

## East Stroudsburg Borough, July 7, 2009

A regular meeting of the East Stroudsburg Borough Council was held at the Municipal Building on Tuesday July 7, 2009. The following members were in attendance: Victor Brozusky; Roger DeLarco; Ed Henning; Donald Repsher and Sonia Wolbert. William Reese 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.; and several residents in the audience.

### Call To Order/Pledge of Allegiance

Mr. DeLarco called the meeting to order at 7:31 pm. Cheryl Lees led the Pledge of Allegiance.

### Resolution No. 34-2009 Recognizing Cynthia Brown for Life Saving Rescue

Mr. DeLarco said it was the pleasure of him and Council to recognize one of our lifeguards at Dansbury Park swimming pool who performed a rescue of a youth from the swimming pool on June 14, 2009. Cynthia Brown was present along with her parents Mark and Debbie Brown. Mr. DeLarco read the proclamation of Borough Council and Mayor commending and recognizing Cynthia Brown for her lifesaving rescue. Council members congratulated Cynthia Brown and also her father, Pool Director Mark Brown, for favorably responding to this incident involving a young boy. Mr. Henning made a motion, seconded by Mr. Brozusky to adopt Resolution No. 34-2009 recognizing Cynthia Brown as submitted. The motion carried unanimously. Mr. DeLarco presented a copy of the signed proclamation to Cynthia Brown.

### Presentation of Penn Prime Peak Performer Award to the Borough for the 2008 Year

Cheryl Lees of the Penn Prime Workers Compensation Trust was present to formally present the Borough with the 2008 year "Peak Performer Award". Ms. Lees explained that the Penn Prime Group has six criteria for awarding of the Peak Performer Award:

1. The municipality must have been a member for three (3) years.
2. It must have a certified Safety Committee.
3. The municipality must have a loss ratio of less than 30%.
4. The municipality had to complete a job safety analysis for two (2) positions.
5. Completion of the member assessment program.
6. Completion of mandatory training for all employees on slips, trips and falls.

Ms. Lees noted that the Borough has been a "Peak Performer" for three years since the award was started and is in line to obtain the award for a fourth year again this year. Ms. Lees noted that the Borough is truly one of the "Peak Performers" within the Penn Prime Group with a loss ratio for the last several years of only around 3%. Mr. DeLarco thanked Ms. Lees for attending the meeting and for recognizing of the Borough's workers compensation record.

### Minutes of June 16, 2009 Special Meeting

Mr. Repsher made a motion, seconded by Mrs. Wolbert to approve the minutes of the special Council meeting held on June 16, 2009 as submitted. The motion carried unanimously.

### Public Comments – Agenda Items

None

Ordinance No. 1222 Authoring & Directing Issuance of General Obligation Note in Principal Amount of \$2,230,000 for the New Fire Station Project.

Mr. DeLarco noted that the Borough had gone through a competitive process to seek proposals from local banks for a loan to finance the remaining construction and renovation costs for the new fire station project. Council has accepted the proposal from ESSA Bank & Trust for a twenty (20) year loan with a fixed rate of 3.6% for the first ten (10) years, and a variable rate for the second ten (10) years of the twenty year term based on the LIBOR rate plus 1.75 points.

Mr. Phillips said the required notice of Council's intent to adopt the proposed ordinance authorizing the incurring of the debt for the project has been advertised. Mr. Henning made a motion, seconded by Mr. Brozusky to adopt proposed Ordinance No. 1222 Authoring Issuance of the GO Note, as advertised. The motion carried unanimously.

Report and Action on Bids Received July 2, 2009 for Curb Replacements

Mr. Phillips said the Borough had re-advertised for new bids for replacing portions of concrete street curbs on Prospect St. and Centre St. Bids were opened on July 2<sup>nd</sup> and the results are as follows:

C&D Contractor & Sons, Inc.	\$22,350.00
E.F. Possinger & Sons, Inc.	\$23,429.00
Linde Corporation	\$32,395.32

Mr. Phillips noted that in his memo he has recommended award of the contract to C&D Contractor's based on their low bid proposal on a unit price basis. Mr. Repsher made a motion, seconded by Mrs. Wolbert to accept the bid and award a contract to C&D Contractor & Sons, Inc. as recommended. The motion carried unanimously.

Advertising for Bid Proposals for Waterline Replacement Project

Mr. Phillips said the Borough has already placed the advertisement for bids for the waterline replacement project to be funded by the PennVest loan due to the time requirements that PennVest has imposed for administration of the loan. Mr. Brozusky made a motion, seconded by Mr. Repsher to ratify the advertisement for bid proposals for the PennVest waterline replacement project. The motion carried unanimously.

