

East Stroudsburg Borough, August 4, 2009

A regular meeting of the East Stroudsburg Borough Council was held at the Municipal Building on Tuesday August 4, 2009. The following members were in attendance: Victor Brozusky; Roger DeLarco; Ed Henning; William Reese; and Donald Repsher. Sonia Wolbert was absent. Also attending were: Mayor Armand M. Martinelli; Manager James S. Phillips; Solicitor David J. Williamson of Scanlon Lewis & Williamson; Engineering Representative Samuel D'Alessandro of R.K.R. Hess Associates, Inc.; Captain William Parrish of the Stroud Area Regional Police Department; a press representative from TV 13, and several residents in the audience.

#### Call To Order/Pledge of Allegiance

Mr. DeLarco called the meeting to order at 7:32 pm. Pat Kennedy led the Pledge of Allegiance.

#### Minutes of July 7, 2009 Regular Council Meeting

Mr. Brozusky made a motion, seconded by Mr. Repsher to approve the minutes of the July 7, 2009 regular Council meeting as submitted. The motion carried unanimously.

#### Presentation to Borough by Brodhead Watershed Association

Pat Kennedy of the Brodhead Watershed Association (BWA) was present to present a plaque to the Borough in recognition of the Borough becoming a stream sponsor for BWA. Ms. Kennedy presented the plaque to Council President DeLarco and Mayor Martinelli and noted that the funds contributed by the Borough are used by BWA to purchase the chemicals used by the stream-watchers in their stream monitoring efforts.

#### SARPD Report

Captain Parrish reviewed the June 2009 Department report and noted that the Police Department will no longer have a SRO (School Resource Officer) at East Stroudsburg High School South. The School District has established its own police department and the Department staff and Police Commission felt that having two police forces trying to share jurisdiction would not work well at the school. Mr. Brozusky asked what the School District is doing at the north campus? Captain Parrish said he understood that the SRO at the north school was eliminated due to budget cuts by the District.

#### Proposed Land Development Plan -276/278 Van Gordon Street Duplex

Dennis Deshler and Richard Griffin, owners, were present on behalf of the applicant along with Engineer, Alex Makitka. Mr. Phillips said the applicant has submitted written request for eight (8) waivers from provisions of the Borough's subdivision and land development code pertaining to this land development. The duplex is proposed to be developed on a vacant lot approximately 1/3 of an acre in size on Van Gordon St., which is a public right-of-way but is not an ordained Borough street. The applicants previously had constructed a duplex on this street, rebuilding a structure from a garage that had been there previously. At the request of Council Mr. Phillips reviewed the list of requested waivers for Council action.

Mr. Phillips said the first waiver requested pertains to Section 140-9.1, Recording of the Final Plan. Mr. Deshler said he checked with the Recorder's office and they said they only record, subdivisions, not a land development plan. Mr. D'Alessandro said that the Borough ordinance requires that land development plans be recorded even though this is not a subdivision. Mr. Williamson said he would check with the Recorder's office concerning their policy.

The next request for waiver pertains to Section 140-12, Provision of Streets and Sidewalks. The applicant has indicated that this is the only undeveloped lot on Van

Gordon St. and since the road is only a gravel alley/driveway they do not see the need for sidewalks. Mayor Martinelli commented that if this duplex is approved there will be a total of five (5) residences on the street and sidewalks may be needed. Mr. Griffin asked if Council would accept the placement of a deed restriction which would require sidewalks to be provided later if additional residences were developed. Mr. DeLarco said Borough Council has made a commitment to develop sidewalks in the Borough and has been allocating significant funds for that purpose, as well as installing handicapped ramps. Council feels that sidewalks are important to encourage safe pedestrian travel within town. Mr. Griffin asked if the Borough has ever waived the requirement for sidewalks? Mr. DeLarco said Council has not waived that requirement anytime recently. Mr. Makitka noted that if a sidewalk is installed along the front of this property it would be very difficult to extend the sidewalk further to adjoining property because the slopes are fairly steep. Mayor Martinelli said we're only dealing with this property right now, not the adjoining property. After further discussion, Mr. Brozusky made a motion, seconded by Mr. Repsher to not grant the requested variance from the sidewalk requirements. The motion carried unanimously.

