

The regular meeting of the Borough Council of the Borough of Sinking Spring was called to order on Thursday, October 7, 2010 at 7:00 p.m. at the Sinking Spring Borough Hall by President Stewart Wenrich. After the Pledge to the Flag, Regina Shade called the roll reflecting the following Council Members present:

Stewart Wenrich
Edward Oswald
George Butkus
Elizabeth Sloan
Dennis Leiby
James Pachulo
Denise Stine

Other officials present were: Mayor Francis Butkus, Keith Mooney, Borough Solicitor, Robert Ludgate, Sr., Ludgate Engineering, David Schlott, Jr., ARRO Consulting, Michael Hart, Public Works Director, Police Chief, James Oxenreider, and Regina Shade who recorded the minutes of the proceeding.

APPROVAL OF MINUTES:

Mr. Oswald made a motion to approve the minutes from the 8/25/10, 9/2/10, and 9/22/10 meetings; seconded by Mrs. Stine. AYES – 7, NAYS – 0; motion carried.

VISITORS:

Mrs. Lisa Gantner, President of the Recreation Board, addressed Council. The main question for the evening was whether the Borough would like to have a Christmas Party. They don't know what the budget would be. They hosted a Picnic in the Park this past August and those that attended seemed to enjoy it but they really didn't have everyone there so is it worth doing a dinner. Ms. Sloan questioned if she knew how much this would cost to which Mrs. Gantner said she had no idea at this point. She felt this would come from Council. She stated everything they have done they have been under budget with the exception of the playground salaries. They were a bit over because we had to operate two (2) playgrounds. They do have the Borough open house set for December 1, 2010. There is no reservation at Green Valley. Mrs. Shade questioned that because we always had a standing reservation for the first Friday in December. Mrs. Gantner was not sure if this was because they had a change in personnel up there or what. Mr. Pachulo said we only have \$600 left in the recreation budget. Mr. Butkus said how does it look having a party coming from the taxpayers when everyone else must tighten their belts? Mr. Wenrich agreed. He said he would rather throw the extra money at the open house for the children. Everyone agreed. Mr. Butkus made a motion to forego the Christmas party and throw the extra money into the open house for the children; seconded by Mr. Pachulo. AYES – 6, NAYS – 1 (Mr. Oswald); motion carried. She thanked Council.

COMMUNICATIONS:

There were no communications.

APPROVAL OF BILLS:

Mr. Pachuillo made a motion to pay the bills; seconded by Ms. Sloan. AYES – 7, NAYS – 0; motion carried.

WESTERN BERKS FIRE DEPARTMENT:

Mr. Jeffrey Weidner stated Council received a copy of their report for September, 2010. For the month of September they responded to a total of 57 incidents. Ten (10) of them were in the Borough. They had an average turnout of eleven (11) people per call. Total number of responding personnel was 591. It was a somewhat quiet month. They are continuing to work with insurance companies to recover some of their loss from the barn fire. They are still waiting for a couple pieces of equipment to come in but they do have all the apparatus back in service and fully operational at this point. Mr. Pachuillo questioned if he had a chance to look into the 911 calls regarding the Western Berks fire calls that are being billed through the Borough. Mr. Weidner stated he does have a call into Wanda Keener at the Communication Center but he has not had an opportunity to follow up with her yet. Mr. Pachuillo said that Mrs. Shade and Mrs. Bohn received a bill from dispatching for Western Berks Ambulance and police as well as the fire company and he posed a question to Western Berks Fire Department as to why, Mrs. Sloan stated are we being billed twice, to which Mr. Pachuillo said no. He questioned why we were getting the bill when we turned over everything to the new fire department. Mr. Weidner said he does have a call into them to see just what the easiest way to get this covered is. He also posed the same question to the other municipalities if they were billed this way also. Mr. Pachuillo stated he believes they will get more info at the next meeting from the other municipalities. Mr. Weidner does have copies from the other four (4) municipalities and everyone is being billed. Mr. Pachuillo asked how we are handling the Western Berks Ambulance. We are giving them a fee for the residents why are we then being billed for the 911 dispatching. Mr. Mooney said he didn't know why we would be charged. Mr. Butkus asked if this was something new or have we always been getting this bill. Mrs. Shade stated we have always received County Communication bills but this is the first time she has seen it broken down like this to which Chief Oxenreider agreed. We always got one (1) communication bill telling us how much they were charging us. Mrs. Shade stated in regard to the Western Berks Ambulance Board, it has been formed and we had our first meeting. Mr. Leon Mazurie of Spring Township is trying to set up a meeting with Mrs. Bonnie Page to discuss the Board's concerns; however as of this date we haven't heard anything in reply.

