

The regular meeting of the Borough Council of the Borough of Sinking Spring was called to order on Thursday, November 4, 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 (arrived 8:07 p.m.)  
Dennis Leiby (absent)  
James Pachuillo  
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.

Mr. Wenrich requested a moment of silence for our police and fire departments, as well as the armed forces and their families.

#### **APPROVAL OF MINUTES:**

Mr. Oswald made a motion to approve the minutes from the 10/07/10 and 10/27/10 meetings; seconded by Mrs. Stine. AYES – 5, NAYS – 0, ABSENT - 2; motion carried.

#### **VISITORS:**

Mrs. Anne Case of the Library Board was first to address Council. Mrs. Case requested approval for three (3) maintenance projects that the Library will pay for. The first one (1) is professional cleaning of the carpets. The second was to paint the part of the Library that has not been already repainted, and the third is to replace the heating and air conditioning system. They are a standalone unit. Mr. Pachuillo questioned if plans will need to be drawn up for the HVAC portion to which Mr. Hart said, yes. That will be the first step. Mr. Pachuillo made a motion to approve the Library to use their funds for these projects; seconded by Mr. Butkus. AYES – 5, NAYS – 0, ABSENT – 2; motion carried. She thanked Council.

The next visitor was Mr. Michael Wise of the Revitalization Committee. Mr. Wise gave an update for the BOSS 2020 project for the last month. BOSS 2020 was awarded an \$8,000.00 grant from the Alcon Foundation to begin the “new town preliminary plan.” The plan should be completed by the end of next spring and it will visually show what a new downtown Sinking Spring central business district could look like. BOSS 2020 at that time will host a town hall meeting to show the public what is in the plan. McDonald’s Corporation and the local McDonald’s owned by Mr. Robert Hughes, has offered up to \$2,500 to match any award the committee might receive towards the Penn Avenue Planter Project for next year. BOSS 2020 has submitted a request to the Berks County Community Development Block Grant discretionary fund for \$7,500.00 to place 17 oversized planters along Penn Avenue within the Borough. They hope to hear something by the

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beginning of next year. The third item was that the Foodlion. They had their grand opening this past Wednesday and from all accounts it was a success. Everyone is happy. BOSS 2020 presented a report to Borough Council at the September 22<sup>nd</sup> workshop. They outlined real estate value housing trends; Borough tax revenues that the Borough could possibly realize by the revitalization project. He gave copies of that report to Council. BOSS 2020 is requesting that Council consider their two (2) requests for 2011. The first request is that \$50,000 be put into the Revitalization line item. BOSS 2020 would use these funds to operate, host promotional events, and conduct outreach programs to elected officials as well as private foundations to secure more funding. The second item is they would like the Borough to contact Mr. Michael Setley to reestablish a line of credit through a local bank that would include a \$500,000.00 allocation line for Revitalization. BOSS 2020 needs this line of credit on paper so that it can apply for large construction grants from State and Federal Government. These grants typically require 10% to 50% matching funds sometimes more. They want to begin applying for these multimillion dollar grants in early 2011. This is simply an administrative line item. No dollars will be spent by BOSS 2020 unless and until Government funds are awarded. These grants usually take two (2) to three (3) years to achieve and Council will have the final say to accept any grant that BOSS 2020 may win. Mr. Butkus asked Mr. Mooney if we don't have to go before the DCED each year to renew that to which Mr. Mooney said no. Once you have the line of credit it will be counted toward your indebtedness whether you draw down on it or not. Mr. Butkus then asked if the line of credit will expire. Mr. Mooney said that will be part of the conditions. Mr. Mooney said you could get a revolving line of credit. Mr. Pachulo said the budget committee took this into consideration and there is a line item in there as of now. Mrs. Shade stated it was in the area of \$48,000.00. Mr. Pachulo made a motion to have Mr. Michael Setley establish a line of credit and have that allocation of \$500,000 for BOSS 2020; seconded by Mr. Oswald. Mr. Butkus asked if we have a rough idea how much will this cost to get this set up. He does realize it is a nominal fee but he still wanted to know a ballpark figure. Mr. Wenrich said he doesn't know. Mrs. Shade did not remember either however the last time we did this it was for \$1 million and \$5.5 million dollars; so she was not sure if that has some bearing on the amount. Mr. Wenrich asked for a roll call vote. AYES – 5, NAYS – 0, ABSENT – 2; motion carried. Mr. Wenrich stated this is money that will just sit there and will not be used until Council authorizes it. Mr. Wenrich stated we need to show that we are serious about revitalizing our town and this line of credit will show just that. The grantors are looking for this. It would always come back to Council for our final blessing. Mr. Wise stated often times they will be able to use matching funds that they have been granted from other sources. He continued their goal is to be as fiscally responsible as possible. Mr. Wenrich encouraged everyone who hasn't been at the new Foodlion to visit the store. He stated you can feel the positive energy flowing through there; less than one (1) years ago, there were two (2) old vacant dilapidated buildings down there and now look at it. He said it is a credit to past Councils and to the current Council. He thanked BOSS 2020 and JDH for getting us started. Mr. Oswald questioned how soon do we get grant money and how soon perhaps might we need to spend from the line of credit. Mr. Sam Loth stated it depends on the particular grant. An allocation can happen anywhere from eighteen (18) to twenty four (24) months; but a grant from HUD or DOT you could be talking three (3) or four (4) years as it is a more complicated type process. State is usually a bit easier. He explained how it works. Mr. Ludgate stated the following day he will be meeting along with our traffic study people the Berks County Chamber of Commerce. They want to get some input about this project. He was also

**VISITORS (cont'd):**

invited to make a phone call to the Deputy Secretary of the Department of Community and Economic Development. He believes the timing of Council on this is just about perfect.

The next person to address Council was Mr. Charles Coleman. He serves on the BOSS 2020 committee. He lives across the street from the new JDH property and he said it is great to see. He went on to say it was great for the businesses but also for the residents of the Borough.