Mr. Phillips said the third waiver requested is from Section 140-22 Requiring Installation of Permanent Monuments & Markers. The applicant has requested this waiver since there are existing iron pins set at all four (4) corners of the property, and the Borough's engineer has concurred. Mr. Brozusky made a motion, seconded by Mr. Repsher to grant this waiver as requested. The motion carried unanimously.

Mr. Phillip said the next waiver pertains to Section 140-23 Provision of Streets. The applicant is not proposing to install or improve any streets. Mayor Martinelli asked Mr. Deshler & Mr. Griffin if they plan on maintaining ownership of this duplex? Mr. Deshler indicated, yes as a rental property. Mr. Phillips commented that he would almost rather see the road improved for its entire length as opposed to sidewalks being installed along the front of the property. After brief additional discussion, Mr. Henning made a motion, seconded by Mr. Repsher to grant the waiver as requested. The motion carried unanimously.

Mr. Phillips said the fifth waiver requested pertains to Section 140-26, Provision of Storm Sewers. The applicant has indicated that since stormwater is being handled by swales and no storm sewers are proposed that the waiver is in order. Mr. Reese made a motion, seconded by Mr. Henning to grant the waiver request as submitted. The motion carried unanimously.

Mr. Phillips said the next waiver requested pertains to planting requirements for shade trees and landscaping. The applicant has noted that there is a number of existing trees that are proposed to be retained on the property which will result in "credit" for more trees than what would be required. Mr. D'Alessandro said that he feels the applicant meets the requirements based on the number of trees and no waiver is needed. Mr. D'Alessandro asked are they requesting a waiver from the landscape buffer requirement? Mr. Deshler indicated no.

Mr. Phillips said the seventh waiver requested is in regards to the submittal of a written stormwater management plan. Mr. Makitka indicated that the stormwater information is indicated on the plan but he doesn't want to have to go through the time and expense of preparing a separate written plan. Mr. D'Alessandro said as long as the applicable information is on the plan a waiver may not be needed. However, he noted that the stormwater management plan must include pre and post development calculations of stormwater runoff. Mr. D'Alessandro said apparently he had not completed the review of the stormwater information submitted by the engineer for the applicant.

Mr. Phillips said there is one final waiver that has been requested by the applicant and that pertains to the provision of a traffic impact study. Mr. Henning questioned why a traffic impact study was required? Mr. Phillips read from the zoning ordinance which states that a traffic impact study shall be required for a land development plan, and a land development plan includes the development of a residence or structure in excess of 1,000 sq. ft. Mr. Henning commented that that is an extremely low figure for the size of a

proposed development which would require a traffic impact study. Mr. Phillips noted the requirement for a traffic study is in the zoning ordinance. Mr. D'Alessandro said waiver of that requirement would require a zoning variance appeal. Mr. Deshler noted that the County Planning Commission in its review had noted that an estimated twelve (12) trips per day might be generated by a duplex such as this one proposed.

#### Report and Possible Action on Bids Received for Waterline Replacement Project

Mr. Phillips reported that approximately fifteen (15) contractors had picked up the plans and specifications for the PennVest funded waterline replacement projects. Six (6) bidders submitted proposals today when bids were opened at 4:00 p.m. However, several bidders did not submit required documentation of efforts to solicit DBE (Disadvantage Business Enterprises) for their participation in this project. Mr. D'Alessandro said the low bidder, Bill Goodwin Construction, Inc. did not submit any documentation and their prices are very low in comparison to the other bidders; not very realistic. The bid proposals submitted by Linde Enterprises were the next lowest on several contracts but they only submitted one form regarding compliance efforts for DBE solicitation which we feel is not satisfactory. The proposal received from Nimaris Construction also did not have the required documentation. The lowest responsible bidder apparently meeting all requirements is LSR Excavating Co., Inc. and the total of their four (4) bid amounts is \$570,895.

