

FEBRUARY 6, 2013
WAYNESBORO, PA 17268
REGULAR MEETING

Council President Stains called the regularly scheduled meeting of the Waynesboro Borough Council to order at 7:30 p.m. with the following in attendance:

Borough Council Members – Benjamin Greenawalt, Craig Newcomer, Darrel Potts, Jason Stains and Michael Cermak (Wayne Driscoll was absent)

Mayor Richard Starliper

Borough Staff – Lloyd R. Hamberger, II, Borough Manager
Denny Benshoff, Maintenance Superintendent
Dan Sheffler, Zoning-Code Enforcement Officer
Kevin Grubbs, Head of Engineering Services
Sam Wisner, Borough Solicitor (Salzmann Hughes, PC)
Jason Cohen, Assistant Borough Manager
Jim Sourbier, Police Chief

PLEDGE OF ALLEGIANCE: Mayor Starliper led those present in the Pledge of Allegiance.

COMMITTEE REPORTS

PERSONNEL COMMITTEE: Councilman Cermak noted he will present one (1) item during the “voting section” of the meeting.

PROPERTY AND PUBLIC SAFETY COMMITTEE: No report.

STREET COMMITTEE: Councilman Potts reported that a Street Committee meeting was held on 01/23. Councilman Driscoll conducted the meeting in his absence; and several items will be presented for action later in the meeting.

INTERGOVERNMENTAL COMMITTEE: President Stains announced that Comcast will be increasing subscribers’ fees on 03/01. A detailed list of the fees is available for review, upon request.

DOWNTOWN REVITALIZATION COMMITTEE: Councilman Newcomer noted that the next Downtown Revitalization Committee meeting will be held on 02/19 at 9:30 a.m.

FINANCE COMMITTEE: No report.

MAYOR’S REPORT: The Mayor’s Report was as follows –

“As previously stated, Chief Sourbier presented the Active Shooter information on January 18th to the elementary school staff.

On January 19th, I had the privilege of uniting in marriage, Eileen Roeder and Robert King, Jr. We wish them the very best.

On January 25th, along with Chief Sourbier, I attended a meeting in reference to the upcoming Franklin County Builders Show.

On January 25th, I attended the Chamber’s TGIF Breakfast at Savoy. The speakers were from Summit Health and Arts Council Alliance.

On January 31st, I had a young man who wanted to meet the Mayor. Brandon Ellis, 6½ years old, came to my office and we talked for about 20 minutes.

Also on the 31st, I attended the Open House of Leland of Laurel Run. Councilman Potts was in attendance also.

On February 5th, I attended the Chamber Mixer at Christine’s Café.”

Mayor Starliper also welcomed members of Boy Scout Troop 19 to the Council meeting.

SOLICITOR’S REPORT: No report.

PUBLIC COMMENT - ITEMS ON AGENDA: Mr. Stains noted that Council had originally planned to take action on the Rental Inspection Ordinance at this meeting, but Councilman Driscoll was absent (due to a family emergency) and they will defer action until full Council is present. As members of the public are present and wish to give input on the matter, Council will welcome their comments at this time.

Barry McNew, 304 N. Grant Street - Mr. McNew noted that he owns four (4) rentals in the Borough. He feels that the inspection program will be penalizing landlords who are “doing the right thing”. The ordinance indicates that both minor and major violations will be determined by the Code Officer, which he feels is putting of lot of power in one person’s hands. He is concerned that upgrades for older homes will be required in the future as a result of the inspections. Mr. McNew noted, for the record, that he is not in favor of this ordinance.

Richard Durham, Kearneysville, WV - Mr. Durham provided written correspondence to Council regarding the matter (a copy of which is attached to these minutes). He mentioned the costs involved in the program (to the landlords and to the Borough for enforcement) and due-process violations (he claimed the proposed ordinance was not particularly made available to the public and/or landlords). He feels that the fees and fines involved are substantial, and some landlords may choose not to continue providing rental properties. In addition, many people in the community can’t pay present modest

rents; so any increase in rent because of this program would be significant to them. He suggested that an increase in homeless individuals may also occur as a result. Mr. Durham noted that retaliation toward a tenant was mentioned in the newspaper, but tenants are not always blameless in the matter – in fact, based on his experience, many tenants don't pay their rent and don't take care of the property.