Councilman George Butkus was next to address Council. Mr. Butkus apologized to the audience. He had made a slideshow but forgot the cord to project it. He stated all of Council had received his letter. He is requesting the \$1.00 permit to raise a few rabbits on the land that his father owns which is adjacent to the playground. A large portion is currently being used for private gardens so it is still agricultural use. The current Ordinance states that an existing nonconforming use can be used with a special permit. He also had a letter attached from the landowner (Mayor Butkus) saying he has the authorization to do that if he receives the okay from Council. He also marked out on an aerial photo where he would place the hutches however the whole area is not going to be covered. He just wanted the ability to move them due to weather conditions. He is planning on having at maximum at any given time of thirty (30) adult bunnies. He gave Mr. Hart the same information along with his check for the one (1) dollar. The space is more than twenty (20) feet away from a property line and more than 100 feet away from any streams. Mr. Pachuiilo asked if he was in compliance with what we have in our Ordinances. Mr. Hart stated yes to the Ordinance that Mr. Butkus is speaking of but that is an old Ordinance. However under our Zoning this does not fall under a use by right. That is located in the I-1 District which doesn't allow for that. It would be allowed by a variance. Mr. Pachuiilo questioned if he would need to go to the Zoning Hearing Board to which Mr. Hart said yes. Mr. Butkus said, but to do this doesn't he need this permit first. Mr. Mooney said no. If we can't establish the use how could we grant you a permit? First you must establish the use. Mr. Butkus stated even though it has been grandfathered for current agricultural use? Mr. Mooney said the current agricultural use is there, so it is an expansion of a non conformity because you have the non conforming use going on. Any additional Ag use will be an expansion of the current Ag use which is nonconformity. Mr. Oswald asked if this is a nonconformity use being placed on another nonconforming use. Mr. Mooney stated you can't expand a nonconforming use. Mr. Butkus' question is how did the Railroad House expand out of the back of their building? He knows they got plans approved. Mr. Mooney stated he had no idea. He was not the Solicitor then but perhaps they got a variance but again he does not know what they did. Mr. Butkus said their footprint greatly increased and he knows the reason he didn't tear the building down was an offset issue then. Mr. Mooney and Mr. Hart couldn't answer that question. Mr. Ludgate questioned if it was true that there is a difference between expanding a nonconforming use and expanding a nonconforming situation with regards to dimensions. Mr. Mooney stated that was true. He went on to say the Ordinance would determine the use or the area. Most Ordinances state if you already have an area you can extend it normally about ten (10) percent give or take depending on the Ordinance. He was not sure if ours states that or not. You allow for natural growth. Mr. Ludgate said he believes our Ordinance would not allow the decrease of the setbacks and those types of things so therefore would allow for the percentage of growth. Mr. Mooney stated he is talking about a brand new use. Mr. Mooney said our Ordinance has another issue which he and Mr. Hart spoke about earlier that day. Section 604 of the Zoning Ordinance; he feels Mr. Butkus needs to submit some type of plan if he was serious about doing this because it

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would be establishing a second primary use on a lot that already has a primary use which is the industrial shop that is currently there. The way our Ordinance reads, you must be able to meet the setback and yard requirements as well as the bulk requirements of the Zoning Ordinance for the two (2) uses. It is almost as if you had two (2) separate lots. You must meet the bulk area requirements to allow the two (2) uses to sit independently on the lot. Mr. Oswald said doesn't the Zoning Ordinance state that the agricultural district is only where livestock can be. He questioned if we didn't have this issue with the gentleman and his sheep. They were in a residential area. He thought it was an issue because they are zoned industrial and livestock shouldn't be in an industrial area. Mr. Mooney said right however his argument is there is already a nonconforming agricultural use there. Mr. Oswald said so you are making nonconformity on top of nonconformity. Mr. Butkus questioned if animals count as livestock because normally livestock you don't pay sales tax on when being transferred which you do with rabbits even when bought at auction. Mr. Mooney said the way I looked at it; it was either an ag use or a commercial use. You are raising animals to sell; it's a commercial use. Mr. Butkus said somewhat however it is just more recreational use of the animals. Mr. Mooney said you have thirty (30) animals that are going to breed; you are only planning on keeping thirty (30); they are going to have offspring, you are going to do something with the offspring, Mr. Mooney questioned. Mr. Butkus said yes. However the amount of money he will be getting would just offset the feed and the supplies for the animals. Mr. Mooney said he can't help what Mr. Butkus is charging, but you are selling them, it's a commercial use; it's a business. Mr. Pachuillo asked if this was a zoning issue. Mr. Mooney said it is definitely a zoning issue. Mr. Pachuillo asked if he needs a zoning variance. Mr. Mooney said he needs a plan and you need to know what the layout is going to be. You need to see that the setbacks and the bulk area requirements are going to be met. You then must determine whether it is an increase in the nonconformity that is allowable and permissible under the Ordinance. Mr. Pachuillo made the suggestion to Mr. Butkus to follow that avenue and go for the variance. Mr. Mooney said he doesn't know if he needs a variance until he makes a submission and we look at the Ordinance. He hasn't done anything to trigger a review under the Zoning Ordinance. Mr. Ludgate asked if this was going inside a building to which Mr. Butkus said no. They are outdoor hutches. Mr. Ludgate said he is not sure that this would trigger a land development plan. It sounds like a drawing that would be satisfactory to the Zoning Officer is what is needed. Mr. Mooney does not know if the raising of rabbits triggers the Newtrium Management Act to which Mr. Ludgate did not know either. Mr. Ludgate said in the rural municipalities they represent they are usually dealing with larger animals. There is a third thing that he might want to look into. Mr. Ludgate has a book however he is not sure that rabbits are in there however chickens are. Mr. Butkus said so even if he submits for the zoning variance or permit, does he still have to come back to Council and get the \$1.00 permit. He knows he can't put the rabbits there till he gets the zoning cleared up but to him it seems more cost effective to get this and not but any rabbits there till he gets the zoning cleared up then to get the variance and then find out Council will not issue him the permit after spending the resources to go through all the other paperwork. Mr. Mooney stated if Council wants to grant you a license contingent on you acquiring the appropriate zoning permit for the use he has no problem with that. Mr. Wenrich agrees with Mr. Mooney we must defer to the Zoning Hearing Board. Mr. Pachuillo said if we give him our blessing now it does make sense to him. Mr. Pachuillo feels if you can meet the Zoning Ordinance and go through the proper channels, he would grant him the permit. Mr. Wenrich said he would. Mr. Pachuillo made a motion to grant George Butkus the permit contingent upon meeting the zoning guidelines for the property's nonconformity. Motion failed due to the lack