After discussion, Mr. Henning made a motion, seconded by Mr. Reese to tentatively award the four contracts to LSR Excavating Co., Inc. based on their bid amounts, but subject to final acceptance after review and approval of the bid proposals and DBE solicitation efforts by PennVest and Pennsylvania Department of Environmental Protection (PADEP). The motion carried unanimously.

Mr. D'Alessandro noted the bid totals are well below the construction estimates. He suggested the Borough may want to ask PennVest if we could take bids for the Braeside sewerline work, or add other additional waterline work to be included under the approved loan amount. Mr. Henning made a motion, seconded by Mr. Brozusky, to authorize the Manager and engineer to undertake additional work under the PennVest loan, if approved by PennDOT. The motion carried unanimously.

#### Resolution No. 36-2009 Reappointing Harold Larison to Board of Health

Mr. Repsher made a motion, seconded by Mr. Brozusky to approve proposed Resolution No. 36-2009 Reappointing Harold Larison to a new five (5) year term on the Board of Health expiring March 31, 2014. The motion carried unanimously.

#### Resolution No. 37-2009 Reappointing Bonnie Klinger to Shade Tree Commission

Mr. Henning made a motion, seconded by Mr. Brozusky to approve proposed Resolution No. 37-2009 Reappointing Bonnie Klinger to a new five (5) term on the Borough Shade Tree Commission, expiring April 30, 2014. The motion carried unanimously.

#### Resolution No 38-2009 Approving Revisions to 2008 Year CDBG Program Budget

Mr. Phillips said we need to allocate additional CDBG funds to the Housing Rehab activity and it is proposed under this resolution to transfer monies from the water line activity item and administration to housing. Mr. Brozusky made a motion, seconded by Mr. Repsher to approve proposed Resolution No. 38-2009 approving revisions to the 2008 Year Community Development Block Grant (CDBG) program budget as submitted. The motion carried unanimously.

#### Proposed Ordinance No. 1223 Revising Penalties for Certain Parking Violations

Mr. Phillips said the proposed ordinance would increase the fines for parking violations for parking in fire lanes and for parking in a handicapped space without a proper license or placard to \$50. Mr. Brozusky made a motion, seconded by Mr. Reese

to adopted proposed Ordinance No. 1223 Amending the Vehicle & Traffic Code, revising penalties for certain parking violations as advertised. The motion carried unanimously.

#### Proposed Ordinance No. 1224 Increase Water Rates

Mr. Reese made a motion, seconded by Mr. Henning to table action on the proposed ordinance; the motion carried unanimously. Mr. Henning said his Committee consisting of himself, Mr. Phillips, Berrill Dennis and Mr. Repsher will meet again to review alternatives for increasing the water rates. Mr. DeLarco suggested that the Committee may want to involve Mr. D'Alessandro in coming up with a proposal for a water rate increase.

#### Bid Proposals for New Solid Waste Collection/Disposal Contract

Mr. Reese made a motion, seconded by Mr. Brozusky to authorize preparation of specifications and advertising of bid proposals for a new solid waste collection/disposal contract to be effective January 1, 2010, due to the expiration of the current contract with J.P. Mascaro & Sons, Inc. as of the end of this calendar year. The motion carried unanimously.

#### Bid Proposals for Reconstruction of ADA Handicapped Ramps

Mr. Phillips noted that the Borough was faced with reconstructing a lot of handicapped ramps at street corners because PennDOT is now requiring that such ramps be upgraded to the new standards whenever the Borough is paving the street and utilizing Liquid Fuels Funds for that purpose. Mr. Phillips reviewed a list of ramp locations for streets that are proposed for repaving over the next year or two. Mr. Henning noted that the ramps on Normal St. will not have to be done by the Borough since the Housing Authority is planning on reconstructing those ramps as part of their work at the Normal St. housing project. After discussion, Mr. Brozusky made a motion, seconded by Mr. Repsher to authorize preparation of specifications and advertising for proposals for reconstruction of ADA handicapped ramps at various locations. The motion carried unanimously.

