

SEPTEMBER 19, 2012  
WAYNESBORO, PA 17268  
REGULAR MEETING

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

Council Members – Benjamin Greenawalt, Craig Newcomer, Jason Stains, Wayne Driscoll and Michael Cermak (Darrel Potts 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 Wiser, Borough Solicitor (Salzmann Hughes, PC)  
Jason Cohen, Assistant Borough Manager  
Jim Sourbier, Police Chief  
Dave Martin, Fire Chief

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

**EXECUTIVE SESSION:** Council adjourned to executive session at 7:31 p.m. to discuss personnel and litigation matters. They reconvened at 7:58 p.m.

**COMMITTEE REPORTS**

**PERSONNEL COMMITTEE:** Councilman Cermak reported that he will present two (2) motions during the “voting section” of the meeting. He also received performance evaluations for Ray Wagaman, Kerry Smith, Jamie Shindlecker, Melinda Knott, Robert Cole and Mike Benshoff – all were satisfactory but required no action.

**PROPERTY AND PUBLIC SAFETY COMMITTEE:** Councilman Driscoll noted that he looks forward to discussing the proposed Outdoor Dining Ordinance later in the meeting. He also reported that (even though it rained) the third annual Dog Swim at Northside Pool was successful, raising approximately \$300. He thanked everyone involved for their assistance, as well as those who attended the event.

Mr. Hamberger commented that the fire contracts with both Quincy and Washington Township are expiring. He has sent correspondence to Quincy Township requesting to begin discussions on the contract renewal, and has spoken with Mike Christopher regarding the same. He will discuss the matter further with Councilman Driscoll.

**STREET COMMITTEE:** Councilman Driscoll noted that Kevin Grubbs provided information/drawings for several items, as follows --

- Extending the existing no parking area along the north side of E. Second Street, beginning at the last “No Parking Here to Corner” sign located just east of the Kmart loading dock entrance 80' to the east. The request was made by a member of the Fire Police, who noted that buses are having difficulty pulling out without entering the

opposite lane. Questions were raised, and it was suggested that Mr. Grubbs discuss the matter with the School District's Transportation Coordinator prior to Council taking action.

- Installing "No Parking Here to Crosswalk" signs on all four (4) sides of the crosswalk located on W. Main Street at the Mulberry Avenue walkways. Mr. Driscoll noted that this particular location has been discussed for some time now, and the Street Committee is recommending proceeding with the staff's proposal.

The items will be discussed further and voted on later in the meeting.

**INTERGOVERNMENTAL COMMITTEE:** No report.

**DOWNTOWN REVITALIZATION COMMITTEE:** Councilman Newcomer announced that the next meeting of the Downtown Revitalization Committee will be held on 10/09 at 9:00 a.m. They plan to discuss the proposed Outdoor Dining Ordinance, among other items, during the meeting.

**FINANCE COMMITTEE:** Councilman Greenawalt reported that Council will begin holding budget meetings in October. Mr. Hamberger provided Council members with a proposed schedule, adding that the meetings will be held on Wednesday evenings this year. Many of the meetings will be held following the regularly scheduled Council meetings, and the remaining ones will commence at 7:00 p.m. Council concurred.

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

"On August 25<sup>th</sup>, I performed the marriage of Denise Messinger and Charles Krepley in Waynesboro. We wish Mr. and Mrs. Krepley the very best.

On September 1<sup>st</sup>, I had the pleasure of presenting to Waynesboro the exhibition of oil paintings of historical buildings on Main Street, by South African artist Eric Bosmann. This art exhibition was held at the newest business, Local Exposure. We thank Mr. Bosmann for his contribution to the community.

On September 4<sup>th</sup>, I had the privilege to attend the 100<sup>th</sup> birthday party of Mr. Robert Sheffler at Hearthstone. Mr. Sheffler is the grandfather of Danny Sheffler.

On September 6<sup>th</sup>, I attended the FCADC's Annual Appreciation Dinner at Green Grove Gardens. As you have read already, Mr. Dave George received the Zane A. Miller Award, Cam Superline the Small Business Award, and Ventura Foods the Large Business Award. Our congratulations to everyone!