Easement Agreements for Waterline Stream Crossings for Lenox Avenue

Mr. Phillips noted that the waterline replacement project for Lenox Avenue to be funded under the PennVest loan will require two places where the waterline has to cross a stream outside of the Borough roadway. The first location is near Henry St. where the waterline will cross Little Sambo Creek, and the second location is just west of Elizabeth St. where a small intermittent stream is located. Mr. D'Alessandro explained that the waterline needs to be routed outside the roadway to avoid the stream culvert pipes that are already located under the roadway. The Borough would have to obtain additional permits if it disturbed the existing stream culverts already in place. Mr. Phillips said there are actually three property owners that we would need to contact concerning easements. Mr. Repsher made a motion, seconded by Mr. Repsher to authorize preparation and execution of easement agreements for the waterline stream crossings as planned for the Lenox Avenue waterline replacement project. The motion carried unanimously.

Agreements for Professional Services for PennVest Waterline Replacement Project

Mr. Phillips said PennVest requires written agreements for professional services involved with the PennVest funded waterline replacement project. Mr. Repsher made a motion, seconded by Mr. Brozusky to approve proposed agreements with R.K.R. Hess Associates, Inc. for engineering services and Scanlon, Lewis & Williamson for legal

services for the PennVest waterline replacements project, as submitted. The motion carried unanimously.

Resolution No. 32-2009 Declaring Official Intent to Reimburse Borough Funds Used to Construct Waterline Replacements with PennVest Loan Proceeds

Mr. Phillips said PennVest also requires a resolution of Council indicating that the Borough intends to use general and/or water fund monies to pay the construction cost for the waterline improvements prior to receipt of the actual loan funds from PennVest. Mr. Repsher made a motion, seconded by Mr. Brozusky to adopt proposed Resolution No. 32-2009 as submitted. The motion carried unanimously.

Filing of Other Forms for PennVest Loan

Mr. Henning made a motion, seconded by Mrs. Wolbert authorizing the appropriate Borough Officials to prepare, sign, and file all other forms and paperwork required by the PennVest loan requirements. The motion carried unanimously.

Resolution No. 33-2009 Pledging Local Contribution for DCED Streetscape Grant

Mr. Phillips said the Department of Community & Economic Development (DCED) had awarded the Borough last year a \$275,000 grant for eligible costs for the downtown streetscape project. DCED requires a resolution be filed whereby the Borough pledges the local matching share of project costs and agrees to refund to the state any grant monies received for expenditures that might be declared ineligible. Mr. Repsher made a motion, seconded by Mr. Brozusky to adopt proposed Resolution No. 33-2009 as submitted. The motion carried unanimously. Mr. Brozusky noted that he has received many favorable comments from residents who like the improvements recently completed on Crystal St.

Proposed Ordinance Increasing Rates for Metered Water Service

Mr. Phillips asked that action be deferred on this matter.

Public Comments – New Business

Mark Idhe of 337 Merten Street was present and explained to Council that his neighbor had cut down ten (10) trees on his property in January 2008. Mr. Idhe had contacted the Police Department but they refused to prosecute the neighbor for cutting down his valuable trees. Next Mr. Idhe said he had contacted District Attorney David Christine and D.A. Christine has refused to prosecute the individual. Mr. Idhe said he next tried to file a private complaint with District Justice Michael Muth's office and he filled out the paperwork, but the complaint still has to be approved for prosecution by the District Attorney. Finally, Mr. Idhe said he had gone to the Office of State Senator Lisa Boscola and the office of State Representative Mario Scavello seeking assistance, and was advised to contact East Stroudsburg Borough concerning this matter.

Mr. DeLarco asked what did Senator Boscola's office advise him to do? Mr. Idhe said, they said to ask Borough Council to intervene concerning this matter with the Police Department. Mr. Williamson asked if the neighbor at 339 Merten St. realized that the trees were on Mr. Idhe's property? Mr. Idhe said the neighbor acknowledged to him that the trees were on his property and he doesn't see why the police couldn't have filed trespass charges against the individual. Mr. Idhe said the first officer that responded to the call was Officer Petruzzi. Mr. Idhe said he had also looked into filing through small claims court but there is an \$8,000 limit there. Mr. Idhe estimated his damages at over \$20,000; one tree alone was 6" in diameter and over 30' high and would be valued at well over several thousand dollars.

Mayor Martinelli said he would contact the Regional Police Department concerning this matter for Mr. Idhe and left the meeting at this point to do so.

Henry Pyatt, Executive Director of the Eastburg Community Alliance (ECA) said the July 4<sup>th</sup> American Freedom Festival at Dansbury Park went well and thousands of

people were present for the evening fireworks display. Mr. Pyatt said he wanted to particularly recognize Pocono Medical Center, who came through just days before the event and agreed to contribute \$3,500 as sponsor for the stage and sound system.