#### Correspondence

Mr. Phillips reported on the following items of correspondence received:

1. A letter from Attorney Marc Wolfe on behalf of University Properties, Inc. requesting that Council table action on the conditional use application submitted for new housing on the East Stroudsburg University Campus until the October 6, 2009 Council meeting. Mr. Henning made a motion, seconded by Mr. Reese to postpone the required public hearing on the conditional use application as requested. The motion carried unanimously.
2. A letter from Pocono Arts Council requesting continuation of municipal support for Arts Council in 2009. Mr. Reese made a motion, seconded by Mr. Repsher to authorize a donation of \$350, as budgeted to the Pocono Arts Council. The motion carried unanimously.
3. A letter from the Pocono Mountains Council of Governments (PMCOG) requesting that each municipality appoint a representative to attend the next COG meeting for preliminary discussion concerning the new Countywide Commission for collection of EIT (Earned Income Taxes).
4. A copy of the monitoring results for the two former joint municipal landfill sites as reported by R.K.R. Hess Associates, Inc.
5. Information from the Pennsylvania State Association of Boroughs (PSAB) on the Fall Leadership Conference to be held at Erie, Pa October 16-18, 2009.
6. A copy from Penn's Northeast of its 2008/2009 Annual Report
7. A copy from H.A. Berkheimer, Inc. of the Earned Income Tax Audit for the 2008 Year

## Reports

Mr. D'Alessandro reviewed his written engineer's report previously submitted to Council. Mr. D'Alessandro noted that handicapped ramps will be required to be upgraded as part of the Lenox Street and Prospect Street waterline replacements to be funded by the PennVest loan. PennDOT has agreed to include in the HOP (Highway Occupancy Permit) for each location that the ramps will not have to be done until next year after the waterline installation is completed. Also, the PennVest loan funds cannot be used for this expense.

Mr. D'Alessandro noted that the site contractor for the new fire station project has completed almost all the work with the exception of final paving, which has been delayed at the request of the Borough pending completion of the exterior work by the building contractors. Mr. D'Alessandro said his firm has recommended payment of their payment request including dropping the retainage amount. Mr. Brozusky made a motion, seconded by Mr. Repsher to approve the payment request to Muschlitz Excavating Co., Inc. as recommended. The motion carried unanimously.

Mr. Henning asked about the "big hole" at the end of East Broad St. where a new home was proposed as part of a two (2) lot subdivision, but has not yet been completed. Mr. D'Alessandro noted that the applicant has not satisfied the Borough requirements for an easement for the waterline that crosses the corner of the property either. Mr. Phillips said the applicant has not responded very well to inquiries from the Borough office or the Solicitor.

Mayor Martinelli asked if the owner of the former Mack Printing building, now Advance Door Inc., has been notified concerning the graffiti which is located in the back of the building along the railroad? Mr. Phillips said he had spoken to someone at the office but Mr. Blick will need to send a formal notification.

Mr. Repsher again noted the pothole on PennDOT's North Courtland St., in front of 519.

Mr. DeLarco recognized Henry Pyatt, Downtown Manager for Eastburg Community Alliance, who was in attendance. Mr. Pyatt noted that Geoff Brace of the Pennsylvania Downtown Center will be holding a training session on August 19, 2009 for ECA members and local business people concerning marketing and fund raising.

Mr. DeLarco noted that at the last meeting of the Monroe County Control Center Board of Directors, the Board tentatively agreed to waive the 4<sup>th</sup> quarter fees charged to the municipalities this year again. Mr. DeLarco asked Mr. Phillips when the new Prospect St. traffic signal will be activated? Mr. Phillips replied that the only thing holding up activation of the signal is the completion of the handicapped ramps which have been awaiting PennDOT approval. Mr. DeLarco noted that the Borough owned sidewalk in front of the Harlacher parking lot is in poor condition and may need to be replaced. Finally, Mr. DeLarco asked Mr. Phillips about the job description for the Public Works Director position due to the pending retirement of Donald Ransom? Mr. Phillips said he has revised the job description and has it ready for Council's review.

Mr. D'Alessandro noted that there is a TIGER Grant Program for large transportation projects of \$20 million or more which is open to municipalities to apply for. He noted that several municipalities his firm represents in Lehigh County are looking at possibly applying for such funds. Mr. Henning noted that one project that would need a lot of funding is the improvement or widening of Prospect St. coming in from Interstate 80 towards the hospital and university. Mr. D'Alessandro said he would check to see if a municipality can be an applicant for such funds involving improvements to a state highway.