**VISITORS (cont'd):**

of a second. Mr. Butkus wanted to remind Council that the way this is worded nobody can have their pet rabbit in their backyard either. Mr. Oswald said he would have seconded the motion but what kind of precedence are we setting. We just can't be throwing out variances and everything. Mr. Mooney said you don't have the power to grant variances. Mr. Pachuillo feels you take each case on an individual basis. He went on explain how it works for the Planning Commission. Mr. Pachuillo said he is looking at the fact he wants rabbits. He is running a small business on that property. He said if it was a sheep he would have a different view. It is on a case by case thing. Mr. Oswald said he will second the motion. Mr. Pachuillo made the motion to grant George Butkus the permit contingent upon meeting the zoning guidelines for the property's nonconformity; seconded by Mr. Oswald. AYES – 3, NAYS – 1 (Mr. Oswald), ABSTAIN – 1 (Mr. Butkus), ABSENT – 2; motion carried. (The requests will become part of the permanent record.)

**COMMUNICATIONS:**

Mrs. Shade read a letter from Mrs. Brenda Steinhauer of 48 Shillington Road. (The letter will become part of the permanent record). The letter pertained to a phone call she was looking to receive from the Mayor regarding the parking situation on Shillington Road. Mr. Wenrich stated she should bring her request to Borough Council and not a certain individual. The Mayor is basically in charge of the police department and to break ties. The full seven (7) Council members are responsible for what happens inside the Borough. The issue should come to Council. Mr. Wenrich said to the Mayor if you called her back you called her back. Mayor Butkus said he tried on several occasions. He did get an answering machine. He said he called her back after he talked with Mr. Hart. The way it was explained to him, there was a parking problem and has he understands it, a bank took over the old carwash and put signs up that they were not allowed to park back there. They use to park there. Since it is private property neither the Mayor, nor Mr. Hart has jurisdiction. Mayor Butkus said we can't give the right for someone to park on private property. He did try to convey that. Mr. Wenrich question if this was for the people along Rt. 724; and if they always had access to that lot to park. Mr. Hart said they have the alley along their property but a lot of them were using the storage area to park and when the bank took over they posted the storage area lot. That forced everyone to squeeze into the alley. They have no street parking, Mr. Hart said. Mr. Wenrich said again we can't tell the property owner what to do. Mr. Hart said another problem is that most of those units are now two (2) rental units and he doesn't believe they ever followed the zoning as far as off street parking when they were converted which is making the problem even worse. Mr. Wenrich asked Mrs. Shade to draft a letter basically stating that Council and the Mayor do not have jurisdiction with the parking back there and they can sympathize with them but there is nothing they can do. Their hands are tied.

**APPROVAL OF BILLS:**

Mr. Oswald made a motion to pay the bills; seconded by Mrs. Stine. AYES – 5, NAYS – 0, ABSENT - 2; motion carried.

**WESTERN BERKS FIRE DEPARTMENT:**

Mr. Jeffrey Weidner stated Council received a copy of their report October, 2010. For the

**WESTERN BERKS FIRE DEPARTMENT (cont'd):**

month of October they responded to a total of 55 incidents. Seven (7) of them were in the Borough. They had an average turnout of twelve (12) people per call. Total number of responding personnel was 615. There was no fire loss in any of the municipalities in the past month. Council received a copy of the 2011 budget which was passed by the Board of Trustees. The Borough fire tax for Sinking Spring will remain the same; no need to increase the millage. There are several grants listed however no dollar amounts were given. At this point in time Mr. Weidner stated he has about \$400,000.00 to \$500,000.00 in grants that are outstanding. He believes notifications shall be coming after the first of the year. The most significant grant they have out there provides for the reimbursement of four (4) career firefighters for the department. He hopes to put on four (4) paid firefighters next year. One (1) of the grant programs provided by Homeland Security provides you with 100% funding for two (2) years for salary and benefits for the paid firefighters. This grant comes to a total of \$381,000.00 which will fully cover all the benefits for two (2) years. We currently do not have any paid firefighters. This will not happen before January 1, 2011. We can't hire the firefighters until the grant is approved. If we do then we are not eligible for the grant. He encouraged Council to look over the budget if they have any questions to please contact him. Mr. George Butkus questioned if we don't get the grants are they still anticipating hiring the four (4) firefighters to which Mr. Weidner said yes. Mrs. Stine questioned what the other grants were for. Mr. Weidner said \$60,000 from the Emergency Management Agency for additional firefighter turnout gear. In the past two (2) months he believes there are about ten (10) new members who applied for membership. There is a \$30,000 grant from the DCED for purchasing automatic external difibulators for the fire apparatus. The firefighter's grant for around \$80,000 was written to update the air system on the rescue truck along with a few other items. Mr. Wenrich was impressed how fast they turned out and how many turned out to fight the fire at the apartments behind Redner's. Mr. Butkus said the time that was put into hiring Mr. Weidner was well worth it to which Mr. Wenrich agreed. He asked that Mr. Weidner take the thanks back to his firefighters as well.