Jim Benchoff, 13377 Pennersville Road - Mr. Benchoff noted that he owns 17 apartment units in Waynesboro and 1 in Rouzerville. As a landlord, he has had to evict and sue people repeatedly for “thousands and thousands of dollars” which are not recovered. He recounted experiences with tenants who have stolen appliances, removed electrical wiring and copper tubing from properties, and caused numerous other types of damage. Many times they leave without paying their last 3 months' rent and/or water bills, and he is held responsible. Mr. Benchoff noted he would like to see an inspection process that is fair – possibly when a tenant moves in and out – and accountability to tenants who damage properties; because, what will stop tenants from damaging a property and the landlord being fined for a violation of the ordinance? He stated he is against the Rental Inspection Ordinance unless it is fair and holds people criminally liable when they destroy and steal. Mr. Benchoff agreed with Mr. Durham that the ordinance was not publicized well.

Gail Miller, 126 Harrison Avenue - Ms. Miller noted that she is a NY state resident, but this is her temporary address. She has also experienced destruction of her property by tenants, for which she was unable to recoup expenses incurred. She feels it is not fair that, as a landlord, she will be the one responsible for items included in the inspection. She also noted that the fees and costs for the program will cause rents to increase, which may (in the long-term) result in more homeless people.

Jim Bowers, 11115 Mahogany Drive, Hagerstown, MD - Mr. Bowers noted he owns two (2) single-family homes in Waynesboro, and stated his agreement with the comments made thus far. He too, found out recently “by accident” that this ordinance was being drafted. Mr. Bowers has not read the proposed ordinance, but imagined it might be similar to the program instituted a year or two ago in Mercersburg. He understands that an instance(s) may have happened whereby the Borough feels that they need to “oversee” the landlords, but feels it is unfair to penalize those landlords who are trying to do the right thing. He reiterated the hard work involved in maintaining rental properties with “hopes” that you receive your rent at the end of the month; and stated that he is against the ordinance.

Paul McCarney, 439 W. Fifth Street - Mr. McCarney stated that he has read the entire proposed ordinance, and cited sections which will be impossible to meet (for example, minimum room sizes in older homes, tight/rodent-free basements and provisions for trash containers). He also mentioned the requirement for a stone path beside the driveway for parking trailers/campers; and stated that if he owns the property, where a trailer/camper will be parked is his decision. Mr. McCarney suggested that all that is needed is a statement indicating the landlords will register the rental properties; and if a complaint is made from a landlord or tenant, the Borough has the right to inspect the property at that time. He noted that there are already too many ordinances on the

books now for police officers and/or inspectors to keep up with. If more manpower is required, taxes will be increased to pay for it. Mr. McCarney noted that he totally disagrees with the program.

Craig Mahrle, 84 W. Main Street - Mr. Mahrle noted that he has made comments in past meetings regarding this matter, but added that the driving factor behind the proposed program seemed to be retaliation by landlords (for tenants who file complaints regarding their rental unit). He provided Council members with a document entitled "Retaliatory Conduct Prohibited", which is part of Virginia's Landlord/Tenant Act, which might help to address the situation.

Darwyn Benedict, 47 W. Main Street (Re/Max Associates Realty Group) - Mr. Benedict noted that he read the 01/14 revision to the proposed ordinance. Changes have been made to it ... and some of the "questionable" items mentioned at this meeting have been removed. He noted that this is somewhat of a "reactive" ordinance, and he would rather see a "proactive" ordinance. The ordinance states "whereas Waynesboro Borough Council recognizes that certain residential properties have not been properly maintained"; and it has been said that this would penalize all landlords because of certain ones, which doesn't seem fair. As was mentioned previously, properties built before 2000 will require upgrades - and those costs will be passed from the landlord to the tenant. Mr. Benedict asked if there would some type of special tax which could be passed to help with upkeep of properties.

