

The regular monthly meeting of the Borough Council of the Borough of Sinking Spring was called to order on Thursday, December 27, 2007 at 7:00 p.m., at the Sinking Spring Borough Hall by President Lawrence Schmidt. After the Pledge to the Flag, Elizabeth White called the roll reflecting the following Council Members present:

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

Other officials present were: Mayor Clarence Noecker; Charles Fitzpatrick, Borough Solicitor, Michael Hart, Public Works Director, James Oxenreider, Chief of Police, Peter Eisenbrown, Ludgate Engineering, David Schlott, ARRO Consulting, and Elizabeth White, Administrative Assistant, who recorded the minutes of the proceedings.

COUNCIL PRESIDENT – LAWRENCE SCHMIDT:

Prior to the beginning of the meeting Mr. Schmidt requested that if anyone wanted to address Council they were welcome however to limit their comments. He wanted to keep the meeting to a minimum due to the Holiday.

APPROVAL OF BILLS:

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

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The first item was the agreements between Spring Township/South Heidelberg Township/Borough of Sinking Spring. Mr. Fitzpatrick stated this was for the treating of sewage for South Heidelberg Township. We currently have an agreement that South Heidelberg has drafted. We are in agreement with it however there are some attachments that had to be prepared. Mr. Dave Schlott has prepared a document that lists the net operating costs that would be the basis for charging South Heidelberg Township. It is currently being circulated among all the parties. This agreement is nearly complete but not ready for any action. Spring Township is another story. On October 31st an agreement was forwarded to Spring for their review and approval. We have received some feedback from their Solicitor saying they wanted to make certain (not major) revisions. We have not heard anything as of this point in time. Their Solicitor is away until January 2nd. Since South Heidelberg and the other municipalities are all on based on having three (3) completed agreements, we will not have a general agreement till after the first of the year. Mr. Fitzpatrick continued that Mr. Schlott received a piece of disturbing news from Mr. Kevin Bitz of Spring Township. Mr. Fitzpatrick stated we were anticipating that the agreement with Spring Township would be based upon water meter readings; the same as the Borough itself. We would

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charge Spring Township residents the same as we are charging our residents. Most recently this has been put in doubt by comments Mr. Bitz has made. Mr. Fitzpatrick warned that he has not heard this from anyone else but Mr. Bitz. He continued that the impression he was getting was that their bills too would be based off a sewer usage meter. We are not sure at this point. Mr. Butkus thought the reason we weren't going to flow meters in Spring was that their flow was so low a meter could not be used. Mr. Schmidt said that was correct. Mr. Butkus went on to question how could we do this if we can't meter it? Mr. Schlott stated there is one (1) area that is transported into the Borough where a meter could be placed and this is the area they are talking about. This would be the Lenape Valley subdivision. Mr. Schlott again stated these were just comments. Mr. Fitzpatrick said we don't have any agreements ready for execution that evening for the above reasons.

The next item was Traditions. Mr. Anthony Maras, their Solicitor addressed Council. He explained that at the last meeting the plan that was presented had already been presented to the Planning Commission. There was one (1) change. There was a discussion about extending Octagon Avenue to a different terminus. Mr. Ludgate requested that this not be extended down further and that the terminus be moved and that it be ended (pointed to something on the map) there so that the Borough has flexibility in the future as to what alignment they would have. It will be connected up temporarily to the alley so that there would be two (2) points of access to the rear alley which has been done. There were a number of other recommendations that were made by the Planning Commission. There was a review letter by Mr. Ludgate. They have supplied a detailed response of these items as well as an agreement to comply with the recommendations of the Planning Commission. There was some discussion regarding the ponds and fencing and as to what the Borough would like to see. There was a recommendation from the Planning Commission on that. This recommendation does show the fencing as well as some landscaping intermingled. This plan has been showed numerous times and is constant with the conditional use approval that has been granted. Mr. Fitzpatrick wanted to clarify the conditions. They were set forth. These conditions created by Mr. Ludgate will be invoked by Borough Council and they will need to be met prior to the preliminary plan being approved. They accepted all the conditions and it appears they were accepted by Ludgate Engineering as well. Mr. Leiby made a motion to grant conditional preliminary plan approval; seconded by Mrs. Kutz. AYES – 6, NAYS – 0, ABSENT - 1; motion carried. Mr. Fitzpatrick stated earlier in the week he had spoken to a gentleman that lives on Cacoosing at the home that was designated as the Robitzer home. Mr. Fitzpatrick told this gentleman if he had any questions to attend this evenings meeting and his questions could be addressed. Mr. Fitzpatrick stated he was in a position that it was publicly announced that we are looking to have his property condemned to extend Octagon Avenue. He was there that evening. Mr. Fitzpatrick stated we should assure him that we do not want to put him in a financial bind if he does desire to sell his property that we precede with appraisals as quickly as possible. He believes that was one (1) of the conditions we have put into conditional use approvals before. He explained how that works and how money gets placed into an escrow account after appraisals are made. The gentleman questioned if he must accept whatever we give him. Mr. Fitzpatrick stated that he does not have to; he can certainly hire Counsel and dispute that amount; however we are not at that point yet. We might be proceeding to that point. Mr. Maras said we discussed that at the conditional use hearing. It was discussed that the Borough would get the appraisal done and Traditions would post whatever money was associated with the appraisal. They will be moving forward with that. There

