

East Stroudsburg Borough, December 15, 2009

A regular meeting of the East Stroudsburg Borough Council was held at the Municipal Building on Tuesday December 15, 2009. The following members were in attendance: Victor Brozusky; Roger DeLarco; Ed Henning; William Reese; Donald Repsher and Sonia Wolbert. Also attending were: Manager James S. Phillips; Solicitor David J. Williamson of Scanlon Lewis & Williamson; Engineering Representative Samuel D'Alessandro of R.K.R. Hess Associates, Inc.; ESU Student Ambassador Ashley Puderbach; Lieutenant Brian Kimmins of the Stroud Area Regional Police Department; a press representative from the Pocono Record, and several residents in the audience.

#### Call To Order/Pledge of Allegiance

Mr. DeLarco called the meeting to order at 7:37 pm. Bryan Zukawski led the Pledge of Allegiance.

#### Minutes of December 1, 2009 Regular Meeting and December 8, 2009 Special Meeting

Mr. Reese made a motion, seconded by Mr. Repsher to approve the minutes of the regular Council meeting held December 1, 2009 as submitted. The motion carried unanimously. Mr. Brozusky made a motion, seconded by Mr. Repsher to approve the minutes of the special meeting held December 8, 2009 as submitted. The motion carried unanimously.

#### Public Comments – Agenda Items

None

#### Stroud Area Regional Police Department Report

Lieutenant Brian Kimmins noted that two disruptive conduct reports were issued by the Department for residences on Braeside Avenue which resulted in issuance of eight (8) citations. Mr. Reese commented that Council wants the Police to enforce these types of disruptions and accept “no tolerance” in that regard.

Mr. Phillips noted that the Salvation Army is having its annual Christmas food distribution on Thursday December 17, 2009 and Wednesday December 23, 2009. Mr. Phillips said he had spoken to Lieutenant Kimmins concerning restricting parking at meters along Washington St. during the days of the food distribution because of the amount of traffic anticipated. Mr. Brozusky noted that several businesses at the corner of Washington and Day Streets need the meters for their customers. After further discussion, Mr. Reese made a motion, seconded by Mr. Brozusky to authorize the bagging or prohibition of parking at meter spaces on Washington Street on the dates of the Salvation Army food distribution, except for the couple of spaces in front of the commercial shops near the corner of Day St. and Washington St. The motion carried unanimously.

#### Proposed Land Development Plan for 276/278 Van Gordon Street

Mr. D'Alessandro said his office has reviewed the most recent submittal from the applicant and noted that they must post a cash bond for maintenance of the proposed stormwater system. Mr. Williamson stated that the Borough traffic consultant, Traffic Planning & Design, Inc. has recommended approval of the traffic impact study, which does now meet the Borough ordinance requirements.

Mrs. Wolbert asked if there are any other conditions that the developer still has to comply with? Mr. D'Alessandro said that Council had granted several waivers from requirements of the subdivision and land development code back at the August meeting. Mrs. Wolbert said the developer is not making any long term improvements that will benefit the tenants of this duplex. After discussion, Mr. Repsher made a motion, seconded by Mr. Reese to approve the land development plan as submitted and revised,

subject to the applicant posting a maintenance bond in the amount \$200 to cover maintenance of the stormwater system, and posting of a bond to guarantee completion of the proposed sidewalk improvements in an amount to be approved by the Borough Engineer. The motion carried by a vote of 3-2 with Mrs. Wolbert and Mr. Brozusky voting “no”.

#### Ordinance No. 1225 Amending the Vehicle and Traffic Code, Revising Certain Provisions Regarding the Booting of Vehicles

Mr. Phillips said Council had previously approved this ordinance but at that time the ordinance had not been advertised, so Council needs to take action again on this ordinance. Mr. Brozusky made a motion, seconded by Mr. Repsher to adopt proposed ordinance No. 1225 Revising Provisions Regarding the Booting of Vehicles, as advertised. The motion carried unanimously.

#### Authorize Advertising Proposed Ordinance Fixing 2010 Year Real Estate Tax Rate

Mr. Phillips noted that as previously discussed, the largest portion of the increase in the millage rate proposed for the 2010 year budget results from the new debt service cost that the Borough will have in 2010 for the payment of principal and interest on the \$2.23 million loan which the Borough took out this summer for completion of the new fire station project. Council had indicated its intent to enact a separate tax levy for the cost of the new fire station project. Mr. Phillips said the Borough Code permits a separate tax levy without limit for payment of interest and principal on debt, and also allows up to a 3 mill levy for fire protection services including the erection of a fire station. Mr. Williamson said the Borough would have more options to utilize the separate levy for debt service, as opposed to the 3 mill limit for fire protection. After discussion, Mr. Brozusky made a motion, seconded by Mr. Repsher to authorize advertising the proposed ordinance fixing the 2010 year real estate tax rate at a total of 17 mills; with a separate millage rate equal to debt service for the new fire station project, and the balance of the total rate of 17 mills for general purposes. The motion carried. Mr. Phillips noted that Council has scheduled a special meeting Monday December 28, 2009 at 9:00 am to act on the budget and tax ordinance.

