 10:50 p.m. The issues will be discussed below.

ACTING CHIEF – JAMES OXENREIDER:

Acting Chief Oxenreider stated the tasers are in. We received two (2) X-26s with taser cams. He would like to set up a live demonstration. It was decided it would happen at the workshop meeting.

Mr. Butkus mended his motion from the last time regarding the trees. Mr. Butkus made the motion to amend the motion from the prior month regarding the trees at Brookfield and the escrow releases. The new motion was to pay any escrow releases up until the next tree planting season, if at that time they do not replace the dead trees, then we shall withhold any further escrow releases; seconded by Mr. Wenrich. AYES – 6, NAYS – 0, ABSENT – 1; motion carried.

JAMES ZERR:

Mr. Zerr made a motion to hire Dennis Moyer back as a part time police officer until our full staff is back; seconded by Mr. Butkus. It was decided he will be paid at the current part time rate. AYES – 6, NAYS -0, ABSENT – 1; motion carried.

The next item under the recommendation of the Acting Police Chief and the Mayor, Mr. Zerr made a motion to hire Matthew C. Yatsko, and John R. Sheperak as full time police officers contingent on the passing of all required tests; seconded by Mr. Butkus. AYES – 6, NAYS – 0, ABSENT – 1; motion carried.

Mr. Schmidt authorized Mrs. Shade to send thank you letters to Mr. Binkley, Mr. Cirulli, and Mr. Falter for their hard work and dedication as members of the Civil Service Commission.

TREASURER’S REPORT:**General Account**

Opening Balance – July 27, 2007	\$	250,477.44
PLGIT		8,588.70
Invest Recreation		45,687.50
General Invest		517,231.61
To Be Paid	\$	0.00
	\$	821,985.25

Sewer Account

Opening Balance – July 27, 2007	\$	30,726.20
PLGIT		57,830.30
Invest Sewer Revenue		463,065.00
To Be Paid	\$	0.00
	\$	569,459.46

TREASURER'S REPORT (cont'd):

Mr. Butkus made a motion to accept the treasurer's report; seconded by Mr. Wenrich.
AYES – 6, NAYS – 0, ABSENT – 1; motion carried.

ADJOURNMENT:

Mr. Butkus made a motion to adjourn at 11:20 p.m.

Respectfully submitted,

Regina M. Shade
Borough Secretary/Treasurer