MILLER ENVIRONMENTAL:

Mr. Peter Juzyk gave the report for September, 2010. The total monthly flow was 14.631 million gallons. The average daily flow was 488,000 gallons; the minimum daily flow was 363,000; and the maximum daily flow was 1,350,000 gallons. The total rainfall was 9.50 inches. The contribution by the municipalities was: Sinking Spring – 52.4%, Lower Heidelberg – 39.5%, and South Heidelberg – 8.2%. They completed fourteen (14) plant maintenance work orders. They power washed the grit station; RAS pump station, and oxidation ditches. Removed debris from a grit pump and grit classifier; installed utility water pipe to wet well. Replaced utility water pipe at chlorine contact tanks; repaired water valve between clarifier one (1) tank and scum hopper. They started chemical feed pump one (1) on 9/20/10. Bulk tank was filled with utility water. The utility water is being metered to Division Box Two (2). So far all the equipment is functioning

MILLER ENVIRONMENTAL (cont'd):

correctly. On the evening of 9/22/10 they responded to a raw sewage pump fault. They operated the drives manually until the wet well came back within normal range. Pumps did return to automatic operation. There was a chlorine analyzer malfunction on 9/25/10. The malfunction was determined to be due to a snapped metering pump shaft. Also found a pin-hole in the tube assembly. Chlorinator is being operated manually until replacement parts are received. A spare pump is in stock but it is rated a one (1) rpm and the pump removed from the analyzer is a two (2) rpm unit. The O&M manual does not indicate if both pumps are interchangeable. The research of the issue continues. Mr. Butkus questioned if we are operating without this unit to which Mr. Juzyk said yes. We are operating manually. For the month of September it does look like we are going to have a fecal violation. On 9/29/10 we had a fecal count of 600. It could be a combination of the wet weather and perhaps the feed rate was not set high enough. Mr. Butkus questioned what was the ballpark amount for one (1) of these replacement units? Mr. Juzyk said roughly \$330.00. Mr. Butkus questioned if we get the right pump motor can we just swap it out for the one that was snapped dry. Mr. Juzyk said yes. He already has a pump on order. Ms. Sloan asked if that one (1) rpm model is new to which Mr. Juzyk said it is brand new. She wondered if we could send it back and get a credit toward the two (2) rpms. Mr. Juzyk said the only thing he might be able to do is work something out with the service company he deals with. A brief discussion ensued. Mr. Wenrich asked Mr. Schlott if he had anything to report.

SEWER ENGINEER – DAVID SCHLOTT, JR, ARRO CONSULTING:

Mr. Schlott stated both contractors are still working on their paperwork. Most of the punch list items are complete however there is a dehumidifier that needed to be delivered as it was backordered; it was finally delivered. The contractor needs to install it at the one (1) pump station. There is a fair amount of liens and paperwork that still need to be completed. There are some certifications that need to be complete because there was some ARRA funding attached to this project. They are going to need some more time; Mr. Schlott recommended a 29 day time extension. Mr. Butkus made a motion to authorize the time extension for the paperwork; seconded by Mr. Leiby. AYES – 7, NAYS – 0; motion carried. We do have an application for payment for Hirneisen Electric, Inc. in the amount of \$26,533.80. They will have a final payment request but that will probably be next month. Mr. Oswald made a motion to pay \$26,533.80 to Hirneisen Electric; seconded by Mr. Butkus. AYES – 7, NAYS – 0; motion carried. The outstanding balance for this contract is in the area of around \$36,000.00 so there is still money in the retainage. In regards to Spring Market the new manholes onsite have successfully passed the vacuum test. The contractor completed the abandonment and physical disconnection of a portion of the existing sewer main located in the right-of-way of Penn Avenue. Mr. Schlott went on to explain about the Miller Environmental Amendment #3 which is under unfinished business. There will be additional costs for electrical, chemicals, sludge handling, and other maintenance functions as a result of the upgrade; Mr. Mooney, Mrs. Shade, Mr. Oswald, Mr. Hart, and Mr. Schlott sat down with Miller to go over the amendment to their contract. We will only need to meet the new phosphorus limits as of January, 2012. There is still some time on that. Mr. Juzyk will be using water in the chemical pumps in the interim to make sure they are working properly. They will be doing one (1) month of full scale testing of ferric chloride as well as aluminum chloride to see which one (1) works the best. This amendment will be retroactive to July 1st and go through June 30, 2011 at which point they will look at other items. Mr. Schlott feels at this time it should be tabled as they reviewed some of

SEWER ENGINEER – DAVID SCHLOTT, JR, ARRO CONSULTING (cont'd):

the costs and the revised amendment and they were not jiving with previous discussions. Mr. Schlott has been in contact with Mr. Juzyk, Mr. Lew Christy, and Mr. Michael Pointer of Miller Environmental; Mr. Pointer was in transit and didn't have an opportunity to review it, so he again feels we should table the amendment. Ms. Sloan had a question. On page two (2), letter F, it states the owner and operator have full legal capacity and authority to execute this amendment number three (3) which she agrees with it; but then it goes on to say without the need for additional approval or authorization by any person or entity. She feels it should say in there, it needs the approval of Council. Mr. Mooney says it means once it is signed. Council is going to approve it before it is executed. Someone will make a motion at a meeting authorizing the execution of the document before anyone signs it. Ms. Sloan stated if Mr. Mooney is comfortable with it that is fine. She personally feels it is sloppy and thinks the wording should be tighter. Mr. Mooney said the purpose of it, is because after it is signed if there is some litigation the Borough isn't questioning the validity of the signature that is on the document. Ms. Sloan said okay. Ms. Sloan said we are good.