**MILLER ENVIRONMENTAL:**

Mr. Peter Juzyk gave the report for October, 2010. The total monthly flow was 18.953 million gallons. The average daily flow was 611,000 gallons; the minimum daily flow was 485,000; and the maximum daily flow was 1,048,000 gallons. The total rainfall was 1.8 inches. The contribution by the municipalities was: Sinking Spring – 67.8%, Lower Heidelberg – 39.3%, and South Heidelberg – 6.9%. The lab drying oven thermal control has not been shipped. The lab furnace thermal control malfunctioned and a replacement was ordered. They began using the microwave oven for TSS analysis. The results were used only for operational control and were not reported on the monthly DMR. It should ship around November 15, 2010. He issued a notice of violation to Rita's Italian Ice on 10/25/10 for failure to submit a signed and notarized discharge permit. There was a problem at the headworks building. The hydrogen sulfide sensor could not be calibrated. He contacted the installer (LRM) who had the contract with MSA. They determined that a 0-500 ppm sensor was installed (specs said a 0-50 ppm sensor). LRM was notified and they will obtain and install the new sensor. On November 19, 2010 the EPWPCOA will be hosting their meeting at the Sinking Spring Wastewater Plant. Mr. Juzyk stated he asked Mrs. Shade to send invitations to the Mayor and Council. There will be a tour of the facility in the morning followed by lunch at Green Valley Country Club. An award of appreciation is always made to the hosting municipality. The luncheon starts around 12 to 12:30. Mr. Juzyk believes the staff at the plant will

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

be receiving an award for plant collection safety.

**REVITALIZATION PROJECT:**

Mr. Loth thanked Council for their actions that evening. He is beginning to prepare a list of grants that they are looking to submit in 2011 and he will see that Council gets that information as soon as possible.

**EXECUTIVE SESSION:**

Council went into an Executive Session regarding a confidential employee matter at 8:53 p.m.

**RECONVENE:**

Council reconvened at 8:34 p.m. Mr. Oswald made a motion to send a letter to the Mayor based on the confidential employee matter and to the said employee; seconded by Mr. Pachuillo. Mr. Wenrich asked for a roll call vote. AYES – 2, NAYS – 3 (Ms. Sloan, Mrs. Stine, and Mr. Wenrich), ABSTAIN - 1 (Mr. Butkus); motion failed. Mr. Pachuillo said no letter will be sent. Mr. Mooney said correct, you voted not to send a letter. Ms. Sloan made a motion to send a letter to the said employee only; seconded by Mr. Oswald. Mr. Mooney requested they go back into the Executive Session. Mr. Mooney said let this sit on the table till after the Executive Session. Mr. Wenrich stated on the advice of our Solicitor we are going back into Executive Session.

**EXECUTIVE SESSION:**

Council went back into Executive Session at 8:37 p.m.

**RECONVENE:**

Council reconvened at 8:50 p.m. Ms. Sloan made a motion to rescind her original motion; Mr. Oswald rescinded his second to the said motion. Mrs. Stine made a motion asking for the Mayor's resignation; seconded by Mr. Oswald. Mr. Wenrich asked for a roll call vote. AYES – 3, NAYS – 2 (Mr. Pachuillo, and Ms. Sloan), ABSTAIN – 1 (Mr. Butkus); motion carried. Mr. Mooney stated a motion was made. Mr. Pachuillo requested if he could make a motion to which Mr. Mooney stated first the Mayor must give a response. The Mayor stated he will take it into consultation with his attorney. Mr. Mooney asked so for the purpose of that evening's meeting if he was resigning to which Mayor Butkus said no. Mr. Pachuillo made a motion to send the letter to the Mayor regarding the confidential employee matter and to the employee as well; seconded by Ms. Sloan. Mr. Wenrich asked for a roll call vote. AYES – 4, NAYS – 1 (Mr. Oswald), ABSTAIN – (Mr. Butkus); motion carried.

**UNFINISHED BUSINESS:**

The first item under unfinished business was the copy machine. Mrs. Shade stated at the last meeting it was decided to allow the office to begin the process of obtaining a new copier. Mrs. Shade said she had totals for leasing/renting or buying it outright. She went on to say, it doesn't matter if you buy the piece outright or you rent it, you still must pay a monthly maintenance fee. Mrs. Shade said she sent everyone an e-mail describing all the options we have. Mrs. Shade said in her opinion buying the color copier outright is the better way to go. To rent the copier would cost us roughly \$14,523.00. It is \$242.05 a month and at the end you have nothing. To buy the copier outright would cost \$7,287.93. Mr. Pachuillo said it was a no brainer. The black and white copier is \$10,689.00 to rent or to buy it outright would be \$5,506.47. She was hoping that Council would consider the purchase of the color Konica Copier. Mr. Butkus asked if this was through COSTARS so we don't need to worry about extra bids to which Mrs. Shade said yes. Mrs. Stine made a motion to purchase the color copier; seconded by Mr. Pachuillo. Mr. Pachuillo said this was an item that he was looking at in regards to the budget and he made this recommendation to Mrs. Shade. Ms. Sloan questioned if they will maintain it monthly for a small fee to which Mrs. Shade said yes. AYES – 5, NAYS – 1 (Mr. Butkus), ABSENT - 1; motion carried. Mr. Butkus feels we should go with the black and white.