On September 11<sup>th</sup>, I participated in the Radio-thon for the 9-11 tribute at Red Run. We thank all who donated and participated.

On September 12<sup>th</sup>, I attended the Chamber's mixer at the F & M Bank."

**SOLICITOR'S REPORT:** No report.

**PUBLIC COMMENT - ITEMS ON AGENDA:**

Darwyn Benedict, 47 W. Main Street - Mr. Benedict questioned if the proposal regarding parking on W. Main Street was different from what was previously discussed at the Street Committee meeting. He

was provided with a copy of the drawing.

**VOTING ON ITEMS FROM COMMITTEE REPORTS:** Councilman Cermak made a motion to approve a step increase for Julie Myers to salary level 8E, effective on her anniversary date. Councilman Greenawalt seconded; the motion passed unanimously.

Councilman Cermak made a motion to approve a step increase for Mike Ely to salary level 10C, effective on his anniversary date. Councilman Greenawalt seconded; the motion passed unanimously.

Councilman Driscoll made a motion to proceed with installing four (4) no parking signs on W. Main Street at Mulberry Avenue, as recommended by the Head of Engineering Services. Councilman Greenawalt seconded; the motion passed unanimously.

Because of concerns expressed earlier in the meeting, Councilman Driscoll suggested that the matter regarding the no parking area across from the Middle School be tabled. Kevin Grubbs will view traffic in the area during arrival and dismissal times at the school, and will contact the Transportation Coordinator at the School District to get their opinion. The matter can then be discussed further at the 09/26 Street Committee meeting.

**CONSIDER APPROVAL OF CONSENT AGENDA:** Mr. Hamberger mentioned that approval for Oktoberfest on 10/06 should be contingent upon representatives from St. Andrew Catholic School coordinating the event with Mainstreet Waynesboro; and the Calvary Assembly of God's "Light the Night" on 10/25 being discussed with the Police Department. Councilman Driscoll then made a motion to approve the Consent Agenda, with the contingencies noted by the Manager. Councilman Newcomer seconded; the motion passed unanimously.

**RESOLUTION FOR**  
**COUNCIL MEETING OF SEPTEMBER 19, 2012**  
**"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. Award Bids for Rectangular Rapid Flashing Beacon Crosswalk Lights to Schaedler Yesco Distribution, Inc. in the amount of \$\$38,777.00.

**Routine:**

1. Approval of minutes - August 22, 2012 (special meeting re: Downtown Grant and regular meeting) and August 29, 2012 (special meeting and public meeting re: Rental Inspection Ordinance).
2. Accept reports of the Code Enforcement Officer, Police Chief and Fire Chief - August, 2012.
3. Pay Bills – Voucher Lists dated 08/24 and 09/07 (and any others following preparation of this agenda).
4. Request from St. Andrew Catholic School for Oktoberfest Family Fun Day (October 6, 2012).

5. Request from St. Andrew the Apostle Catholic Church for Life Chain (October 7, 2012).
6. Request from Calvary Assembly of God for "Light the Night" (October 25, 2012).
7. Trick-or-Treat Night in the Borough of Waynesboro (October 25, 2012 from 6-8 p.m.)

**Previously Discussed:** N/A.

## **UNFINISHED BUSINESS**

**STORMWATER PROJECT BIDS:** Mr. Grubbs noted that the S. Potomac Street Stormwater Project bids came in under budget (a copy of the bid tabulation is attached hereto and made a part of these minutes), and recommended they be awarded as follows

Contract No. 1 - Part "A" - S. Potomac Street Upgrade (W. Main Street to Gay Street)

Contractor: David H. Martin Excavating, Inc.

Bid Amount: \$346,985.00 + \$650.00 (Builder's Risk Insurance) = \$347,635.00

Contract No. 2 - Part "B" - S. Grant Street By-Pass (W. Second Street to Snider Avenue)

Contractor: Fayetteville Contractors, Inc.