REVITALIZATION PROJECT:

Mr. Ludgate said a report was provided at the workshop meeting. Mr. Oswald said their documents were attached to the meeting minutes of the workshop. Mr. Ludgate said they put a lot of work into that report and he urged Council to read it.

UNFINISHED BUSINESS:

The flu clinic will be held October 13, 2010 from 11:00 a.m. till 2:00 p.m. at the Borough Hall providing the availability of the vaccine.

Bulk trash day will be October 13, 2010 as well. Mr. Butkus explained what can be placed out. No florescent bulbs. The County website has some locales listed where some of the products can be taken. They also have some dates for oil based paint disposal.

The next item was the budget. Mr. Pachuillo stated they had met one (1) time. It was just preliminary as they were gathering information they needed. The information was given to Mrs. Stine and Mr. Leiby for their review as well. After the meeting, he is going to ask Mr. Leiby, Mrs. Stine, and Mrs. Shade for some available dates to sit down and start putting some good hard numbers down. The police, the Library, and public works' budgets seem to be pretty cut and dry. He does have some questions regarding the Library budget and he will bring them up when the time comes. He feels we should have something by the workshop meeting at the end of October or by the beginning of November's regular meeting. Ms. Sloan said yes we should have something they can start working off of. Mr. Pachuillo stated what I am going to be handing you are what we feel we can run the Borough on and what it is going to take to run the Borough. It is going to be what it is going to be. That is the Budget Committee's job at this point. There are a lot of things going on with leasing as opposed to buying. He got some pricing from Mrs. Shade's office on renting a copy machine. It is pretty economical to lease police vehicles. He wanted the Sewer Committee to meet first and then give us their numbers. Mr. Oswald said they will be meeting some time the upcoming week. Mr. Oswald questioned if everyone saw the handwritten note in the beginning of their binders about the copy machine. He is not sure if we are going to make it till next year for a

UNFINISHED BUSINESS (cont'd):

copy machine. He would like Mrs. Shade to get the ball rolling on this, just in case we don't make it to the beginning of the year. Mrs. Shade said some of your reports are crinkled and we have issues with the stapler. It appears to her that it does not feed properly and that causes jams, which could create an issue with the stapler. Mr. Wenrich questioned if we had any numbers. Mrs. Shade stated she has some information for a black and white printer that Jeff Weidner gave her that they are renting at the Western Berks Fire Department. It is around \$180.00 a month. Mrs. Shade would like Council to consider purchasing a color copier. When Mr. Hart has maps to send out or we need color for whatever reason, we often times are left with coloring them in ourselves. Mr. Butkus said if Mrs. Shade could get those numbers they can work on that. Mr. Oswald said at some point we did authorize Mrs. Shade to spend a certain amount of money on a copier. Mr. Pachulo questioned if that was reflected in the minutes. Mrs. Shade said you did authorize up to \$10,000 however we then had the incident with the police vehicle and she got a bit scared to purchase a copy machine after spending that money. Ms. Sloan said yeah, that wiped out that money. Mr. Wenrich said if it is \$300 a month that is only \$3,600 a year on a lease and that includes maintenance. Mrs. Shade stated we need the fax/scanner/copy machine type model. Mr. Oswald said he realizes money will be tight but we won't be getting any tax dollars till March or April. Mrs. Shade stated with all due respect to everyone, how comes when the sewer department needs something we just make a motion and pass it and they buy whatever it is they need. However, her department is in dire need, as shown by the copies in the book, but we need to get numbers. She questioned can't we do a "not to exceed amount" whether it be on a lease or to buy it out right. She went on to say they don't need the "Taj Mahal" of copy machines but one (1) that is reliable so they don't have to be on their hands and knees everyday fixing it in order for it to work properly. Mr. Pachulo asked what the previous motion was. Mrs. Shade stated it was not to exceed \$10,000.00. Mr. Oswald made a motion to look into the lease of a color copier not to exceed \$300.00 a month; seconded by Mrs. Stine. AYES – 6, NAYS – 1 (Mr. Butkus); motion carried. Mr. Butkus asked what the term is for the lease. Mrs. Shade stated before she signs anything she will let Council know the numbers. Mr. Oswald said something else to consider is if she is on the floor and the copier falls on her that is a workman's comp claim. Mr. Wenrich said not only that but if something short circuits you are looking at cuts. Ms. Sloan said eye injuries.

The next item was the PA American Water contract. Mr. Mooney said we discussed the clause that was causing concern with them and they evidently sent a letter that got lost or didn't send a letter at all. The letter explained that the new verbiage is; we need to amend our shutoff letter to include an additional fee of around \$5.50. That is the additional charge for their loss of revenue. So upon the investigation Mr. Mooney feels we can sign the new agreement. Mr. Butkus made a motion to authorize the amendment to the contract; seconded by Ms. Sloan. AYES – 7, NAYS – 0; motion carried.