**PRESIDENT STAINS SUSPENDED COMMENTS ON THE RENTAL INSPECTION ORDINANCE AT THIS TIME TO ALLOW DISCUSSION WITH A REPRESENTATIVE FROM WASTE MANAGEMENT.*

DISCUSSION WITH WASTE MANAGEMENT REPRESENTATIVE: Mr. Hamberger advised that there have been some transition problems with the optional toter rentals through Waste Management. Pat Heraty, District Manager for Waste Management in Greencastle, was asked to attend the meeting to discuss how the problems are being addressed. He noted that a telephone number was provided to residents when the recycling toters were delivered. However, WM's call center was transferred at the same time, and there was some confusion regarding the program within the new call center. He has been assured that the problem has been fixed, and WM will be doing "secret shopper calls" to ensure that it has been. If it is not fixed, a direct telephone number to the Greencastle WM office will be provided for those residents who are experiencing difficulty in renting a large toter. Councilman Cermak noted his displeasure with the fact that this portion of their contract is not being fulfilled. Mr. Heraty noted they are doing their best to remedy the situation. He was requested to check into the matter and report back at the next Council meeting.

**PRESIDENT STAINS ASKED FOR ANY ADDITIONAL COMMENTS REGARDING THE RENTAL INSPECTION ORDINANCE.*

Eugene Leatherman, 21547 Ringgold Street, Hagerstown, MD - Mr. Leatherman stated that he owns several properties in Waynesboro. He questioned why tenants can't be

billed directly by the Borough for water/sewer/trash (adding they are billed directly by the electric company).

VOTING ON ITEMS FROM COMMITTEE REPORTS: Councilman Cermak made a motion to promote Steve Sanders to Patrolman (grade level 4), effective 01/12/2013. Councilman Greenawalt seconded; the motion passed unanimously. Councilman Potts made a motion to approve the installation of a handicapped parking space at 160 S. Church Street. Councilman Newcomer seconded; the motion passed unanimously.

Councilman Potts noted that an existing sign on the Rotary parking lot prohibits "Trucks" in excess of 5,000 pounds. As there are vehicles (other than trucks) on the road over 5,000 pounds, he made a motion to amend the sign to read "Vehicles". Councilman Cermak seconded; the motion passed unanimously.

CONSIDER APPROVAL OF CONSENT AGENDA: Mr. Hamberger outlined the staff's recommendations for bid awards as follows –

1. Random Curb/Sidewalk - GRC Contractors
2. Stone - Valley Quarries
3. Sodium Hypochlorite (Northside Pool) - Aqua Chemical Supply
4. Paving Materials - Valley Quarries
5. Ductile Iron Pipe - L/B Water
6. Pool Concession Rental - Dave Wishard (Velvet Café)

Councilman Newcomer then made a motion to approve the Consent Agenda. Councilman Greenawalt seconded; the motion passed 4-0 (Councilman Cermak abstained).

RESOLUTION FOR
COUNCIL MEETING OF February 6, 2013
"CONSENT AGENDA"

WHEREAS, the Mayor and Borough Council have either previously discussed or considers certain agenda items to be of a routine nature; and

WHEREAS, items of the nature noted in the paragraph above generally meet with the consensus approval of the Mayor and Borough Council.

NOW, THEREFORE, on motion of Councilman _____, seconded by Councilman _____, by a vote of _____, it was resolved that the following items are approved by the Mayor and Borough Council:

Award of Contracts:

1. Random Curb/Sidewalk
2. Stone
3. Sodium Hypochlorite (Northside Pool)
4. Paving Materials
5. Ductile Iron Pipe

6. Pool Concession Rental

Routine:

1. Approval of minutes - January 2, 2013 (regular meeting) and January 16, 2013 (regular meeting)
2. Pay Bills - Voucher Lists dated 01/25 and 01/30 (and any others following preparation of this agenda)

Previously Discussed: N/A.

UNFINISHED BUSINESS

CONSIDER ADOPTION OF SNOW AND ICE REMOVAL ORDINANCE AMENDMENT:

Mr. Hamberger noted that this proposed ordinance was advertised for adoption at this meeting, however Councilman Driscoll (who was absent due to a family emergency) requested that it be tabled until his return. He has noted concern regarding the amount of the fines for violations in the proposed amendment. President Stains added that he has also received a lot of input on the matter. Councilman Newcomer made a motion to table the matter. Councilman Cermak seconded; the motion passed unanimously. Mr. Hamberger added that re-advertisement of the proposed ordinance would be necessary prior to consideration for adoption.