Bid Amount: \$861,462.64 + \$2,523.00 (Builder's Risk Insurance) = \$863,985.64

Contract No. 2 - Alternate 2B - S. Potomac Street Mini By-Pass (W. Fifth Street to the Outfall)

Contractor: D. L. George & Sons, Inc.

Bid Amount: \$1,964,950.00 + \$6,704.00 (Builder's Risk Insurance) - \$1,971,654.00

Mr. Grubbs noted that these three (3) projects, along with the projects already completed in the Square and Cemetery Avenue, should alleviate many of the flooding issues in the problem areas. Solicitor Wisner stated that a Highway Occupancy Permit still needs to be obtained from PENNDOT; but procedurally, a Notice of Intent to Award could be issued to these three (3) contractors, on the condition that permits must be in-hand prior to Council's issuance of the contract award.

Councilman Newcomer made a motion to authorize the engineer to issue a Notice of Intent to Award to David H. Martin for Contract 1A in the amount of \$347,635.00, in a form acceptable to the staff and Solicitor. Councilman Cermak seconded; the motion passed unanimously.

Councilman Newcomer made a motion to authorize the engineer to issue a Notice of Intent to Award to Fayetteville Contractors for Contract 1B in the amount of \$863,985.64, in a form acceptable to the staff and Solicitor. Councilman Cermak seconded; the motion passed unanimously.

Councilman Newcomer made a motion to authorize the engineer to issue a Notice of Intent to Award to D. L. George & Sons for Contract 2B in the amount of \$1,971,654.00, in a form acceptable to the staff and Solicitor. Councilman Cermak seconded; the motion passed unanimously.

Mr. Wisner congratulated Council, as they are now on their way to a project that has been in the works for quite a few years; and after bidding the project three (3) times, they have finally arrived at bids that are acceptable.

**LAND DEVELOPMENT PLAN (KAIMON PROPERTIES - RECYCLING CENTER):** Kevin Grubbs noted that Council members received a revised copy of the Final Land Development Plan for Kaimon Properties for a proposed recycling center. All conditions and revisions requested have been met. Councilman Driscoll made a motion to approve the Final Land Development Plan for Kaimon

Properties, as presented. Councilman Cermak seconded; the motion passed 3-0 (Councilmen Greenawalt and Newcomer abstained).

**OUTDOOR DINING:** Solicitor Wisner noted that, pursuant to discussion at the last Council meeting, the proposed ordinance has been revised. Specifically, property owners will not be required to remove the tables, chairs, fencing, etc. from the public right-of-way; and the ordinance will be applicable solely to the Downtown Business District. He advised that if Council authorizes to proceed, the staff will send this proposal to the Waynesboro and Franklin County Planning Commissions for their comments and review. The ordinance will then be advertised at the appropriate time so that a public hearing can be held, with action by Council being taken afterward at their regular meeting. Councilman Newcomer made a motion to proceed with sending the proposed ordinance to the appropriate Planning Commissions and the Record Herald for advertisement (along with the proposed change from 3 to 5 members on the Zoning Hearing Board, another amendment to the Zoning Ordinance which was discussed previously and will entail the same procedure). Councilman Driscoll seconded; the motion passed unanimously.

Councilman Cermak asked when the procedure for adopting this ordinance could be completed. Mr. Wisner responded that the Planning Commissions will have thirty (30) days to review the proposal (it will be on the agenda for the Waynesboro Planning Commission meeting on 10/08). A public hearing could then be held on 11/21 (prior to the Council meeting) and it could be acted on during that regular meeting.