The next item was the Terrace Land Development Plan Approval. Mr. Ludgate introduced Mr. Jim McCarthy of McCarthy Engineering. He was there to answer any questions. Mr. Mooney believes they were authorized at the last meeting to get the agreement together. He sent it to EJ, Mr. Ludgate, and Mr. Schlott. Mr. Schlott had a few things that need to be added in regards to whether or not the Terraces already have bought capacity. You need to buy capacity if you have not and you will need to complete a sewer module as well. Mr. Ludgate said he sent an e-mail earlier that day to Mr. Mooney. Mr. Mooney stated he had left for Chambersburg earlier that day and he

UNFINISHED BUSINESS (cont'd):

did not have a chance to read it. Mr. Mooney said the prudent thing to do here might be to give us a short time extension and then we meet in three (3) weeks at a workshop meeting. Mr. Ludgate stated we don't really have a workshop scheduled we are having a hearing. Mr. Wenrich said we could possibly work it in; this could be perhaps the only other thing we do. Mr. Butkus asked if we could remind everyone of the certain points of concern. Mr. Ludgate said there were several pages on a letter but the major issue was the retaining walls. They need to have them designed by a capable person. That came out of developer's own geological consultant. Mr. McCarthy and Mr. Grande have no problem with that. Mr. Ludgate said conditional approval would be granted as long as the "called for" testing along with the design of the wall is done before any construction is begun. Mr. Mooney believes that is what the agreement states. Mr. Ludgate stated the other issue is with stormwater design and that is still being straightened out. The Planning Commission felt that those items did not warrant the plans coming back to them but that they could be handled administratively between the solicitor and the engineer. They were willing to recommend a conditional approval however they felt the conditions were unusual and important that a separate agreement be obtained and recorded to protect the Borough. That is why Mr. Mooney is suggesting just a short time extension just to make sure everyone has reviewed the agreement and are comfortable with it. Mr. McCarthy asked for clarification. He asked Mr. Mooney if they want the wall constructed before the final plans are recorded to which Mr. Mooney said correct. The problem with that is no bank would finance the wall construction till the plan is recorded and the other construction activities that would have to happen. For example, if they have to install the sanitary sewer lines and they would have to blast. They don't want to do blasting anywhere near where a newly constructed retaining wall is placed. Mr. Mooney said you have two (2) choices. It has to be built prior or you and Ludgate Engineering got to sit down and come up with a reasonable sum of money to be escrowed in the improvement agreements. Mr. Mooney stated in talking with EJ, he feels they are miles apart in the amount of money that would be needed in escrow for the retaining walls; that is why the suggestion was made to build the wall prior to final plan approval. Mr. McCarthy said the walls are a private improvement not a public improvement. Mr. Ludgate said the concern is that your geological consult agreed with the basic concern of Mr. Ludgate. You need to protect the slope by whatever means. Mr. McCarthy agreed; so until there is a design to protect that slope then we really don't have sufficient confidence that the slope will be stable. That is their concern and your own geological consultant said the same thing. Mr. McCarthy said if they are required to have it tested by a licensed qualified engineer, a geo-tech, designed by a constructional engineer, and reviewed and inspected by Ludgate Engineering, he feels there is enough there to establish it will be a stable slope. Mr. Butkus thought we were saying the designs had to be approved not that it had to be built prior to plan approval. Mr. Mooney said no. We were talking about having them built prior to plan approval. Mr. Mooney stated he discussed this with EJ the day before and that was his opinion that this is the way it was going to go. So, he didn't know if Grande was going to front the cost himself or what. The biggest concern he had was since they were going to have to mobilize to construct the walls, was that they didn't have to have an interim period where they would have to break down mobilization or have dormant equipment. They can get their building permit at least reviewed in the interim so that once you mobilize you can keep going. Mr. McCarthy believes that is the case however we are missing the step that other public improvements will need to be installed before that, like earth grading and stormwater management, erosion control, sanitary sewers, water extension, Summit Avenue extension those types of things. A discussion ensued as to the slope and their concerns. Mr. Mooney feels that perhaps a sit down meeting and putting some heads together

UNFINISHED BUSINESS (cont'd):

might be the way to go. Mr. McCarthy agreed. Mr. Wenrich suggested we table this issue for now. Mr. Ludgate stated the Borough needs the time extension. Mr. McCarthy said he granted the time extension. Mr. Leiby made the motion for the time extension; seconded by Mr. Oswald. Mr. Leiby feels all the utilities should be put into the ground before the wall is built because the utilities might need to go under the walls. The walls should be last. AYES – 7, NAYS – 0; motion carried. Mr. McCarthy questioned what agenda they will appear on to which Mr. Wenrich said the normal November meeting. Mr. Mooney stated he will send them a letter confirming that you granted the extension so we have something in writing. Mr. McCarthy will send an e-mail out the following day. He thanked Council.