SLEDDING AT BOROUGH PARKS: Assistant Borough Manager Jason Cohen reminded Council that after discussion regarding sledding at Memorial Park was held during the 01/02 meeting, Council voted to prohibit sledding at Memorial Park until such time as some additional information was provided. The Recreation Board is unanimously recommending that no action be taken with respect to sledding in any municipal parks, besides Memorial Park, and their recommendation is that Council replace the new fence with pre-fabricated sections which can be removed to accommodate sledding in the future. In addition, as Council's liaison, Councilman Driscoll was going to obtain quotes; however he is not in attendance at this meeting. Council concurred with tabling the matter until Councilman Driscoll is available.

DISCUSSION OF RENTAL INSPECTION ORDINANCE: Mr. Hamberger noted that there was much discussion about who would be enforcing this program, if it is adopted. As manpower is limited, it will most likely be administered like the Building Code (that is, subcontracted to an inspection agency). He recommended that proposals be solicited to administer the program, so Council is aware of the costs involved prior to adoption.

President Stains commented to the public that he empathizes with them regarding the impact of this inspection program. Council's intent, however, was not to punish good landlords. He commended them for providing quality housing for many people of the community in spite of the frustrations that go along with it.

Councilman Newcomer thanked the public for stating their concerns, and noted his agreement with many of them. Council's intent was not to impose additional requirements on people who were doing the right thing, but to find a way to solve a

problem that exists in Waynesboro. He stated that he will pursue Mr. Leatherman's suggestion that water/sewer/trash bills be billed directly to the tenants, and will consider all concerns noted. Mr. Newcomer also commented that this proposal has been discussed by Council for a long period of time – a committee was formed to develop the proposed program, numerous meetings have been held with concerned members of the public and a local realtor representative, and much time/effort has been expended in hearing from the public regarding their concerns and/or suggestions. Many of the concerns mentioned have been addressed and modified in the latest draft of the ordinance. As a Council, they are making every effort to ensure the safety of residents in Waynesboro.

Mr. Durham commented that the fees and costs proposed in this ordinance will be imposed on the landlord, however he is unsure if they will agree to them. The individuals who spoke tonight are primarily opposed to the ordinance; and he suggested that if a lawyer looked at the proposal, Council would not be able to pass it. Solicitor Wisner conceded to the validity of the ordinance. He stated that in PA, these ordinances have been upheld time and time again by the courts, and he sees no issues regarding the legality of the ordinance. As far as the due-process issue, this ordinance will be passed in accordance with requirements of the Borough Code; and those issues will be taken care of at that time ... so there are no due-process issues here.

With regard to the water/sewer/trash billings mentioned earlier, Mr. Hamberger explained that Council cannot make policy regarding billing matters. The Borough's water system is owned (and the requirements are set) by the Waynesboro Borough Authority. The Borough's only involvement is that they administer the rules and regulations set forth by the WBA.

Councilman Newcomer suggested that, after hearing all the "horror stories" about tenants, it might be beneficial to look at a landlord protection plan in the future. Solicitor Wisner noted that it can be discussed. He empathizes with the landlords, but noted that Council only has the power that is granted by the legislature (and the legislature has provided the Landlord/Tenants Act, as adequate or inadequate as it may be). Council is limited as to what it can do within that Act.

President Stains instructed Mr. Hamberger to proceed with preparing an RFP for administering this program, and to keep the item off the agenda until specific inspection fees are determined.

NEW BUSINESS

RATE INCREASE FOR TAX COLLECTOR (2014): Delmos Oldham, Tax Collector, was in attendance and presented his request for an increase in the tax collector's compensation (which would begin in 2014) of 1/10%. He added that this would amount to a total increase of approximately \$1,000. He apologized for the lateness of his request, but noted he was unaware of the impending deadline and advertising requirement for an ordinance to be considered. Mr. Oldham stated that he will not be seeking re-election as Tax Collector next year, but will be running for Council.