## **NEW BUSINESS**

### **RESOLUTION NO. 2012-12 RECOGNIZING PENNSYLVANIA ARMY NATIONAL GUARD ARTILLERY CLUB 1/108TH FIELD ARTILLERY BATTERY B AS A CIVIC AND/OR SERVICE ASSOCIATION UNDER THE LOCAL OPTIONS SMALL GAMES OF CHANCE ACT, AS AMENDED:**

Solicitor Wisner noted that the Artillery Battery Club is seeking recognition by Borough Council that they are engaged in charitable activities that are of a civic nature. Their by-laws were attached to the application, indicating that they do engage in charitable activities for the public. If Council feels the requirements have been met ... that they have demonstrated they are a local civic organization which promotes general civic activities in the locality ... then Council can authorize such a recognition, by resolution, that would allow them to apply for a Small Games of Chance license. It was mentioned that the Artillery Club has moved to South Mountain, but Solicitor Wisner noted their registered address is within the Borough of Waynesboro. He added that, as long as the location of the fiscal activities occur within the Borough, Council has the ability to adopt this resolution. Also, he revised the resolution to require that, if at any time their principal place of activities ceases to be within the Borough of Waynesboro, the resolution is automatically rescinded. Mr. Wisner commented that, based on the information that was provided with the application, he feels that they (the Artillery Club) meet the requirements of the Act. Mayor Starliper noted his agreement. Councilman Cermak made a motion to approve the resolution, as presented. Councilman Driscoll seconded; the motion passed unanimously.

### **RESOLUTION NO. 2012-12**

A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF WAYNESBORO, COUNTY OF FRANKLIN AND COMMONWEALTH OF PENNSYLVANIA, RECOGNIZING PENNSYLVANIA NATIONAL GUARD ARTILLERY CLUB 1/108TH FIELD ARTILLERY BATTERY B AS A CIVIC AND/OR SERVICE ASSOCIATION UNDER THE LOCAL OPTIONS SMALL GAMES OF CHANCE ACT, AS AMENDED

Complete copy on file at Borough Hall.

**RESOLUTION NO. 2012-13 TO INCREASE SEWER RATES:** Council members received correspondence from Utilities Director Leiter Pryor regarding the Waynesboro Borough Authority's

recommendation to increase sewer rates by 10% due to the DEP-mandated expansion project at the Sewer Treatment Plant. Councilman Cermak made a motion to approve Resolution No. 2012-13, as presented. Councilman Greenawalt seconded; the motion passed unanimously.

### RESOLUTION NO. 2012-13

WHEREAS, the Borough Council of the Borough of Waynesboro has adopted a Sewer Use Ordinance, and

WHEREAS, said Sewer Use Ordinance provides for fees charged to owners of properties connected to and from which wastewater is discharged into the sewer system, and

WHEREAS, said Ordinance requires Council to adopt, from time to time, a resolution setting forth the sewer use charges, and

WHEREAS, Borough Council concurs with the recommendation of the Waynesboro Borough Authority to increase sewer rates by 10%,

Complete copy on file at Borough Hall.

**ELM STREET PROJECTS:** Mr. Hamberger explained that the staff is reviewing information regarding the Elm Street Program, which assists in areas adjacent to areas utilizing funding from the Main Street Program. He noted that the staff has met with a representative of the Main Street Program regarding their assistance in preparing an application for the Elm Street Program (which is due in June). Even though they are unsure if the Elm Street Program will be pursued, a letter must be forwarded to the Main Street Program advising that the Borough *may* wish to apply and are requesting their assistance in preparing the grant application. Councilman Newcomer made a motion to authorize the appropriate correspondence to be sent. Councilman Greenawalt seconded; the motion passed unanimously.

**CONTRACT FOR TRASH AND RECYCLABLES COLLECTION:** Mr. Hamberger advised that the current contract for trash and recyclables collection will be expiring at the end of this year. He is currently reviewing several items for possible inclusion in the upcoming contract, including utilizing 55-gallon totes for trash collection, utilizing smaller-type totes for single-stream recyclables, and various incentive programs. Councilman Greenawalt made a motion to authorize the Borough Manager to pursue these items for the upcoming contract. Councilman Driscoll seconded.

Councilman Cermak raised concern that the contract should not be drafted based on the programs offered by a particular vendor. Mr. Hamberger stated that any vendor can provide totes, but perhaps the incentive programs would be considered somewhat proprietary. After discussion, it was suggested that any incentive-type programs be included as an optional bid. The motion passed unanimously.