The next item was the change to the Zoning Ordinance. It is the non conforming use change. We received notifications from the County and the Borough Planning Commissions and no recommendations were made by either Commission. Ms. Sloan said she did not receive them. Mr. Mooney said he distributed them a few months ago right after Mrs. DiBiasi stated her concern. Ms. Sloan said she did remember that now. If it is Council's pleasure we will need to have a public hearing at the next meeting. Mr. Ludgate stated we are going to have a lot of stuff pushed into this workshop meeting. Mr. Wenrich said we will need to take it to the regular meeting. Mr. Mooney questioned if they wanted to wait till the November workshop. It shouldn't take long. It was decided to hold the hearing at the November Council meeting. Mr. Butkus made the motion to authorize the advertising of the public hearing; seconded by Mr. Oswald. AYES – 7, NAYS – 0; motion carried.

NEW BUSINESS:

The first item is the change of municipality requests. Mr. Mooney stated he will explain this item and he is asking that no action be taken at this time till the workshop. There are two (2) property owners in the Milbeth Village area who have petitioned the County Board of Assessment to move the physical location hence their assessment into Spring Township because they believe they are in Spring Township. Upon review one (1) is definitely located in Spring and the other perhaps. However, when Milbeth Village was in the planning process we believe from Mrs. Shade's reviewing of the minutes, that there were some agreements and we are trying to locate them at this time that gave reason why they were going to be taxed as Sinking Spring residents. So before he gives his opinion whether to appeal their decision, they are trying to locate all the documents. We have forty (40) days to appeal the decision so we still have enough time if an appeal is warranted. Ms. Sloan stated if she remembered correctly it had to do with the school system. Mr. Butkus said no, he thought it was the roads. The ingress and the egress were issues. Ms. Sloan said the school district wanted those kids to go over here to the school house by the railroad tracks but then they switched the plans and they went to Whitfield. Mr. Butkus said he doesn't know which municipality you lived in would matter because both Sinking Spring and Spring Township would go to Whitfield School; they are all part of the Wilson School District. Ms. Sloan said, yeah. Mrs. Shade stated from the maps she has seen the boundary lines go right through their homes. This happened around 1993. Ms. Sloan questioned if this was her neighborhood. Mrs. Shade said yes, the new part. Mr. Wenrich asked if everyone is in agreement to table this for now. Mr. Butkus wants it projected on the wall when we discuss this.

NEW BUSINESS (cont'd):

Queen Street payment release was the next item on the agenda. Mr. Ludgate stated the contractor has requested a release of funds. They have substantially completed the work but they are on hold as of now. There is some street work that needs to be done. They have installed everything, they just need the street work to catch up with them. They are looking to have \$77,427.18 released and that is as of contract. Ludgate has reviewed it and they believe it is in order. Mr. Pachulio made a motion to release the payment; seconded by Ms. Sloan. AYES – 7, NAYS – 0; motion carried. This money comes from Liquid Fuels. Because of the delays in completing the road work and delays in PENNDOT coming out and inspecting, they will need a time extension. He is requesting an extension without prejudice so he does not get charged. He is asking the extension be till November 4, 2010 because the PENNDOT people won't arrange for the lights to go flashing till October 27, 2010. They must flash for a week before it goes into full operation. Mr. Ludgate recommends they be granted the extension and not be charged damages. Mr. Leiby made the motion to give them the extension; seconded by Mr. Butkus. AYES – 7, NAYS – 0; motion carried.

The next item is the JDH release. This is the Spring Market project. The developer had posted for the civil works not counting the sanitary sewer and this is the public works part. This is the street in the front which is basically open to the public, the stormsewer which attached to our system, and some other incidental work. They posted for the sanitary sewer separately. The original posting was \$339,478.21. They have asked for a reduction of a little over \$300,000.00. Ludgate would like to see retainage because of two (2) or three (3) things that need to be completed. His most concern is for the area right in front of the store. They had asked for a table to be built into the road. It has not been executed exactly according to plan. They would like to meet with the contractor/developer and get it straightened out. They are recommending surety to be released however holding surety in the amount of \$39,930.00. That is to deal with certain work not completed and to get the table straightened out. Ms. Sloan questioned Mr. Ludgate about how much the table would cost. Mr. Ludgate said it is about \$20,000.00. He doesn't have an exact number because some remedial things will need to be done as well. Mr. Ludgate will meet with them and ask them how they are going to rectify the problem. Then make a decision if what they are proposing is a reasonable compromise. He has some feedback that they say they can't build the original design however Mr. Ludgate disagrees with that. He is willing to keep an open mind. He doesn't want to delay the project; he wants them to be able to open. The purpose of the table is because this road can be used as a street we have a specific agreement with the developer that the public can use it but you are going to have people with shopping carts so they wanted to see something more than just paint stripes to protect the public. He wanted a physical impediment to keep from driving too fast in there. Right now we don't have it. He wants to get that resolved. Ms. Sloan recommended holding back \$50,000.00 because it is a safety issue. She feels we should hold back more just to protect ourselves. Mr. Ludgate said he understands her concern however we still hold the hammer on them because ultimately we can say no certificate of occupancy thus no opening. So, we do have another means of leverage and he doesn't know if they truly meant not to do the table but we do have another means of leverage if need be. Mr. Leiby asked if this table was on the original plan to which Mr. Ludgate stated yes. We left it that they would submit to us what they were going to do; we did get feedback on what they were going to do and in his opinion they haven't done exactly what they said they were going to do. He thinks it was inadvertent. He believes the \$39,930.00 is a good number. Mr. Butkus questioned if the \$39,000 figure was enough

