

East Stroudsburg Borough, June 15, 2010

A special meeting of the East Stroudsburg Borough Council was held at the Municipal Building on Tuesday June 15, 2010. The following members were in attendance: Victor Brozusky; Roger DeLarco; Ed Henning; William Reese; Donald Repsher and Sonia Wolbert. 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.; Codes Official John E. Blick, and several persons in the audience.

#### Call To Order/Pledge of Allegiance

Mr. DeLarco called the meeting to order at 7:30 p.m. Russell Albert led the Pledge of Allegiance.

#### Minutes of June 1, 2010 Council Meeting

Mr. Reese made a motion, seconded by Mr. Henning to approve the minutes of the Tuesday June 1, 2010 Council meeting as submitted. The motion carried unanimously.

#### Smithfield Township Sewer Authority Flows to Sewage Treatment Plant

Russell Albert of the Smithfield Sewer Authority and Brian Barrett, Chairperson of the Smithfield Township Board of Supervisors, were present to report that the flow of sewage from Smithfield Township pursuant to the agreement between the Township and Borough began today and has so far been handled without incident. Mr. Albert thanked Borough Council for its cooperation on this project and presented a check to the Borough in the amount of \$557,582 representing the payment of EDU fees for the sewage costumers of the Authority which now will be coming to the Borough. Mr. Albert noted that the majority of sewage flow is from commercial establishments within the Township and this agreement will allow for future commercial growth for the benefit of both municipalities. Mr. Albert said he appreciates the cooperation of the Borough on this important project. Mr. DeLarco stated the two municipalities have worked together to provide mutual benefits to both communities. Brian Barrett said this project will be a big help to the Township and will enable an increase in taxable properties for the benefit of the East Stroudsburg Area School District. Council members thanked Mr. Albert & Mr. Barrett for coming to the meeting this evening.

#### Public Comments – Agenda Items

None

#### Action on Conditional Use and Land Development Applications by East Stroudsburg University/University Properties, Inc. for Proposed New Student Housing, to be Located at Smith & Normal Streets in I-U District

Mr. DeLarco noted that the public hearing on this conditional use request was held last month but the project has been discussed between the University and the Borough for over a year now. Attorney Marc Wolfe and East Stroudsburg University Vice President for Administration Richard Staneski were present on behalf of the applicant. Mr. Wolfe thanked Mr. D'Alessandro for meeting recently at least twice with Chad Lello of Pennoni Associates to resolve outstanding engineering issues. Mr. Wolfe said he believes any remaining issues relate to the parking management plan proposed to be undertaken by the University and the timelines for certain activities or actions under that plan.

Mr. Phillips said he had emailed Mr. Wolfe today requesting language be added to the paragraph of the proposed memorandum of action to be taken by Council and proposed conditions of approval, to clarify the easement that the Borough is requesting for Wells #1&2 located on the ESU campus, to be exchanged for the parcel of property

along Normal St. that is part of the housing plan proposal but owned by the Borough. Mr. Wolfe noted he had included new language in the latest version of the memorandum, which was then distributed to Council members.

Mr. Wolfe said there is an issue with one of comments provided by Mr. D'Alessandro regarding a note on the plan relative to possible sale or disposal of property parcels within the housing plan. Mr. Wolfe said the attorneys for the State System of Higher Education (SSHE) have indicated that there is a legal issue with the note language requested by Mr. D'Alessandro, because the Borough as a "junior level" of state government cannot dictate to the Commonwealth how it can or cannot dispose of property. But Mr. Wolfe reminded Council that the state can only sell property via an act of the state legislature so it is highly unlikely this issue would ever actually arise. Mr. D'Alessandro said he would rather not have the note on the plan at all if it just states that the applicant will give the Borough notice only. Mr. Williamson said he understands the basis for Mr. D'Alessandro's comments, but agrees with Mr. Wolfe on the legal principal and on the likelihood of any portions of this property ever being sold.

Mr. Williamson asked whether UPI (University Properties Incorporated) as the developer of the project will join with the University as the owner of the property in signing the proposed development agreement? Mr. Wolfe said yes both parties would sign and would also both be party to the proposed stormwater maintenance agreement.

Mr. D'Alessandro said the biggest remaining issue is clarification of the implementation of the parking management plan. Mr. D'Alessandro said he agrees that ESU has enough parking to undertake the proposed Phase I construction. The issue would be whether there would be enough parking to meet the Borough code requirements if Phase II or Phase III construction is completed. Mr. D'Alessandro said his comments are aimed at having specific actions and time-lines indicated for the parking management plan so that the University will be committed to correct any parking deficiency, if one exists.

Mr. Reese said he would not be in favor of permitting a reduction in size of parking spaces to permit the University to gain parking spaces in that manner. Mr. Phillips noted that Council can't really approve parking requirements for this project based on changing the parking stall size because that will take a separate zoning amendment change.