The next issue was the 2011 Budget. Mr. Pachuillo requested that Council take copies of the General, Sewer, and Fire Budgets with them for review. At this point in time there is no increase for the fire or the ambulance and no sewer increase as well. He stated he is not going to go over every line item that evening. He thanked Mrs. Stine as well as Mr. Leiby for their input into this budget. He also thanked the Chief, Mr. Hart, Mr. Schlott, and Mrs. Shade for their help in putting this budget together. He stated they went over every item in the budget. They did what they did last year as a large group. He went on to say that they cut where they could cut. He believes it is a trimmed down budget. Mr. Pachuillo will see that the Mayor gets a copy of the budget. He went on to say, he believed that a lot of people felt they could give input into the 2010 budget. It is a Council issue he said. Being swayed by the community is not the way to go. He said there were a lot of people that had access to the budget and gave their input. This is a Council issue; we are the executive branch of the Borough. He does take the thoughts of the community to heart but we are running a business here. He feels they got it down to where they aren't spending an enormous amount of money. Mr. Hart did very little in regards to maintenance of the streets. There are some capital expenditures that some of the departments are looking for. He has asked them to put them in a capital depreciation type fund for both funds, the sewer and the general funds. Mr. Pachuillo said a few months back the Mayor and Ms. Sloan along with Mr. Pachuillo talked about setting up this type of capital fund for your big items for the future. Mr. Pachuillo said on the last page of the General Fund expense you can see what a mil and a mil and half increase will generate for the Borough. The mil and half will help establish a new capital fund. Mr. Hart gave him the information on how long the equipment should last. As far as the police car goes, he feels that leasing would be the way to go. Mr. Wenrich asked the Chief about the police car from the County. The Chief stated they are still working on this. Mr. Pachuillo feels leasing is better than buying at this point. He again requested Council to take the information home and review. Mr. Leiby, Mrs. Stine, and Mr. Pachuillo agree on the budgets as a whole. Mr. Pachuillo stated to be ready at the next workshop meeting to hash out any big items somebody has. We are not going to nitpick over \$1,000 here or \$2,000 there. That won't mean all that much to the bottom line. Mr. Wenrich said if we do a workshop meeting it would happen the Wednesday before Thanksgiving. Mr. Oswald said we

**UNFINISHED BUSINESS (cont'd):**

can move it. A brief discussion ensued. Wednesday, November 17<sup>th</sup> at 7:00 was established as the date for the budget workshop meeting. Mr. Pachuillo would like to be ready to advertise the budget right after that meeting due to time constraints. Mr. Pachuillo again said they picked at that budget, the three (3) of them, so much with the help of the department heads. Mr. Oswald said everybody knows that when this budget committee was formed it was a rough meeting which he chaired. He went on to say he picked the people he did as a cross section of Council. He is hoping this will prevent the circus from happening like what happened at the end of last year and the beginning of this year. He thanked Mr. Pachuillo, Mr. Leiby, and Mrs. Stine for the work they did. He said it will be foolish to go through what we went through last year. He continued that we must have a budget by December 31, 2010 as we can't open it in January this year. We don't have a choice this time in regards to an increase. He begged Council to use their better judgment and to think about the future because the actions they take today will impact the future of this Borough. The line of credit was a great thing Council did that evening. He thanked Mr. Pachuillo again along with Mr. Leiby, who he wished a speedy recovery; he stated he had a lot of input from what he understood and Mrs. Stine. He urged Council to not turn this into the circus it was last year. Mr. Wenrich asked Mrs. Shade how much on average is a mil. Mrs. Shade stated it is \$100 per \$100,000 of assessed value. Mrs. Shade also alerted Council to the fact that Hofmann Industries had asked for a reduce assessment and was granted that not only for 2011 but for 2010 as well. We will owe them around \$3,500 back in taxes for this year. Their reassessment dropped them over \$1,000,000.00. In addition, many, many Brookfield Manor owners are also seeking reassessments which will have a significant decrease in our tax revenues for next year. Ms. Sloan questioned when will we be seeing some income from WEIS? It is Foodlion, Mr. Butkus said. Mr. Mooney said they will get a partial interim tax bill probably for November and December. They have paid on the land. Ms. Sloan asked when they got their certificate of occupancy to which Mr. Hart said this past Tuesday. Ms. Sloan stated the 2010 budget we are roughly \$114,080.00 short as of today. Mrs. Shade said no, that was the projected budget that was created in January. That is what we were projecting we would be short at the end of 2010. Ms. Sloan questioned where are we today? Mrs. Shade said when she reads the Treasurer's Report you will see where we are as of the end of October. She said right now we have \$392,654.26. Mr. Oswald said yes it might look like a surplus now, but we need that to carry us through the first three (3) months of 2011. We didn't have that this year. We had to borrow that money to continue on; so who pays for that borrowing the residents. Mr. Pachuillo wants to get away from borrowing. Mr. Oswald stated you can't borrow your way out of debt. Mr. Pachuillo said with a one (1) mil increase we could generate about \$212,000.00 in additional income. Mr. Pachuillo said we can go 1.25 mils. He is just looking at what we will need for the future. Mr. Hart reminded Council that we have three (3) mandates coming down and we are going to need money for them. The stormwater is the largest of these mandates. That one (1) will kick us. Mr. Pachuillo stated he doesn't know if there will be grant money available to which Mr. Hart stated he doubted it. Mr. Pachuillo said the Borough can't keep taking the burden of being in the red. These are thoughts that the committee had. He again urged Council to take it, review it, and he thinks if they can come up with some huge numbers good luck. Mayor Butkus asked if there was anything in there for what Mr. Hart was just talking about to which Mr. Pachuillo said no. We don't know what they will mandate as of now, but that is what he wants to start planning for now. We know it is going to come just the timing is not secure. Mr. Hart said it could hit probably by the end of 2011. Mr. Pachuillo said it appears the sewer will not need an increase after talking with Mr. Schlott and Mrs. Shade. Mrs. Shade stated we will need to talk about the trash. Mr. Pachuillo said

**UNFINISHED BUSINESS (cont'd):**

after reviewing the numbers we will need to up our fees from \$200.00 to \$210.00 for trash. That will break us even. Mr. Mooney said if the budget contemplates a tax increase, he feels it might be wise to authorize the drafting of the Ordinance for the tax increase now as well as the advertising so that at the next meeting it will be ready to be advertised, laid open so that at the first meeting in December it can be voted on and if it got vetoed you should have sufficient time to override the veto to vote on it again at the December workshop meeting or at a special meeting in December. You don't want to run into the problem you had earlier this year, Mr. Mooney said. Mr. Mooney said if you went to the 1.5 mil increase you can always decrease if you so choose but you couldn't raise it. Mr. Pachuillo made a motion to draft the Ordinance for a 1.5 mil increase for 2011 on the General Fund; seconded by Mr. Oswald. AYES – 4, NAYS – 2 (Mr. Butkus, Ms. Sloan), ABSENT - 1; motion carried. Mr. Pachuillo stated for the record, Mr. Leiby was going along with this. Ms. Sloan said she just wanted a chance to review it. Mr. Oswald said the point was to have everything ready; we can go less. Mr. Mooney explained his dilemma. He is trying to get them in a position to vote twice in December if need be. Ms. Sloan said we will be able to do that. Mr. Butkus said it passed anyway. Mr. Mooney agreed but he wanted Council to understand what he is asking and why.