NEW BUSINESS (cont'd):

to do the work if necessary. Mr. Ludgate said yes. He explained they are about 95% complete. Ms. Sloan respectfully disagreed with Mr. Ludgate. Plans are plans and they know how to read them. We, the Borough, jumped through a lot of hoops to get this project done in regards to taking that building. Mr. Oswald respectfully disagreed with Ms. Sloan we need something to create some tax dollars and the longer we wait to open up that building we are just delaying our own revenue. Mr. Wenrich stated we don't give them their certificate of occupancy until everything is met. Mr. Oswald asked Mr. Ludgate if he felt this was on purpose to which Mr. Ludgate said he felt it was totally inadvertent. He believes it is correctable. Mrs. Stine made a motion to release the funds but hold back \$39,930.00; seconded by Mr. Oswald. AYES – 7, NAYS – 0; motion carried. Mr. Butkus made a motion to have Mr. Ludgate send a letter asking the surety company to release the funds with the exception of the \$39,930.00; seconded by Mr. Leiby. AYES – 7, NAYS – 0; motion carried.

PUBLIC COMMENT:

Mr. Butkus had a question and he stated he was not the only person who has questioned Mr. Hart about this issue. In our Zoning Ordinance in the section referencing animals, it states about barnyard animals. Mr. Butkus asked Mr. Mooney the way it is written currently, people can't even keep a rabbit in their backyard. His question to Mr. Mooney, since the State regards rabbits differently now, how does that impact it. His second question is it references a permit here with a fee of \$1.00; do we have a specific process to process this permit. It is his understanding that he is not the only person questioning this. Mr. Hart stated you are the third one (1). Mr. Pachuillo said what does it say in the new zoning ordinance? Mr. Hart said it doesn't say anything about that. Ms. Sloan stated these are still in force until they are repealed or updated. Mr. Butkus said for existing non conformities, permits are required and under certain conditions being that it has to be more than 100 feet from a stream and more than 20 feet from a street, highway or adjoining property line, permits can be issued The permit fee is \$1.00 per year. He is just wondering how Council would like to interpret that because he has gotten some questions on it. Mr. Mooney said they are working on an interpretation of it but it is not finalized as of yet. Mr. Oswald states that speaks volumes as to how old that book is. This is probably not the only Ordinance in there that is questionable. It is a cost that we are going to have to look at. Mrs. Shade stated we were doing the codification but the cost of that would be about \$20,000.00 give or take. We just stopped the process. We had meetings but that is all the further it got. That is a large expense to have it updated Mr. Oswald stated to which Mr. Mooney agreed.

EXECUTIVE SESSION:

Council went into an Executive Session at 8:10 p.m. for a personnel issue.

RECONVENE:

Council reconvened at 8:23 p.m. Ms. Sloan made a motion to offer the road crew position to candidate number one (1) subject to pre employment screenings at a rate of \$13.50 an hour to begin working the first Monday after the screenings are complete and there will be a ninety (90) day probationary period; seconded by Mr. Oswald. AYES – 6, NAYS – 1 (Mr. Butkus); motion carried.

POLICE CHIEF – JAMES OXENREIDER:

Chief Oxenreider stated the VASCAR unit is in 44-3. The VASCAR lines use to be on Reedy Road and since Reedy Road was paved a few years ago the lines are no longer there. For court purposes, he believes the street department painted lines on Ruth Street but there is no certificate of measurement/accuracy for those lines. It should be 1,320 feet. The lines need to be certified by an engineer. He presented the old certification to Council from Reedy Road. It was done in 1983. Mr. Pachuillo doesn't know how Ruth Street is but it is bad on Reedy Road for speeding. Mayor Butkus stated this is not what this is. When we certify the VASCAR unit we have to actually stop the car, measure at two (2) points, it must be 1,320 feet. So when we put that into the unit, it must measure up. So for court purposes they must present the certificate. It is to calibrate it. Mr. Pachuillo understands now. A brief discussion ensued about the calibration. We are good on Ruth, Chief Oxenreider said. Mr. Butkus made a motion to have Mr. Ludgate calibrate the lines on Ruth Street for VASCAR calibration; seconded by Mrs. Stine. AYES – 7, NAYS – 0; motion carried. Chief Oxenreider had interest in starting up a crime watch again. After years of crime watch people started losing interest; however people are now interested in this again. The Chief does have applications if anyone is interested. Mr. Wenrich asked that it be put on the website. Ms. Sloan is interested and she has three (3) people interested in signing up for it as well. Mr. Butkus asked what the ballpark minimum needed to start up a proper rotation. Chief Oxenreider stated around twenty (20) residents. The Chief received a letter today for the replacement of MCT, computers in the cars. The cost to replace two (2) computers is \$7,570.38; however we are in the MCT program. Since we are in that program we would only owe \$1,761.42. That is already in the budget and in the communication expense. This is Countywide.