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are more steps that need to be done. A discussion ensued as to where the home is located and whether the property will or won't be taken. The gentleman said his life is on hold. Mr. Schmidt said he can't say for sure but this will not be happening in the very near future. Mr. Schmidt said it depends on how the Main Street Project goes and those types of things. He asked if it will be within the next five (5) years. Mr. Schmidt feels he will be looking at a three (3) to five (5) year span before anything is even thought about in that area. That is just his thought. Mr. Schmidt asked Mr. Loth his thoughts on that. Mr. Loth stated we are just beginning the process. We just have ideas; we haven't even spoken to the State yet. These are just ideas and we have so much ahead of us. He explained how the process works. He again questioned if it would be about five (5) years. They said probably closer to the five (5) year mark. The gentleman thought this was a "done deal" according to the paper. Mr. Maras stated this really has nothing to do with this project; this would be something that would or could be used in the future.

The next item was the dump truck. Mr. Fitzpatrick said he received a memo from Mrs. Shade. He continued that Mrs. Shade, Mr. Hart, and he had a conversation about this issue. He continued there are actually two (2) issues. One (1) is the dump truck and the other is the fire truck for the benefit of the firefighters. The cost of the dump truck is \$130,000.00. The cost of the fire truck is \$182,500.00. There were some issues if we are going to finance the dump truck by leasing it. However, the least bore interest at 8.2%. That is very much higher then we could borrow it. For that reason it was decided we would not lease it. Mrs. Shade pointed out that all of the funds for the dump truck would be needed in the spring and that we probably would have sufficient funds in the General Fund at that time. This is the current proposal. We don't borrow money we use cash at time of the delivery of the truck. The other issue is the fire truck. There is currently an existing balance on a loan at the fire company. The balance is about \$50,000.00 to pay off First Community Bank. This \$50,000 needs to be paid and Mrs. Shade is proposing that the General Fund loan the Fire Fund the money and have it repaid when the fire tax money starts coming in. The reason she is suggesting this be done this way is that we will not need to get DCED approval through what Mr. Fitzpatrick feels is a very expensive requirements. We would save about \$5,000 to \$6,000 which Mrs. Shade said it would cost us. Mr. Fitzpatrick stated she was right in her cost estimates. Mr. Butkus questioned if this will be paid back in the same calendar year. Mr. Fitzpatrick stated yes. Mr. Fitzpatrick stated Mrs. Shade had written down some conditions to hold the fire company accountable. Mr. Fitzpatrick stated there are two (2) components of the fire company - the fire suppression and the social quarters. However, from a legal prospective they are inseparable. They are one (1) corporation. So whatever prompts these conditions it might not be the fire suppression side but nevertheless there is some concern that if there is not enough monies to meet current obligations we need to have some assurances the Borough is adequately protected. The recommendations that were made were that a representative of the fire department is required to be present at all meetings including budget and workshop meetings as well as Council meetings. The second is that the Borough receives accountability on money that is received from the Relief Fund on a monthly basis. The third, an accounting of the bills paid for the fire suppression on a monthly basis, i.e. electric, maintenance bills, etc. Mrs. Shade was not sure if we could see these as they are paid by the social side. Mr. Fitzpatrick feels we can demand it if Council so chooses. The fourth requirement is any other items Council would like to attach. This is the recommendation of Mrs. Shade, Mr. Hart, and Mr. Fitzpatrick. Mr. Wenrich questioned that they are all one (1) entity. Mr.