#### 2010 Year Council Meeting Schedule

After discussion, Mr. Brozusky made a motion, seconded by Mr. Repsher to keep the Council meeting schedule for the 2010 year the same as currently; that is regular meetings on the first and third Tuesday of each month at 7:30 pm (except for the summer months June, July & August when only one meeting will be held on the first Tuesday of the month), and Work Session/Committee meetings on the last Thursday of each month at 7:30 pm. The motion carried unanimously.

#### Resolution No. 51-2009 Establishing Employee Pension Plan Contribution Rate

Mr. Phillips said the pension plan document states that the employee contribution rate shall be 3.50% for employees unless such rate can be reduced or waived by Council based on the financing requirements for the plan that year. This year due to the calculation of the Minimum Municipal Obligation (MMO), the employee contribution rate needs to remain at the 3.5% figure. Mr. Brozusky made a motion, seconded by Mr. Reese to approve proposed Resolution No. 51-2009 Establishing the Employee Pension Plan Contribution Rate for the 2010 Year at 3.5% as submitted. The motion carried unanimously.

#### Free Parking Downtown for Christmas Season

Mr. DeLarco noted that Council had discussed at the last meeting enacting free parking for the downtown area the week before Christmas, but there had been different views expressed concerning this. After discussion, Mr. Brozusky made a motion, seconded by Mr. Repsher to place a moratorium on parking enforcement for the one week period from Saturday December 19, 2009 thru and including Saturday December 26, 2009. The motion carried unanimously.

Bids Opened 12/15/09 for Braeside Sewerline Relocation Project

Mr. D'Alessandro distributed a list of the bids received for the sewerline relocation project which were opened this afternoon. A total of 10 bids were submitted and the apparent low bidder is Lombardo Trucking of Yatesville, PA. A tabulation of bids follows:

<u>Contractor</u>	<u>Base Bid</u>	<u>Alt. Bid</u>	<u>10% Bond</u>	<u>Affidavit.</u>	<u>Acknowledge Add. No. 1</u>	<u>Add. No. 2</u>
Papillon & Moyer	\$303,305.81	\$48,408.10	X	X	X	X
Doli Construction	\$247,210.00	\$42,500.00	X	X	X	X
Kobalt Construction	\$385,375.00	No Bid	X	X	X	X
James T. O'Hara	\$320,800.00	\$31,875.00	X	X	X	X
Linde Corporation	\$228,197.00	\$59,500.00	X	X	X	X
Kruger Construction	\$287,137.50	\$53,975.00	X	X	X	X
Wexcon, Inc.	\$236,315.00	\$51,000.00	X	X	X	X
*Lombardo Trucking	\$214,938.70	\$24,046.50	X	X	X	X
Grand Prix	\$294,025.00	\$43,520.00	X	X	X	X
Leeward Construction	\$297,800.00	\$22,100.00	X	X	X	X

\* apparent low bidder

Mr. D'Alessandro noted that we still must check out references for the apparent low bidder and there also was an alternative bid price submitted which was for open/cut installation of the sewerline in lieu of boring under the driveway/road. Mr. D'Alessandro said he will have a recommendation to Council for the next meeting.

Public Comments – New Business

Maintenance Foreman Mark Hoke who was present noted that during the recent leaf collection season just completed the Borough picked up a total of 253 truckloads of leaves.

Correspondence

Mr. Phillips reported receipt of the following items of correspondence:

1. A copy of a report from H.A. Berkheimer, Inc. on statement of auditing standards and report on controls placed in operation and tests of operating effectiveness, September 30, 2009
2. A letter from the Monroe County Commissioners advising on the results of bid proposals that were received for Tax Collector Surety Bonds.
3. A letter from Mary Ellen Higgins concerning an information seminar to be held on the Natural Raptor Migration Corridor.
4. A letter from the Pennsylvania Department of Environmental Protection (DEP) acknowledging receipt of the inspection report recently submitted for the East Stroudsburg Dam by R.K.R. Hess Associates, Inc. Mr. Phillips said the letter notes that there are eighteen (18) large dam projects that are being funded by Commonwealth Financing Authority funds and each one requires a review. The Department will respond with its review comments as soon as it can and cannot speed up the review of our dam work.

Mr. DeLarco noted that he had received a letter from residents of the East Broad Street area reporting on the alleged violations of the zoning ordinance that are occurring at 237 East Broad St. Mr. Williamson said Codes Officer John Blick had discussed this

matter with him and Mr. Blick did not feel that there was sufficient information to enable him to file against the property owner with the District Justice office. However, Mr. Williamson stated that maybe the Borough should pursue this matter through the District Justice.