MAYOR FRANCIS BUTKUS:

The Mayor stated he and the Chief went to an all day seminar on how to run a more efficient police department; it was excellent. Chief Oxenreider stated Trick or Treat night will be two (2) nights since Halloween is on a Sunday this year. They figured most people would bring their children out on a Saturday night. The hours are 6 p.m. to 9 p.m. on both evenings. Both nights the curfew is 9:00 p.m. Starting October 15th to November 5th the curfew will be in effect. According to the minutes from last year, the curfew on the weekends was midnight. That is because of football games and Shocktoberfest, but it is Council's decision if we want to have different times. Mr. Pachuillo would like to go with what we had last year. A brief discussion ensued. This is for children under the age of 18. So, it was decided that curfew will be at midnight on weekends and the rest of the time it will be at 9:00 p.m.

COUNCILMAN - JAMES PACHUILO:

Mr. Pachuillo stated we will need to take action on this item before the beginning of next year. We made a motion to go with the one (1) year extension on the Lebanon Valley Farm's trash contract. The contract is now \$290,322.00. What we will be collecting and what we will be paying out is a difference of about \$50,000.00. It comes out to about \$243.00 per year instead of the \$200.00 per household we currently are billing. It will be about \$3.58 more per month. Mr. Butkus questioned if this pertains to the potential extra houses they found. Mr. Mooney said he sent them a letter based on the contract and their response was get us a contract amendment so we can get the bond in place. They did not mention the additional homes. Mr. Wenrich stated we can't make

COUNCILMAN - JAMES PACHUILO(cont'd):

a profit to which Mrs. Shade said correct. Mr. Mooney stated we are allowed to cover our administrative costs that go into this. Mr. Mooney stated when he and Mrs. Shade spoke it was discussed going up between \$4 and \$5. Ms. Sloan said per person to which Mr. Mooney said per household. Ms. Sloan said how do people come off the rolls, like your kid moves away? Mr. Butkus stated we don't bill by per person. Mrs. Shade stated we bill by establishment. Mrs. Shade said the fluctuating ones we have year to year is the businesses and those are billed by the tax collector. She said what is collected by the Borough from business could vary year to year as a business might choose to get a dumpster from another hauler. Ms. Sloan said you can't really count on them. Trash and sewer are on the same people. Mr. Oswald stated in talking with Mr. Schlott he is 90% certain there will not be a sewer increase. Mr. Butkus said those two (2) monies can't be comingled. Everyone said they know that but it does come out on the same bill. Mr. Oswald stated he doesn't want to come next year and be raising taxes, trash fees, and sewer. Mr. Pachuiilo feels we should shop it out midyear next year. Mr. Butkus said there is another year extension on their contract as well. Mrs. Shade stated she would like Council to consider perhaps bidding the contract with one (1) bulk item each week. She went on to say that most people think they do live in Spring Township and these items can't be put out and then Mr. Hart must go and warn them they can't do that; that is taking Mr. Hart's time and Borough money to go around and tag this stuff each week. She said what we might be saving on the contract we are spending on Mr. Hart's salary and supplies to write these offenses up each week. Mr. Butkus stated when we bid this last time we did ask for that but there was only one (1) hauler that was interested in doing it that way and that is all they were interested in doing. Mr. Butkus asked if that included the increase in homes from the Brookfield Manor area to which the answer was yes. Mr. Pachuiilo questioned what is allowed to be planted between your curb and your sidewalk. Mr. Hart said nothing in certain areas. Mr. Hart said some areas can have street trees however Brookfield Manor is not one (1) of them. Mr. Pachuiilo asked if a five (5) foot evergreen is a street tree. It is on Winding Brook. Mr. Hart said it was not allowed. It is between the curb and the sidewalk. The tree is five (5) foot from the mailbox.

COUNCIL VICE PRESIDENT EDWARD OSWALD:

Mr. Oswald asked Ms. Sloan how donation of books is taken care of at the Library. Ms. Sloan stated they can bring the books in however a lot of the times the Library can't use the books but the Friends of the Library can take them for their sale. They will give you a certificate for your taxes. They will take videos, CD, those types of things.

PUBLIC WORKS DIRECTOR – MICHAEL HART:

Mr. Hart stated Mr. Butkus questioned about the uniforms. Our five (5) year contract expires October 26, 2010 he believes. We are spending about \$3,800.00 a year on rental. We are paying around \$45 to \$55 for a pair of pants. He has terminated the contract. He will be going to Vanity Fair and buying them some jeans and getting them uniform shirts which will save us a ton of money. They will take them home and clean them. We will just replace them in a three year cycle. Mr. Hart stated some things will need to be bought this year however the majority of the items will be purchased in 2011.