Mr. Wolfe suggested that to address Mr. D'Alessandro's concerns that before Phase II would be started, the University will agree to analyze parking at that time and take whatever actions are required to comply. Mr. Wolfe noted that there are a lot of variables that can impact parking and therefore, the required number of spaces, as discussed by Dr. Chance at the public hearings. Mr. Henning stated that he feels the whole parking issue is really an issue that the University has to deal with, not the Borough. Mr. Henning said he agrees with Mr. Wolfe's comments that the University need to have flexibility to address the parking situation. Mr. Brozusky said he agrees with that comment also. Mrs. Wolbert said she agrees with Mr. D'Alessandro on the need to be more specific regarding the University responses to address parking.

Mr. D'Alessandro said testimony at the public hearing was that triples and converted lounges will be eliminated with the Phase I construction plan. Again, his concern is that there will be enough parking if the future phases are undertaken. Mr. Wolfe suggested that language could be added to the memorandum and list of conditions of approval to address this situation. Mr. Wolfe said the University can commit to including in the updated parking study information on triples and lounges being used to house students, and if there is a problem relative to parking, the condition could say that the Borough can request accelerated remediation of this issue. Mr. Wolfe said he would draft language to that affect.

Mr. D'Alessandro said the only other issue he has is whether the applicant will be bound by the normal five (5) year time period upon approval of this plan under the Municipalities Planning Code. Mr. Wolfe stated that he acknowledges that state law specifies that an applicant is only protected by zoning changes for up to five (5) years

under the MPC. Mr. Staneski stated that it is unlikely that Phases II or III of the proposed housing project will proceed at all if they are not underway within the initial five (5) year period.

Mr. Wolfe asked Mr. Williamson if he saw any problem with the concept of the Borough conveying the 793 sq. ft. parcel to the University for the housing plan? Mr. Williamson said he does not think there was any legal issue since the Borough will be receiving in exchange for the small parcel permanent easements for the Borough wells to replace the previous license agreements that had a specific term of duration.

Mr. Phillips said the only issue which Council has not specifically discussed is the University contribution to the needed traffic improvements. William Pierson of the East Stroudsburg University Facilities Management Department noted that the Borough's traffic consultant had recommended that the University as the applicant pay a fair share of contribution towards traffic improvements at the Prospect St./Normal St. intersection and for the East Brown St./Smith St. intersection. Mr. Phillips said Mr. Wolfe has incorporated in the draft of memorandum that the University would contribute 100% of the cost for traffic improvements needed at the Prospect/Normal Streets intersection, and 65% of the cost of improvements for the possible signalization of the East Brown/Smith Streets intersection. In addition, the University has agreed to pay for the repaving of the portion of Smith St. between Spangenburg Ave. & Mary St. that would be affected by the project. Mr. DeLarco asked Council members for their input regarding the proposed 65% contribution for the East Brown/Smith Streets intersection? Mr. Repsher said he thinks that the 65% contribution is alright. Mr. Brozusky said he agrees. Mayor Martinelli said he only wants to see that the Borough does not pay anything for improvements needed for the East Brown/Smith Streets intersection because any decrease in level of service will be mostly caused by University generated traffic.

Mr. Staneski took this opportunity to thank Borough Council members and staff for their assistance on this project which he feels will be of great benefit to not only the University campus but to the entire community.

Mr. DeLarco asked Mr. Phillips to review the main points of the memorandum of actions to be taken by the Borough and proposed conditions of approval with respect to the conditional use and land development applications submitted for this project. Mr. Phillips noted that regarding the land development plan application, the applicant has submitted several requests for waivers from requirements of the Subdivision and Land Development (SALDO) Code and those waivers have been specifically listed as an Attachment C to the proposed memorandum. Most of the requested waivers pertain to plan size, and details normally required for land development plans which would not be practical to be furnished in this case due to the entire campus being considered to be the project area. After discussion, Mr. Henning made a motion, seconded by Mr. Brozusky to grant the waivers requested by the applicant as listed in Exhibit C to the proposed memorandum. The motion carried unanimously.

Next, Mr. Phillips said Council must take up the conditions of approval for the conditional use application since that also provides the basis for the land development plan application. Paragraph "(c)" of the proposed memorandum spells out the Borough conveyances to East Stroudsburg University, including Subparagraph 1 pertaining to Borough execution of a quitclaim deed(s) for paper streets and alleys indicated on the plan in order to release any claim that the Borough may have for such paper streets to enable the University to obtain title insurance to insure the project area. After discussion, Mr. Brozusky made a motion, seconded by Mr. Repsher to authorize Borough execution of a quitclaim deed(s) for paper streets and alleys within the project area as requested by the University. The motion carried unanimously. Mr. Phillips noted that the memorandum goes on to specify that the Borough conveyance of any interest in the paper streets and alleys reserves the Borough's right to any utility easements within those paper streets or alleys, and the applicant agrees to relocate any Borough utilities within the project area that requires relocation and to grant the Borough necessary new easements for such utilities as needed.