The next item was the Terrace Land Development approval. A representative was there on behalf of Mr. Grande. There is language to address several of the concerns. They are asking for conditional final approval. Mr. Ludgate feels the plans have some minor discrepancies that will need to be checked but they are just minor. The big issue was the wall. Mr. Grande did attend a meeting and requested that his engineer change the setback on the wall; double it to 20' from 10' which will make it a lot easier to deal with the situation. Mr. Grande has agreed to provide a design of the wall before they begin actual construction. They are satisfied that the public safety issue has and will be addressed. Ms. Sloan asked when they can expect a plan on that wall. Mr. Ludgate said they will have to start their exploratory excavation and when that is done they will have exposed the bank. When the bank is exposed they will inspect the bank and then do a design which Ludgate and the building code official must agree to. Ms. Sloan said maybe thirty (30) days. Mr. Mooney said that condition is on the plan so we are asking you to approve the plan subject to the execution of the improvements agreement, and the stormwater maintenance agreement. This will be an internal working at that point. Mr. Ludgate would get the plan for the retaining wall and review it. If he okays it they will drop it in. You don't want that open and expose it for a long period of time, Mr. Mooney said. Ms. Sloan said her question was very specific, how long before they actually put it in before you get to look at those plans. Is it thirty (30) days, is it two (2) weeks, how much time are they going to give you? Mr. Ludgate said we will take as much time as it takes to review it. That answers her question. They will attempt to turn it around as fast as they can. Mr. Wenrich asked how many units will be up there. The answer was thirty six (36). Mr. Schlott said they will need to buy the thirty six (36) units of capacity. He assumes this will all be in the improvements agreement to which someone said yes. We will need financial security for the sewer improvements. This will all be in one (1) and of course they will need the planning module approval from DEP. Mr. Ludgate said if Council does grant conditional approval, there is a more recent review done by Mr. Eisenbrown of Ludgate. He has several administrative items in there, like a letter from the water company. Ms. Sloan said wouldn't the EDU's be paid for before conditional approval is given. Mr. Schlott said in order to reserve capacity, there needs to be a reservation agreement or purchase the capacity outright. They can purchase capacity at any point. The latest they can purchase it would be when they pull a permit. There were no major changes to the plans. Mr. Butkus made a motion

**UNFINISHED BUSINESS (cont'd):**

to grant final approval with the previously mentioned conditions listed in the agreements; seconded by Mr. Oswald. AYES – 5, NAYS – 0, ABSENT - 1; motion carried. There is also an annexation plan that the Planning Commission recommended to be lumped in and approved at the same time. It was reviewed over a year ago. This is basically a land swap between them and the Church. It lets them have a bigger parking lot and lets them build Summit Boulevard. It is a standalone annexation plan. Mr. Butkus made a motion to approve the annexation plan; seconded by Mr. Oswald. Mr. Ludgate feels Council does need to make this land swap. AYES – 6, NAYS – 0, ABSENT - 1; motion carried. The plans will be held till they are signed by Council and the Planning Commission. A brief discussion ensued in regards to hold the plans.

The next item is the change of municipality requests. Mr. Hart printed up a few maps for everyone to look at in regards to these residences. The map will be attached as part of the permanent record. These two (2) properties have changed which municipality they reside in. The first property is 3316 Reedy Road. Most of this property is located in Spring Township. The other property is 185 Sylvan Place which according to that map shows nothing of that property being in the Borough. Mr. Butkus questioned if the access driveway is coming off the Borough part of the street. This means that we are responsible for plowing their street which gives them the access they need. Mr. Hart said yes and according to the plans he has seen both these homes were to be serviced by the Borough. A discussion ensued about the map. Mr. Hart stated they did petition to the County to have their municipality changed. Mr. Mooney stated we are looking for an agreement that has been referenced in a letter he has found. However no one seems to be able to find the agreement. Stevens and Lee was the developer's attorneys at that time. It appears by the letter this agreement would say how the taxes were to be apportioned in the development. The attorney from Stevens and Lee couldn't find an agreement in his file either but again, there was discussion about this. He did not know if this fell by the wayside; this all happened back in 1992. Mr. Wenrich asked who services the sewer. Mr. Schlott stated he believes it is the Borough. Ms. Sloan said she thought there was some type of agreement where some of those kids were going to go over to the old Sinking Spring School and they ended up going to Wilson anyway. Mr. Butkus said Sinking Spring was part of Wilson long before this issue happened. Mrs. Stine stated the school district has nothing to do with this matter. Mr. Pachulo would like to have more information on the discussions back then. Mr. Wenrich said it should be recorded at the Court House. Mrs. Shade stated it does not appear to be an agreement. Mrs. Shade said she has been in contact with Spring Township and they can't locate an agreement either. Mr. Oswald stated this is all a mute point because we have no ground to stand on if there was no agreement. Mr. Mooney said we can continue looking for the agreements and if we find them we can petition to have these two (2) homes put back into the Borough. We can do it next August. However right now we have nothing. Mr. Mooney said he has a letter dated July 26, 1993 from Jim Snyder to Barbara Beringer who was with their former firm, Miller and Murray, that talks about the agreement but he can't find the agreement. Mr. Pachulo said we plow Sylvan to the corner because we are good neighbors. Mr. Wenrich questioned if we should table this. Mr. Mooney said we can't really take any actions at this point. If we do find something that states why they should be in the Borough and not Spring then we can take action at that time. Mayor Butkus said you might find some type of swap. Mr. Mooney said there is at least a draft of an agreement somewhere however whether it got adopted or not that he can't be sure of. Mrs. Shade said she spoke to Cheryl at Spring Township and they gave

**UNFINISHED BUSINESS (cont'd):**

us everything they had, and they too had no agreement. She said she also saw mention of an agreement but no agreement was found. Mr. Pachuillo would like it tabled. Mr. Wenrich tabled it till more information can be found on the advice of our Solicitor.