Mr. Henning asked if the youth employed by ECA who has been sweeping and picking up trash along Crystal St. could also pull weeds in the areas at each end of Crystal St. that were recently landscaped by Strauser Landscapers? Mr. Pyatt said he didn't think this would be a problem but said he would like to get the okay from his Board of Directors for this addition to the youth's duties. Mr. DeLarco said he would send an email to other ECA Board members concerning this matter.

### Correspondence

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

1. Copy of the Audit report for the Borough's non-uniform employee's pension plan for the 2006-2008 years as prepared by the Pennsylvania Auditor General's office.
2. A copy of the Monroe County Water Quality Study Report for the 2008 year as prepared by the Monroe County Planning Commission.
3. A letter from Pennsylvania Office of the Budget acknowledging receipt of the single audit report from the Borough for the 2007 & 2008 fiscal calendar years.
4. A letter from the Monroe County Commissioners reminding the Borough of the Act 32 requirements for appointment of a delegate to the countywide Earned Income Tax Commission.
5. A letter and ground water monitoring results for two (2) joint municipal landfill sites as submitted by the Pennsylvania Department of Environmental Protection (PADEP) for the 2009 year.
6. A letter from PADEP concerning a fuel oil release at Pocono Medical Center's cancer center site on June 12, 2009
7. A letter from Alfred Roth submitted his resignation from the Zoning Hearing Board effective after the August ZHB meeting.
8. A letter from the Monroe County Planning Commission announcing that the State Transportation Commission will hold a hearing on the update to the state transportation improvement plan on September 3, 2009 at Wilkes Barre.

### Reports

Mr. D'Alessandro reviewed his written engineer's report previously submitted to Council. Regarding the East Stroudsburg Dam, URS Engineers have submitted their preliminary analysis and report to his office for review. The report indicates that tests show water levels within the dam lower than anticipated which is good, but a poorer condition of soils within the dam than what was anticipated. Mr. D'Alessandro said Muschlitz Construction has completed site improvement work at the new fire station site and his office has recommended payment of final amounts to the contractor, pending submittal of all required paper work. Mr. Repsher made a motion, seconded by Mr. Brozusky to authorize final payment to Muschlitz as recommended. The motion carried unanimously.

Mr. D'Alessandro reported that Doli Construction has completed work on the Prospect Street waterline/culvert project, and final payment is in order subject to all closeout documents to be submitted by the contractor. Mr. Repsher made a motion, seconded by Mr. Henning to authorize final payment as recommended. The motion carried unanimously.

Mr. Henning asked about the status of the Smithfield Township sewer construction project concerning connection to the Borough sanitary sewer system? Mr. Phillips said the Township is having the final inspection of the construction work done by Linde Corporation this Thursday. However, the Borough is still waiting to receive from the Township a final listing of the number of EDU's/customers within the Township to be connected to the Borough's system, both for existing customer as of the date of agreement, and for new customer's to the Township system that have been added since the date of agreement. Mr. Henning noted that construction is proceeding on a

commercial building on Route 447 where the Albert residence was located previously. Mr. Henning questioned whether the storm drainage system had been approved to pipe water down Route 447 – otherwise water from the site will drain into the Flory Pond drainage area. Mr. Williamson said he would contact Smithfield Township concerning the status of that stormwater project. Mr. Henning also stated that the nearly completed streetscape project looks great. Also, Mr. Henning said that he had looked at the videos prepared for the Borough by CGI Communications, and was very impressed.

Mayor Martinelli noted receipt of a letter from the Buffalo Soldiers Motorcycle Club requesting assistance for a planned activity here in the Borough. Mr. Martinelli also noted that he had forwarded to Council several months ago an email received from Congressman Kanjorski's office concerning possible funding for transportation projects under the federal stimulus bill. Mr. Henning made a motion, seconded by Mrs. Wolbert to direct the Manager to contact the Congressman's office concerning funding opportunities under the legislation. The motion carried unanimously.

Mrs. Wolbert inquired whether a letter had been sent to East Stroudsburg University concerning parking for the new housing plan proposed by ESU? Mr. Phillips said Traffic, Planning & Design firm is providing some comments to him for the letter and he will circulate a draft letter to Council and the Solicitor before sending one out. Mrs. Wolbert asked about the reference in the water quality report to three (3) violations for bacteria levels in the water system? Mr. Phillips said these were three (3) cases where routine samples came back with a positive bacteria test, but re-samples in each case came back negative, and the problem could be due to something as simple as technician error in taking the water sample.