Mr. Phillips said the other proposed conveyance by the Borough pertains to the 793 sq. ft. parcel of property near the corner of Isabella & Normal St. to the University, in exchange for the University granting the Borough permanent easements for waterlines and facilities related to the Borough's No. 1&2 Wells located within ESU campus. Mr. Phillips noted that the easement for Well #2 also includes granting an easement to Met ED for power lines that run to the Borough's well through Centre St. which is owned by the University. After discussion, Mr. Reese made a motion, seconded by Mrs. Wolbert to convey the parcel to the University in exchange for the permit easements to be granted by the University to the Borough for the municipal wells. The motion carried unanimously.

Mr. Williamson asked Mr. Wolfe if any indemnification will be provided to the Borough regarding the issue of the raised crosswalks. Mr. Wolfe stated that the University and the Commonwealth is not able to provide the standard indemnification language that a private entity might provide but there will be general language concerning indemnification.

With no additional items to be covered other than those mentioned in the proposed memorandum, Mr. Brozusky made a motion, seconded by Mr. Repsher to grant conditional use approval for the housing proposal submitted by the East Stroudsburg University and University Properties Inc., as submitted, subject to terms of the memorandum of actions and those conditions of approval as previously reviewed and discussed. The motion carried unanimously.

Regarding the land development plan for proposed Phase I construction. Mr. Henning made a motion, seconded by Mr. Brozusky to approve the land development plan as proposed subject to the conditions noted in the memorandum of agreement. Those conditions pertain to bonding of the improvements for Phase I, execution of development agreement with the Borough as well as a stormwater facilities maintenance agreement with the Borough. The motion carried unanimously. Mr. Wolfe noted that he will be working on the proposed development agreement for review and approval by Mr. Williamson. Mr. Staneski again stated that this would be a good project for the University and the Borough and again thanked Council for their support.

#### Proposed Parking Agreement for Reconstruction of Dansbury Depot

Troy Nauman was present and stated that he has a proposed agreement of sale with Peter Andrews for purchase of the burned out Dansbury Depot property. John Blick, Codes Officer stated that the Borough zoning ordinance does not require commercial uses in the C-1 District to provide parking. However, residential uses require that parking be provided at the rate of 1 ½ spaces per residential unit. Mr. Blick said he understands that in order to obtain financing it may not be viable for anyone to construct just a restaurant alone. Mr. Nauman said he needs a long term commitment for parking since there is no parking provided on the Depot site now. He asked Council whether they would be willing to enter into a long term lease for parking spaces at the Borough's Kistler St. parking lot. Mr. Nauman said he estimates he would need up to 15 parking spaces. Mr. Henning said it is important for the redevelopment of the downtown that the Depot property be restored and he would be in favor of leasing spaces to Mr. Nauman. Mrs. Wolbert said she agreed. Mr. Blick suggested that Council consider leasing spaces at the current rates in effect for other leased spaces that the Borough owns, but allowing for an annual escalator clause. Mr. Phillips said Council does not necessarily have to grant the lease at the existing rates since this would be for a long term commitment, not just on a short term basis. Mr. Phillips checked the Borough Code book and advised that the current rate for leased parking spaces is \$240 per year. After discussion, Mr. Brozusky made a motion, seconded by Mr. Repsher to agree to lease up to 15 parking spaces within the Kistler St. parking lot to the owner/developer of the Dansbury Depot property as needed to comply with Borough parking requirements. The motion carried unanimously.

#### Reports

Mr. Henning said he and Mr. Phillips will meet tomorrow, hopefully, to review the former ESU Business Accelerator building and put together information for leasing

that facility on Craig's List. Mr. Henning said he had also received a complaint from residents concerning the Sunshine two lot subdivision at the eastern end of East Broad St. because stormwater runoff from this site is going onto adjoining properties.

Mrs. Wolbert asked about the status of updating the Borough zoning ordinance requirements for I-U District? Mr. DeLarco said this matter has been discussed by Council but needs resolution and asked Mr. Phillips again to place it on the agenda for the next Council Committee meeting.

Mr. Repsher said he has received complaints from residents of Grandview St. that newer residents of the LTS plan are not obeying speed limit and "stop" signs. Mr. Repsher asked that the Regional Police Department place its speed monitoring equipment on this street.

#### List of Bills

Mr. Repsher made a motion, seconded by Mr. Henning to approve the list of bills payable and to ratify expenditures and payroll made through June 15, 2010 as submitted. The motion carried unanimously.

#### Adjournment

With no further business Mr. Brozusky made a motion, seconded by Mrs. Wolbert to adjourn the meeting at 9: 25 p.m. The motion carried unanimously.

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James S. Phillips, Secretary