The next item was the Miller Amendment #3. Mr. Mooney stated he along with Mr. Schlott agree that the latest version of this amendment serves us best. Mr. Schlott has gone over the numbers feels those number are good. Mr. Wenrich asked if those numbers are reflected in the 2011 budget. Mrs. Shade stated they do. Mr. Oswald made a motion to execute Miller Environmental Amendment #3; seconded by Mr. Butkus. AYES – 6, NAYS – 0, ABSENT - 1; motion carried. The trials of the new chemicals are in this amendment.

The pole building electric was the next item. Mr. Hart said at the workshop meeting this item was discussed and Mr. Butkus made a motion to have plans drawn up with an amount of \$2,500.00. That was just a quick guess. He now received a firm price of \$6,500.00 for the plans. Mr. Butkus said this is just for the plans to which Mr. Hart said yes. Ms. Sloan questioned why it is going up so much. Mr. Hart said there are two (2) parties involved. It first starts off with Ludgate Engineering and then goes to another firm who will design those services. There are things in the old building that are illegal and need to be changed. The price for the specs is \$6,500.00. Ms. Sloan said that is triple the cost. Mr. Butkus said unfortunately he doesn't think they have much choice because they can't have the guys fumbling around in the dark at that garage. Mr. Wenrich agreed. Mr. Butkus made the motion to authorize the plans not to exceed \$7,000.00; seconded by Mr. Oswald. AYES – 6, NAYS – 0, ABSENT - 1; motion carried.

**NEW BUSINESS:**

The first item under new business was to appoint Reinhart and Company as the auditors for the 2010 audit. Mrs. Shade said we had talked last year about soliciting quotes for new auditors however in light of the budget issues we had earlier this year plus with the sewer plant upgrade/expansion she felt it would be wise to continue with Reinhart and Company. It might be cost effective as well. Mr. Butkus made a motion to appoint Reinhart and Company as the auditors for the 2010 audit; seconded by Mr. Pachuillo. AYES – 5, NAYS – 1 (Mr. Oswald), ABSENT -1; motion carried.

The next issue was the time extension for Sunoco. Mr. Ludgate stated we received a letter from the engineering firm for Sunoco Partners. They have offered a sixty (60) day time extension. It is the Planning Commission's recommendation that we accept the time extension. Mr. Butkus made a motion to accept the time extension; seconded by Mr. Pachuillo. AYES – 6, NAYS – 0, ABSENT - 1; motion carried.

Conditional use of 3836 Penn Avenue was the next item on the agenda. Mr. Hart stated this is the property right next door to Dunkin Donuts. It is in the rear. It is where the old restaurant/catering business were located. Ms. Soto would like to put a daycare facility in there. Under our new zoning ordinance a daycare is not allowed there by right. It is permitted under conditional use which must come before Council. Mr. Mooney stated we need to have a hearing

**NEW BUSINESS (cont'd):**

within sixty (60) days of her making application. It must be advertised and you must arrange for a stenographer. You take in evidence and there are conditions attached. She must meet all the conditions stated in the ordinance. Mr. Ludgate stated the reason this is conditional is because of the traffic issues that can occur. This use can lead to a traffic concentration at certain times of the day. This will help us control how this traffic will occur. The application was made on August 26, 2010. That was the first application however it has been going back and forth for a little while, Mr. Hart said. It was around the time of the last workshop meeting that they decided which way they were going to go. Mr. Mooney questioned if she made an application for a zoning permit in August. Mr. Hart stated it was a Use and Occupancy Permit. The zoning is being applied for. Mr. Mooney said she has not made an application for a zoning permit so you have not denied one. Mr. Hart said correct. She needs to apply for a conditional use application. Mr. Hart will need to look for that. She needs to make application and then we can set up the hearing. It was decided that the meeting will occur right before the next regularly scheduled Council meeting which is December 2, 2010. The time will be set at 6:30 p.m. A brief discussion ensued. The fee is \$750.00. Mr. Butkus made a motion to have Mr. Mooney prepare and advertise for the hearing once all the paperwork has been turned in; seconded by Mr. Oswald. AYES – 6, NAYS – 0, ABSENT - 1; motion carried.

**POLICE CHIEF JAMES OXENREIDER:**

The Chief stated we had 177 calls for the month of October. Thirty (30) traffic tickets; three (3) parking tickets; and five (5) warning notices were issued. Spring Township is sponsoring a PENNDOT Traffic and Engineering Workshop which will last eight (8) hours. It will be held on February 15, 2011. It is open to the Public Works Director as well. He would like to attend along with Mr. Hart. There is no cost. Ms. Sloan made a motion to send the Chief as well as Mr. Hart to the seminar; seconded by Mr. Butkus. AYES – 6, NAYS – 0, ABSENT - 1; motion carried. At 33 S. Hull, Mrs. Wilkes is requesting a handicap parking space for her son. They have applied for a placard. Mr. Oswald made a motion to grant the handicap parking space; seconded by Ms. Sloan. AYES – 6, NAYS – 0, ABSENT - 1; motion carried. Mr. Oswald asked how Halloween turned out. The Chief stated it went well and only slight problems with Shocktoberfest.