BOROUGH ENGINEER – ROBERT LUDGATE, SR.:

Mr. Ludgate stated on October 27, 2010 we have a public meeting. They intend to present the LUPTAP Study. The other issue is the Traffic Impact Study. An ad will be placed inviting everyone to attend the meeting. They received a letter asking for two (2) waivers for the Sunoco project. One (1) is a waiver of the preliminary land development application in favor of the combined submittal of a final and preliminary. This would save them one (1) step in the process. The second waiver is for the plan size. Our Ordinance says 24x36 and they would like to submit a larger drawing of 30x42. He doesn't know if the Planning Commission has discussed this. They were part of the review but they did submit a formal letter. Mr. Ludgate questioned if Council is willing to work on these two (2) waivers. Mr. Butkus stated he doesn't have a problem with the size plans they want to give us as long as they give us ample copies of the plan. Mr. Butkus did have a concern about the two plans being combined into one (1). He said he believed that area has had some problems with runoff from prior developments. His concern is with the two (2) plan process we have twice to look over the plans so we don't end up putting more pressure on the storm sewer system we put in up there. The majority if their construction will be in the Borough, Mr. Hart said. Ms. Sloan agrees with Mr. Butkus on that issue. Mr. Hart said right now it is not a rail citing it is a truck terminal. Ms. Sloan made a motion to waive the plan submittal size; seconded by Mr. Butkus. AYES – 7, NAYS – 0; motion carried. Mr. Ludgate read from a letter regarding the waiver of the plans. They said it is a hardship for them to get the biodiesel fuel out. Mr. Ludgate stated that there was a flood back behind the Spring Market because of the large amount of rainfall we have just had. Mr. Eisenbrown and Mr. Ludgate looked at it today. There was some concern about the ditch a few months ago. Before the property was cleaned up there were a lot of leafs and debris there helping to damn up the water. Now the trash is coming down at a rather good rate from WaWa. Part of the ditch is on the railroad property and part of the ditch is on Spring Market property and the last part of it, is actually on PENNDOT property. He would like Mr. Hart to be authorized to work with them to put some type of erosion control in there. At this point they will need to look at but he is thinking some larger stone with some riff raff. When it scours out the debris ends up in the stormwater system and potentially clogging stormsewers on Penn Avenue. And also whatever pollution is coming into the system we will be ultimately responsible for getting rid of it. Ms. Sloan questioned if we could put Crown Vetch in to help manage the problem. Mr. Hart said this area runs like a river; you could go flying down through. Mr. Ludgate said the ground in there is very sterile. It won't grow anything right now. In addition, if you plant Crown Vetch now, you won't see anything until 2012 because it is on the north side and doesn't get enough sun. He believes some small check damns will do the job. They will flatten out the gradient and catch some of the debris so it doesn't end up at the catch basin. Mr. Butkus questioned if we could say anything to Friendly's regarding this issue. Mr. Ludgate would like to send a letter to Spring Township because they should be policing what emerges from their system. We can't police WaWa and Friendly's as they aren't in our Borough. Mr. Oswald asks if this happens in any storm or just a storm of that magnitude. Mr. Hart said any storm. Mr. Wenrich asked Mr. Ludgate and Mr. Hart to work together along with Norfolk Southern, Spring Markets, and PENNDOT on this situation. Ms. Sloan questioned if there was enough room to plant a couple of willow trees because they soak up quite a bit of water. Mr. Butkus said you can't plant them. Mr. Hart said this is only about 25 feet off the tracks. Ms. Sloan made a motion to authorize Ludgate to try and stop the flooding along the tracks behind Spring Markets; seconded by Mr. Pachulo. AYES – 7, NAYS – 0; motion carried.

TREASURER REPORT:General Account

Opening Balance – August 31, 2010	\$171,263.46
PLGIT	9,103.68
Invest	49,578.78
Recreation	
General	354,554.20
Deposits as of September 30, 2010	341,667.88
Checks Written	269,408.02
Payroll	99,815.16
PENNVEST Auto Debit	2,576.47
To Be Paid	<u>47,226.59</u>
Balance as of September 30, 2010	\$507,141.76

Sewer Account

Opening Balance – August 31, 2010	\$490,981.38
PLGIT	61,325.14
Invest	422,044.78
Deposits as of September 30, 2010	189,948.09
Checks Written	154,994.19
Interest on PennVest Loan	2,645.34
Auto Debit/Disbursement on National Penn Loan	399,611.41
To Be Paid	<u>10,653.85</u>
Balance as of September 30, 2010	\$596,394.60

Mr. Butkus made a motion to approve the Treasurer's Report; seconded by Mr. Pachuillo.
 AYES – 7, NAYS – 0; motion carried.

ADJOURNMENT:

Mr. Pachuillo made a motion to adjourn the meeting at 9:00 p.m.

Respectfully submitted,

Regina M. Shade
 Borough Secretary/Treasurer