### Reports

Mr. D'Alessandro reviewed his written engineer's report previously submitted to Council. Mr. D'Alessandro said in regard to the Grandview East & West Subdivision plans, that the "as built" plans submitted by the developer are not correct in several instances. Also, he said that the Borough needs a certification from the contractor who installed the waterlines, not from the engineer, that the waterlines were installed with at least the required 18" clearance under PA DEP regulations.

Mr. D'Alessandro commented that in developing new parking requirements under the Borough's zoning ordinance, Council may wish to consider permitting shared parking arrangements if they are formalized through a lease agreement. Henry Pyatt, Eastburg Community Alliance Downtown Manager, spoke in favor of possible shared parking arrangements where appropriate.

Ashley Puderbach, ESU Student Ambassador, reported that the adopt-a-street program was very successful this fall and at least six (6) groups have signed up so far to take care of picking up litter on various streets within the Borough.

Mr. Williamson stated that since the joint sewer project involving Stroudsburg Borough, Pocono Township and Stroud Township is proceeding, the municipalities and the Brodhead Water Association who had appealed the original granting of the sewer permit to Pocono Township by PA DEP, can now withdraw their appeal of that permit as called for in the settlement agreement. Mr. Repsher made a motion, seconded by Mr. Brozusky to authorize the joint motion for withdrawal of the appeal without prejudice. The motion carried unanimously.

Mrs. Wolbert reported that the Friends of Stroud Region Open Space & Recreation Commission (SROSRC) are hosting a soirée at the Night Club Liquid on January 12, 2010 beginning at 5:30 pm. The purpose of the gathering is to help gain support for the Friends Group and its efforts to support the development of the Levee Loop Trail proposed for along both sides of the Brodhead Creek within East Stroudsburg Borough, Stroudsburg Borough & Stroud Township. Mrs. Wolbert also passed out applications and encouraged Council members to become members of the Friends Group.

Mr. Repsher noted that the depression in the road of North Courtland St. is still there in front of 519/521 North Courtland Street.

Mr. Phillips said he had received a visit from a resident of Braeside Avenue who is requesting that Council consider changing parking requirements on Braeside Avenue and Centre Street. She said her car has been hit twice while parked on Braeside Avenue in front of her residence. Mr. DeLarco suggested that Council consider this matter for further discussion at the next Committee meeting. Mr. Phillips reported that the Twin Boroughs Recycling Committee has decided to close the recycling drop-off yard from Thursday December 24, 2009 thru and including Saturday January 9, 2010 to enable servicing/repairs on the baling equipment at the Recycling Center. Mr. Phillips said this holiday time period is also when the recycling drop-off area tends to get the most amount of garbage and non-recycling materials because many people from outside the Boroughs come to use the facility then.

### List of Bills

Mr. Repsher made a motion, seconded by Mrs. Wolbert to approve the list of bills payable and to ratify expenditures and payroll made through December 15, 2009 as submitted. The motion carried unanimously.

### Executive Session for Discussion of Litigation Matters

Mrs. Wolbert made a motion, seconded by Mr. Brozusky to adjourn into executive session at 8:37 p.m. The motion carried unanimously.

At 9:00 p.m. Council members reassembled in the meeting room and Mr. Reese made a motion, seconded by Mrs. Wolbert to reconvene the public meeting. The motion carried unanimously. Mr. Williamson reported that the executive session was held to discuss a litigation matter.

### Connor vs. Borough and Foremost Mutual Fire Insurance Co.

Mr. Brozusky made a motion, seconded by Mr. Repsher to authorize Solicitor David Williamson to negotiate possible settlement terms for this matter involving the Borough and the plaintiff's insurance company. The motion carried unanimously.

### Executive Session

Mr. Repsher made a motion, seconded by Mr. Brozusky to again adjourn into executive session at 9:04 p.m., to discuss possible litigation matters with representatives of East Stroudsburg University. The motion carried unanimously.

Council members reassembled in the meeting room at 10:15 p.m. Mrs. Wolbert made a motion, seconded by Mr. Repsher to reconvene the public meeting. The motion carried unanimously.

### Authorize Payments to Waterline Contractor – Estimates Approved by Engineer

Mr. Brozusky made a motion, seconded by Mr. Repsher to approve payments to LSR Excavating Company for the Lenox St. and Prospect St. waterline replacement projects, in the amounts as approved by the Borough Engineer. The motion carried unanimously.

### Adjournment

With no further business Mr. Brozusky made a motion, seconded by Mr. Repsher to adjourn the meeting at 10:18 p.m. The motion carried unanimously.

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James S. Phillips, Secretary