Due to the advertising requirements contained in the Borough Code, Mr. Hamberger noted that he contacted all Council members by telephone for permission to publicize the proposed ordinance in the following day's *Record Herald*. It will be considered by Council for adoption at a special meeting to be held on 02/14 at 4:30 p.m. Councilman Newcomer made a motion to affirm advertisement of the proposed ordinance, as presented by the Borough Manager. Councilman Cermak seconded; the motion passed unanimously.

CFCBA MEETING IN MERCERSBURG (FEBRUARY 26, 2013): Mayor Starliper reminded Council members of the upcoming CFCBA meeting on 02/26 in Mercersburg. He asked anyone interested in attending to contact Jason Cohen or Melinda Knott as soon as possible.

TRAFFIC AND PARKING ORDINANCE UPDATE: Kevin Grubbs noted that this is the annual amendment to the Traffic and Parking Regulations Ordinance No. 688, which includes all additions and deletions for any traffic signs put into place within the last year (as well as any action taken at this meeting). The proposed ordinance must be advertised by 02/12 for Council's consideration on 02/20. Councilman Greenawalt made a motion to authorize advertisement as such. Councilman Newcomer seconded; the motion passed unanimously.

TIME EXTENSION REQUEST FROM COLD SPRING ESTATES FOR LAND DEVELOPMENT PLAN REVIEW: Mr. Grubbs noted that he received a request for a 120-day extension for the Land Development Plan Review (to 05/23/2013) for Cold Springs Estates Storage Area. Councilman Newcomer made a motion to approve the request. Councilman Potts seconded; the motion passed unanimously.

GROUNDWATER RUN-OFF AT BURNS HILL CEMETERY: Mr. Grubbs noted that, due to the recent warm temperatures, groundwater is seeping from Burns Hill Cemetery and crossing over the entrance along Roadside Avenue (which freezes when the temperature drops during the night). The icy condition is quite hazardous, and the Borough's maintenance crew must be called out to apply anti-skid material. He noted that this has been occurring over the past several years. A similar situation existed on Roadside Road, and was repaired last year by installing a corrugated drain-type pipe. If Council wishes to do so, the cost for a similar repair at this location would be approximately \$2,400; and funds can be utilized from the Highway Aid budget. Councilman Newcomer made a motion to move forward with Mr. Grubbs' recommendation for the repair. Councilman Cermak seconded; the motion passed unanimously.

RESOLUTION FOR AUTHORIZED REPRESENTATIVE FOR THE RRFB CROSSWALK LIGHT REIMBURSEMENT COMPLETION FORMS: Kevin Grubbs noted PENNDOT has advised that a resolution is not required for this matter, but he requested Council's authorization for the Council President to execute required documents (when available) for the Reimbursement Agreement for the RRFB Crosswalk Light Project. Councilman Newcomer made a motion to authorize the President's

signature, as required. Councilman Greenawalt seconded; the motion passed unanimously.

APPOINTMENT TO BOARD VACANCIES: Mr. Hamberger noted he is recommending the appointment of Carol Bailey to a vacancy on the Shade Tree Commission (she was one of the founding members). Councilman Greenawalt made a motion to approve the recommended appointment. Councilman Cermak seconded; the motion passed unanimously.

Mr. Hamberger added that members are needed on various other boards, and several individuals have expressed interest. Mr. Hamberger suggested that, as has been done in the past, the Personnel Committee meet with these individuals to discuss their backgrounds. President Stains concurred.

PUBLIC COMMENT - NON-AGENDA ITEMS: None.

LERTA MAP: Mr. Hamberger noted that he distributed maps at the last meeting indicating areas to be included in the LERTA program. The Economic Re-development Committee of Mainstreet Waynesboro, Inc. is recommending that four (4) additional locations be included – a) area at Cleveland Avenue and Third Street (the former Agway building and Cold Storage); b) area by Waynesboro Construction; c) Johnson Controls; and d) Waynesboro Mall. Mr. Hamberger agreed with the first two, but he feels that the LERTA program should encourage people to look at the distressed areas (not open space areas where new buildings can be placed), such as the downtown area and some of the former industrial areas. Mr. Fleagle reminded Council that this will not take away from the current tax base ... it is only for new construction and for a certain period of time. Considering the current economy, he feels that Waynesboro “needs all the help we can get”. Following additional discussion, Councilman Cermak made a motion to table the matter until some of Council’s questions can be answered. Councilman Newcomer seconded; the motion passed unanimously.