**BOROUGH ENGINEER – ROBERT LUDGATE, SR:**

The Queen Street signal's contractor is looking for release of payment in the amount of \$24,632.82 which is in order. Mr. Pachuillo made a motion to release \$24,632.82 from Liquid Fuels for the Queen Street traffic signal; seconded by Mrs. Stine. AYES – 6, NAYS – 0, ABSENT - 1; motion carried. There was a second request from the contractor for release of retainage however they do not recommend release at this time. However they do ask that they authorize release of retainage upon their completion of certain items; namely PENNDOT punch list items, official approval after the thirty (30) day trial period which is presently in operation, Liquid Fuels approval of certifications, one (1) year maintenance bond at 10% of the final contract price which is a condition of the specs and a certificate of the release of liens. These are all administrative functions that can be verified and completed. Council if it so chooses can authorize the Secretary to make the payment of \$11,340.00 which is the release of the retainage upon Ludgate's and/or Mr. Mooney's recommendation when these items are verified. Mr. Butkus made the motion to release the retainage after the conditions are met; seconded by Mr. Oswald. AYES – 6, NAYS – 0, ABSENT -

**BOROUGH ENGINEER – ROBERT LUDGATE, SR (cont'd):**

1; motion carried. The next item is the condition on the railroad. It was discussed at the October meeting. Mr. Ludgate sent a letter to Spring Township Engineer alerting them that debris from Spring Township had come down the ditch and clogged our stormsewer. Mr. Ludgate asked them to do whatever they could to prevent that. This will become more important as we become more involved with the new stormwater requirements. Mr. Ludgate stated that he and Mr. Hart met that day on site and Mr. Hart will be doing some work back there to help with some of the erosion that happened from the storm over a month ago. It is a relatively low cost project. It is just regular maintenance work. Ms. Sloan asked if we have received any response from the letter to Spring. Mr. Ludgate stated no and he is not planning on getting any. Mr. Ludgate said it is more to cover our bases just in case something happens down the line. We will be having more of these types of issues. Mr. Ludgate attended a seminar and it is currently up in the air how much responsibility we will have for policing private property. A brief discussion ensued as to stormwater regulation. Mr. Butkus asked if we are going to have to test for what might be suspended in the runoff water. Mr. Ludgate stated there is some negotiation going on between DEP and the EPA right now on this. Right now there is only a list of certain things that will need to be tested for. DEP is resisting the EPA's requirements on testing. Mr. Ludgate feels that DEP is on our side regarding the stormwater issue.

**PUBLIC WORKS DIRECTOR – MICHAEL HART:**

Mr. Hart stated we had a telephone wire problem at the corner of Penn and Mull Avenues. They are looking to start moving on this. They had to submit a detour plan. The only lane that will be detoured is the eastbound lane coming off of Mull Avenue. They want to detour traffic out Elizabeth down to Octagon back on to Broad, back onto Penn. Those roads are not built for heavy truck traffic, Mr. Hart said they have no other option. A brief discussion ensued on this matter. Mr. Mooney said we really don't have a say in what they do; we can only make a recommendation. Mr. Ludgate made the recommendation that the Borough should send a letter to PENNDOT and say these issues with trucks are not acceptable. Damage to the streets is anticipated. The truck detour should be handled another way. Mr. Wenrich stated they do not have the "okay" to move forward; they need to come up with an alternate truck traffic detour. It can't be on the Borough side streets. Mr. Oswald made a motion to reject their current plan and to come back with an alternate truck traffic route; seconded by Ms. Sloan. AYES – 6, NAYS – 0, ABSENT -1; motion carried.

**SEWER ENGINEER – DAVID SCHLOTT, JR.:**

Mr. Schlott had one request for payment for Wickersham in the amount of \$95,559.55. Everything is acceptable however this is not final payment. There is a 10% contingency for them. Mr. Butkus made a motion to pay Wickersham Construction \$95,559.55 for payment number 13; seconded by Mr. Oswald. AYES – 6, NAYS – 0, ABSENT -1; motion carried. The next item was for a planning module for 4407 Bittner Road in Lower Heidelberg Township. It is an undeveloped lot and DEP is requiring they have planning module approval. It does flow to Sinking Spring. It is a minor issue but he is asking Council to allow the President to sign off on this module. Mr. Oswald made a motion to allow Mr. Wenrich to sign the module; seconded by Mr. Butkus. AYES – 6, NAYS – 0, ABSENT - 1; motion carried.

**BOROUGH SECRETARY – REGINA M. SHADE:**

Mrs. Shade stated the Borough Hall will be closed on Thanksgiving Day as well as the day after. She stated according to the handbook the Borough is closed on Christmas Eve and Christmas Day. Due to Christmas being on Saturday, Mrs. Shade questioned if Council would want the employees to observe that holiday on December 23. We would be closed on December 24<sup>th</sup> for Christmas Eve. It was decided to close the Borough Hall on December 23<sup>rd</sup> for Christmas and on December 31<sup>st</sup> for New Year's Day. Mr. Pachulo made a motion to close the Borough Hall on Thursday, December 23, 2010 and Friday, December 31, 2010 for the holidays; seconded by Mr. Oswald. AYES – 6, NAYS – 0, ABSENT - 1; motion carried.

**TREASURER REPORT:**General Account

Opening Balance – September 30, 2010	\$141,186.40
PLGIT	9,106.69
Invest	49,591.71
Recreation	
General	254,595.14
Deposits as of October 31, 2010	70,762.35
Transfer from Invest	100,000.00
Wire Transfer Fee	10.00
Checks Written	136,087.58
Payroll	65,575.13
PENNVEST Auto Debit	2,576.47
Non Uniformed Pension Fees	2,000.00
To Be Paid	<u>26,338.85</u>
Balance as of October 31, 2010	\$392,654.26

Sewer Account

Opening Balance – September 30, 2010	\$126,374.17
PLGIT	61,347.02
Invest	422,101.03
Deposits as of October 31, 2010	144,101.03
Checks Written	130,784.77
To Be Paid	<u>57,195.73</u>
Balance as of October 31, 2010	\$566,643.88

Mr. Butkus made a motion to approve the Treasurer's Report; seconded by Ms. Sloan. AYES – 6, NAYS – 0; motion carried.

**PUBLIC COMMENT:**

There was no public comment.

**ADJOURNMENT:**

Mr. Butkus made a motion to adjourn the meeting at 10:20 p.m.

Respectfully submitted,

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Regina M. Shade  
Borough Secretary/Treasurer