Mr. Phillips asked Council if they want Mr. D'Alessandro to attend and give a presentation at the State Transportation Committee meeting scheduled for September 3, 2009? Mr. Phillips said he was contacted by East Stroudsburg University concerning holding a Town/Gown meeting the last week of August. Mr. Phillips said he had

suggested Thursday August 27<sup>th</sup> for a dinner meeting since there is a Council Committee meeting scheduled for that evening, and Council agreed that would be the best date. Mr. Phillips said the office was notified by the contractor for Med Ed that they will be starting tree trimming on Met Ed lines this week. Finally, Mr. Phillips noted that he had forwarded an email from the Pennsylvania League of Cities & Municipalities (PLCM) concerning the status of the Optional Sales Tax Proposal before the legislature. The bill favored by the League is now designated House Bill 1858. Mr. Brozusky made a motion, seconded by Mr. Repsher to authorize the Manager to contact our legislators in the House concerning House Bill 1858.

#### Public Comments – Non Agenda Items

None

#### List of Bills

Mr. Reese made a motion, seconded by Mr. Repsher to approve the list of bills payable and to ratify expenditures and payroll through August 4, 2009 as submitted. The motion carried unanimously.

#### Executive Session

At 9:12 pm Mr. Henning made a motion, seconded by Mr. Repsher to adjourn into executive session. The motion carried unanimously.

At 9:22 pm Council members reassembled in the meeting room and Mr. Reese made a motion, seconded by Mr. Repsher to reconvene the public meeting. The motion carried unanimously. Mr. Williamson reported that the executive session had been held to discuss a personnel matter and a real estate matter.

#### Resolution No. 39-2009 Appointments to Planning Commission

Mr. Henning made a motion, seconded by Mr. Reese to approve proposed Resolution No. 39-2009 appointing Margaret Muth and Mary DellaSalla to new four (4) year terms on the Borough Planning Commission expiring June 30, 2013. The motion carried unanimously.

#### Appointment of Borough Representative to Countywide Earned Income Tax Collection Commission

Mr. Reese made a motion, seconded by Mr. Henning to appoint Manager James Phillips as the Borough's representative to the new EIT Tax Collection Commission. The motion carried unanimously.

#### Applications for Gaming Funds Allocated for Monroe County

Mr. Phillips said he had an idea for a project that would be for East Stroudsburg Borough – funding for the next phase of the downtown streetscape project. Mr. Henning made a motion, seconded by Mr. Brozusky to authorize an application for gaming funds for the streetscape project as recommended. The motion carried unanimously.

#### Resolution No. 40-2009 Authorizing Application to PennVest for Loan Financing for the East Stroudsburg Dam Rehabilitation Project

Mr. D'Alessandro said an application for PennVest funds for the East Stroudsburg Dam Project has to be submitted by August 18, 2009. The balance of project costs not covered by the H2O grant is estimated to be \$943,000. Mr. Brozusky made a motion, seconded by Mr. Repsher to approve proposed Resolution No. 40-2009 authorizing Application to PennVest and directing submittal of the required letter of responsibility, as submitted. The motion carried unanimously.

Request by Manager James Phillips to Attend ICMA Conference at Montreal, Canada  
September 12-16, 2009

Mr. Reese made a motion, seconded by Mr. Brozusky to authorize Manager James Phillips to attend the International City Management Association Conference as requested, with reimbursement of travel expenses in accordance with Borough policy. The motion carried unanimously.

Bid Proposals for Repaving of Normal, Hill and Taylor Streets

Mr. Reese made a motion, seconded by Mr. Henning to authorize preparation of specifications and advertising for bid proposals for the repaving of streets within the Normal St. housing project, utilizing additional CDBG funds allocated from the state using federal ARRA stimulus monies. The motion carried unanimously.

Adjournment

With no further business Mr. Reese made a motion, seconded by Mr. Repsher to adjourn the meeting at 9:30 pm. The motion carried unanimously.

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James S. Phillips, Secretary