2013 PER CAPITA FOR PUBLIC SAFETY TRAINING CENTER: Jason Cohen noted that he was hoping Chief Martin would be present to provide input on this matter. It is his understanding that the Franklin County Fire Chiefs’ Association is invoicing municipalities 10¢ per head for every resident within that municipality (based on population), the point of which is to fund the Public Safety Training Center. As Treasurer, he was presented with the invoice; and because it was out-of-the-ordinary and there was no form of correspondence with the invoice as means of explanation, he is providing it to Council to determine if they wish to proceed.

Discussion followed regarding the manner in which this was addressed, and the availability of the center for police use (as well as fire). President Stains suggested that the matter be discussed with the Fire Chief and other municipalities prior to making a decision.

Mr. Hamberger noted that he will be meeting with Mike Christopher on Friday (03/08), and will discuss this matter with him at that time. He also mentioned that Congressman

Shuster will be at the Washington Township Municipal Office at 2:30 p.m. that day.

REPLACEMENT OF FRONT ENTRANCE DOORS (BOROUGH HALL): Mr. Cohen reported that this matter was mentioned at a previous meeting. It is his understanding that these doors are original to the addition; and, after 30+ years, have served their useful life. Unfortunately, the “out” door failed this week and has been placed out-of-service. Three (3) quotes have been obtained for replacement, and they are awaiting a fourth; however they would like to receive authorization from Council to proceed as soon as possible. The best quoted price at this time is from Hershock’s from Harrisburg (\$4,230). Mr. Hamberger added that the new doors will meet the minimum ADA standards. Councilman Newcomer made a motion to authorize replacement of the doors, per the Assistant Borough Manager’s recommendation. Councilman Cermak seconded; the motion passed unanimously.

FOR INFORMATION ONLY

DECISION OF THE ZONING HEARING BOARD RE: REQUEST BY WERTNER SIGNS ON BEHALF OF THE WAYNESBORO HOSPITAL: Council members received copies of the Zoning Hearing Board’s decision with regard to the sign at the Hospital. Questions should be directed to either Mr. Hamberger or Dan Sheffler.

COUNCIL AND STAFF COMMENTS: Mr. Hamberger reminded Council members of the upcoming Franklin County Municipal Summit to be held the following week.

Councilman Cermak thanked members of the public for their attendance and comments at this meeting.

Denny Benshoff advised that the engine in the street sweeper needs to be replaced. Funding for the replacement will come from the Liquid Fuels Fund.

Police Chief Sourbier reported that a public meeting will be held on 02/27 at 7:00 p.m. in Council Chambers to provide information on a proposed Neighborhood Watch Program in the Borough of Waynesboro. (Interest from the public has been expressed.) Trooper Asbury (PA State Police) will be the guest speaker.

Councilman Greenawalt mentioned concerns about the fact that electric bills generated by West Penn Power (First Energy) are based primarily on estimated readings. Constituents have noted that their bills fluctuate tremendously, which makes it difficult to budget. He suggested that the Borough correspond with West Penn Power to request that they read the electric meters every other month. Councilman Cermak made a motion to authorize the Borough Manager to correspond with West Penn Power (with a copy forwarded to the PUC) regarding this matter. Councilman Greenawalt seconded; the motion passed unanimously.

Mayor Starliper announced that a one-day training seminar on School Violence and Safety will be held on 02/18, beginning at 8:00 a.m., at the Waynesboro Area Senior High School. Council members were invited to attend.

President Stains thanked members of the public for their attendance and comments.

Having no further business to discuss, Councilman Greenawalt made a motion to adjourn the meeting at 9:30 p.m. Councilman Cermak seconded; the motion passed unanimously.

Respectfully Submitted,

Melinda S. Knott
Administrative Assistant