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Fitzpatrick stated that was true. Mr. Wenrich said so if they default, the social quarters, who would be left holding the bag? Mr. Fitzpatrick said if the social quarters default and a lien is attached to the property/building is one (1) unit and it would be attached to that property. Mr. Wenrich stated that would fall back on us. Mr. Fitzpatrick stated we don't own that building but we are supplying finances to the fire suppression side. The building that houses the equipment is owned by the social quarter side. If a lien is attached to the building it could potentially jeopardize the equipment being housed there. How likely this is, Mr. Fitzpatrick has no idea. Mr. Butkus stated both meetings he had attended right after the reorganization last time, they were shown documents that said the equipment can't be used as collateral; the real estate was the only thing that could be used. Mr. Fitzpatrick said that was right. Mr. Butkus said any creditor would likely go after the land before the equipment anyway. Mr. Wenrich's concern is that the social quarters defaults and the Sheriff's department goes in and starts tagging stuff for a sale. The trucks are licensed to us but what about the rest of the equipment, Mr. Wenrich questioned. Mr. Zerr said we own all the other equipment as well. It can't be touched. Mr. Fitzpatrick said we don't own any of this. There are assurances in the agreement but a creditor is not bound by that. A creditor can come after any asset that is owned by the fire company. Mr. Butkus said at that point in the unlikely event this should happen wouldn't the Borough at that point consider a "buy out." Bail out and then take ownership of the building. Mr. Schmidt said that was something Mr. Zerr said a long time ago was a take over the facility. Mr. Schmidt asked Mr. Fitzpatrick is there any way we could sever the relationship with the club side? Mr. Fitzpatrick stated by agreement. But that was proposed a few years ago and he said "his head was placed on a chopping block" for that. He was not sure this is feasible. Mrs. Kutz questioned why wouldn't the social quarters have to close since they are there to support the fire suppression side? Mr. Wenrich said we have a lot of money invested into the equipment. He thought they were two (2) separate entities. He said yes, they are in a way but they are actually still one (1). If he was a creditor, and the social quarters owed me money I would go to the district justice, tell the sheriff, execute, go in, and start tagging stuff. The Mayor stated a municipality can't be involved with liquor. Mr. Fitzpatrick said that was true. Mr. Wenrich stated his interest is in the trucks not the liquor. He said this is the first that he heard of this. He said in the eyes of creditors, they are the same. The Mayor said the personnel can't be involved with liquor. Mr. Fitzpatrick stated we could never run the social quarters. Mr. Butkus questioned Mr. Zerr that with the potential merger of the fire companies, all the fire companies would need to sever their ties with their social quarters just for legal protection like this. Mr. Zerr said that Sinking Spring and Fritztown have been given the ultimatum to separate or the merger won't happen. Mr. Zerr does not know where it stands at Sinking Spring. He keeps hearing it is going to happen, but it has not happened yet. Mr. Butkus said at the last meeting he attended, they did form a committee to look at the bylaws and make the appropriate changes. He does not know how far along they are. Mr. Schmidt asked Mr. Fitzpatrick what they need to do that evening. Mr. Fitzpatrick said the recommendations given for budget purposes. We really don't have to authorize any borrowing. We just wanted to propose to Council the manner in which we could purchase these vehicles. We also made the proposal since there is going to be General Fund money used, we feel it is important that a representative from the fire company be at each monthly meeting. Mr. Wenrich made a motion to purchase the dump truck outright vs. leasing it, the second part of the motion is to loan the \$50,000 to the fire company from the General Fund and we reimburse the General Fund when the fire tax

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money starts coming in; seconded by Mr. Butkus. Mr. Schmidt called for a roll call vote. AYES – 6, NAYS – 0, ABSENT -1; motion carried.

Mr. Fitzpatrick left the meeting at this time.

The next item was the Main Street Project. Mr. Jim Pachuillo spoke. He stated at their last meeting they organized. They are as follows: Chairman – James Pachuillo, Vice Chairman – David Meas, Secretary – Regina Shade, and Treasurer – Sandy Graffius. The second item he had was a resolution to hire Mr. John MacPhee as a consultant. His proposal was handed out at the last Council meeting. His job will be to put together the Community Action Plan Profile. They would like to bring him on board for the length of the entire project not just to write our profile. He would be a consultant throughout the project; we would use him as necessary. He requested Council to approve this resolution. Mr. Pauchilo explained what the plan was. This will help us get all types of grants. This is the first thing the State requires from the Borough, Mr. Loth stated. Everything is based off this document. It is like your “Keystone.” Mr. Butkus asked what the approximate amount was for Mr. MacPhee. It is a maximum of \$25,000.00 plus expenses. Mr. MacPhee stated with this profile, it is not just how we get State money; it is about how we improve our community. How do we create business, a downtown area, recreational areas, schools those types of things? One of the points that he brings to the table is bringing the private sector into the process. Mr. Pachuillo stated that Mr. MacPhee can bring private dollars into this project through developers. Mr. Schmidt questioned how long he might be involved in the project. Mr. MacPhee stated it was up to Council every step of the way. Initially, it would be the first six (6) months. He continued to explain how it would work and what he could bring to the table. It could be six (6) months up to a year or longer. Mr. Wenrich made a motion to hire Mr. MacPhee at cost not to exceed \$25,000.00 which includes expenses; seconded by Mr. Zerr. Mr. MacPhee accepted this proposal. A brief discussion ensued as to what kind of gateway grants we will be looking to receive and from what agencies monies could come from. Mr. Butkus inquired as to how much money is out there for these types of projects and how many people are looking to use this money. Mr. MacPhee stated at the federal level it is very competitive and varies from year to year. Mr. MacPhee stated this is not the issue now; our issue is to prepare ourselves so we can even ask for the money. Currently, we are not in competition for the serious money. Mr. Schmidt feels Mr. Butkus’ questions would be better asked at the Main Street meetings. Mr. Butkus understands that we need to get the narratives to put into the different grants but he is also questioning how likely it is that we write up the narrative and because many people are going for it, we don’t get it. Mr. Wenrich stated it is like fishing, you have to throw it in the lake and see what you get. Kutztown Borough just received monies for revitalization of their downtown. Fleetwood is also getting monies as well. Mr. Loth explained about the document again. There is about \$18,000,000.00 available through the Federal government for transportation enhancement’s program, which is a special area. A discussion ensued. Mr. Schmidt asked for a roll call vote AYES – 4, NAYS – 2 (Mr. Leiby and Mr. Butkus), ABSENT – 1. The third Thursday of each month at 7:00 p.m. should be okay for the meeting. Mr. Pauchilo requested Mrs. Shade run an ad advertising these meetings for the upcoming year.