Mr. Repsher noted there is still a pothole in front of 519 on North Courtland Street.

Mr. Brozusky made a motion, seconded by Mr. Repsher to authorize a paid lunch for Borough employees utilizing the funds received from Penn Prime for the Borough's worker's compensation safety record. The motion carried unanimously. Mr. Brozusky asked Mr. Phillips to ask Mr. Blick to check on a kids swimming in the yard of 114/116 Lenox Avenue which is filled with water and could be a mosquito breathing ground.

Mr. DeLarco asked Mr. Phillips for an update on the Golf Course? Mr. Phillips said he would need to provide Council with an update after reviewing the figures for the month of June and the Golf Course Committee should meet to review this as well. Mr. DeLarco reported on his attendance at the Pennsylvania League of Cities & Municipalities (PLCM) conference at Lancaster, PA last week and noted that all the Municipal Associations are in support of proposed legislation which would permit an optional 1% County sales tax increase. Mr. DeLarco said he feels the Borough should approach our Legislators in support of this Bill because the increased sales tax revenues must be used to reduce real estate taxes (60% of the revenues must go to that purpose). After discussion, Mr. Brozusky made a motion, seconded by Mr. Repsher to support the proposed legislation. The motion carried unanimously.

Mr. Phillips said he received a call from the Redevelopment of Monroe County concerning a resident who has approached the Authority for assistance for home repairs under the CDBG Home Rehabilitation Program. The house has a serious flooring problem which could be considered an emergency, and Mr. Phillips asked Council whether the Borough should permit this individual to be "bumped up" on the waiting list due to the emergency situation. Council members expressed that they felt comfortable with whatever action Mr. Phillips felt he needed to take after learning the particulars of this situation.

#### List of Bills Payable

Mr. Brozusky made a motion, seconded by Mr. Repsher to approve the list of bills payable and to ratify expenditures and payroll made through July 7, 2009 as submitted. The motion carried unanimously.

## Executive Session

At 9:14 p.m. Mrs. Wolbert made a motion, seconded by Mr. Repsher to adjourn into executive session. The motion carried unanimously.

At 9:28 p.m. Council members reassembled in the meeting room and Mr. Henning made a motion, seconded by Mrs. Wolbert to reconvene the public meeting. The motion carried unanimously. Mr. Williamson stated the executive session had been held to discuss two (2) litigation matters, a real estate matter, and a personnel matter.

## Authorize Advertising for Bids for New Garbage Collection/Disposal Contract

Mr. Phillips noted that the current contract with J.P. Mascaro & Sons expires at the end of this year and the Borough will need to solicit new bids for the trash contract in September. Mr. Phillips asked Council whether they feel the Borough should consider any changes to the current specifications or method of service used in the current contract? The consensus of Council members, was that residents appear satisfied with the current unlimited type service that includes the removal of bulk items at no additional cost. Mr. Brozusky made a motion, seconded by Mr. Repsher to authorize advertising for bid proposals for a new garbage collection/disposal contract as recommended. The motion carried unanimously.

## Emergency Interconnection with the Brodhead Creek Regional Authority Water System at Stokes Avenue Intersection

Mr. Phillips said the Stokes Avenue interconnection is very old, in poor condition and to his knowledge has never been utilized, by either the Borough or Water Authority. The estimated cost for upgrades to this interconnection to make it serviceable is in excess of \$100,000 Mr. Phillips asked Council whether the Borough should be interested in putting that kind of money into upgrading this interconnection? Several Council members expressed the opinion that it may not be worth spending that kind of funds on the interconnection since there are two (2) other interconnections available, one (1) being the interconnection in the back of Eagle Glen Plaza, and the other being the interconnection line over the Veterans Bridge which is scheduled to be upgraded by the Authority.

## Proposed Resolution No. 35-2009 Establishing Procedure for Joinder Deeds

Mr. Henning made a motion, seconded by Mr. Brozusky to adopt proposed Resolution No. 35-2009 establishing a procedure for handling a request for joinder deeds. Mr. Williamson commented that although this situation does not come up frequently, we did have one recently and he agrees that this might be a reasonable procedure for handling such request. The motion carried unanimously.

## Poor Condition of Sidewalk in Front of Pocono Shopper Property on S. Courtland St.

Mr. Henning made a motion, seconded by Mrs. Wolbert to direct the Codes Officer to notify and/or cite if necessary the owner of the property in question where the sidewalks are in very poor condition. Mr. Phillips said this is probably the worst pieces of sidewalk in the downtown area. The motion carried unanimously.

## Adjournment

With no further business, Mr. Brozusky made a motion, seconded by Mrs. Wolbert to adjourn the meeting at 9:48 p.m. The motion carried unanimously.