The next item was a resolution waiving the police contribution to their pension fund. This is done every year. Mr. Butkus made a motion to waive the police pension contribution for year 2008; seconded by Mr. Wenrich. AYES – 6, NAYS -0, ABSENT – 1; Motion carried.

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The last item was to reaffirm the passing of the general, sewer, and fire company budgets. The first budget was the general fund. No changes had occurred to any of the budgets. Mr. Wenrich made a motion to pass the general fund budget; seconded by Mrs. Kutz. Mr. Schmidt requested a roll call vote. AYES – 5, NAYS – 1 (Mr. Butkus), ABSENT – 1; Motion carried. The next was the sewer fund. There is no rate change currently however there will be an increase in 2008 at some point probably around April. Mr. Wenrich made a motion to pass the sewer budget; seconded by Mr. Zerr. There was a roll call vote. AYES – 4, NAYS – 2 (Mr. Butkus and Mr. Leiby), ABSENT – 1; Motion carried. The last budget was the fire budget. There will be no millage increase. Mr. Butkus made a motion to pass the fire budget; seconded by Mr. Wenrich. There was a roll call vote. AYES – 6, NAYS – 0, ABSENT – 1; Motion carried. Mr. Butkus stated Mrs. Shade sent out an e-mail referencing a portion of her salary being charged to the sewer and in that e-mail she made reference to a sinkhole on the paper street of Doherty. Mr. Butkus stated this should have been billed back to the company that did the clean up for the railroad due to the fact that their equipment ran over the collar around the manhole cover. Mr. Butkus stated again this was fine till they ran over it; it should have gone back to the clean up company. A discussion ensued. (It was found out later to be that there was a second sinkhole that opened up some time after the first hole had been repaired and that was the sinkhole the street department had repaired. The first manhole problem had been repaired by the cleaning company.) Mr. Butkus made a motion to authorize the removal of some unwanted material at the sewer plant; seconded by Mr. Wenrich. AYES – 6, NAYS – 0, ABSENT -1; motion carried.

TREASURER'S REPORT:**General Account**

Opening Balance – December 27, 2007	\$	149,028.97
PLGIT		8,705.38
Invest		48,311.48
Recreation		
General Invest		<u>125,540.92</u>
	\$	331,586.75

Sewer Account

Opening Balance – December 27, 2007	\$	131,431.67
PLGIT		58,583.98
Invest		<u>470,962.52</u>
Sewer Revenue		
	\$	660,978.17

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

MR. GEORGE BUTKUS:

Mr. Butkus suggested that the Borough Secretary run ads for the positions that will become vacant as of the reorganizational meeting. We may have some seats that will be filled however Ms. White stated there will be two (2) vacant seats on the Authority that will need to be filled. There will be one (1) on the Planning Commission. The Mayor stated we will need to appoint someone to the Vacancy Board.

MR. MICHAEL HART – PUBLIC WORKS DIRECTOR:

Mr. Hart had placed in their packets a yearend report for code enforcement activity and for the permits he has issued. This does not include any permits Ludgate might have issued.

The next item was the Brutto property. The plans that were approved do show basements, so he is fine in what he is doing.

Curb side Christmas tree pickup is set for January 7th, 14th, and the 21st.

On December 4th and 5th he attended a building code training seminar and took the exam. The prior week he received the news that he passed.

MAYOR NOECKER:

The Mayor stated there will be a training seminar for new Council members at the Inn at Reading on January 18th and 19th.

The Mayor received numerous complaints from residents on Ruth Street about the leaves on the fire company grounds. They were not raked this year.

ADJOURNMENT:

Mr. Butkus made a motion to adjourn at 8:40 p.m.

Respectfully submitted,

Regina M. Shade
Borough Secretary/Treasurer