**REQUEST FROM THON ADVISORS RE: FUNDRAISING:** Mr. Hamberger noted that the Penn State IFC/Panhellenic Dance Marathon (THON) has requested to conduct a canning fundraiser during various weekends in September, October and November. This was done in the Borough in the past, and there were no problems. Councilman Newcomer made a motion to approve the request. Councilman Cermak seconded; the motion passed unanimously.

**MINIMUM MUNICIPAL PENSION OBLIGATION:** Mr. Hamberger stated that he has provided information to Council (via email) regarding the Borough's MMPO. No action is required, however Council acknowledged receipt of the information.

**EXCHANGE OF HOLIDAYS (BOROUGH EMPLOYEES):** Jason Cohen presented a request from the Borough's full-time employees to exchange the Columbus Day holiday for Christmas Eve (this would

enable them to have a four-day weekend, as Christmas is on Tuesday this year). Councilman Cermak made a motion to approve the change in holidays, pursuant to the request presented by the Assistant Borough Manager. Councilman Greenawalt seconded; the motion passed unanimously.

**REQUESTS FROM ZONING HEARING BOARD:** Mr. Hamberger noted that several requests from the Zoning Hearing Board were presented to Council (and deferred) at the last meeting. Specifically, the ZHB would like to use Council's seats in Council Chambers during their meetings, and would like to hire a new Solicitor. He stated that the ZHB has the prerogative to hire a new Solicitor, however he noted that the Borough is being challenged on the deemed approval decision for Kaimon Properties; and he feels that the ZHB should be discouraged from changing solicitors until after any and all legal ramifications of the proposed recycling center are concluded. Councilman Driscoll made a motion to advise the ZHB to delay any changes in the solicitor's position (as recommended by the Borough Manager) and to strongly encourage them to reconsider. Further, his motion included a denial of their request to use Council's seats for their meetings. Councilman Cermak seconded.

Councilman Newcomer commented to the public that if the ZHB changes solicitors during the process of these proceedings, it will drastically affect the budget which has already been approved. A new solicitor would have to review everything involving the case in question, which would incur additional and unnecessary fees. Mr. Wisner also commented that Mr. Steiger has served the ZHB for decades, and has always been very reasonable with the ZHB and his fees to Council. He is also very knowledgeable in this area ... and it would be a shame for the ZHB to switch solicitors.

A vote was then called on the stated motion; the motion passed unanimously.

**PUBLIC COMMENT - NON-AGENDA ITEMS:** None.

### **FOR INFORMATION ONLY**

**CUMBERLAND-FRANKLIN COUNTY BOROUGH ASSOCIATION MEETING:** The Cumberland-Franklin County Boroughs Association meeting will be held on 09/25 in New Cumberland.

**INVITATION FROM WAYNESBORO AREA CIVITAN CLUB FOR CELEBRATION OF CIVITAN:** Council members received an invitation for this event to be held on 10/02 at the Waynesboro VFW.

**COUNCIL AND STAFF COMMENTS:** Councilmen Driscoll and Cermak welcomed Police Chief Sourbier to his first official meeting. Mr. Driscoll also commended Solicitor Wisner for his efforts on the Outdoor Dining Ordinance.

Denny Benshoff reported that the paving project on N. Potomac Street has been completed, and the water line project on N. Church Street is progressing well.

Kevin Grubbs advised that Asphalt Maintenance Solutions repaired several crosswalk areas in the Square and in front of the Library. These repairs were done at no cost to the Borough; and he is hoping there won't be any future problems.

Solicitor Wisner advised that, as Council is currently in negotiations with the Police Officers' Association to discuss their contract which expires at the end of this year, there are statutory time lines under Act 111 that must be met. In order to meet the statutory time line in September, the Police Association has declared an impasse and selected an arbitrator ... and the Borough must do the same. Mr. Wisner recommended John McLaughlin of Ballard Spahr, who has extensive experience in Act 111 arbitrations, to be the Borough's partial arbitrator in this matter. He added that the Borough's Negotiating Committee has had very amicable negotiations with the Police Association thus far; and it is his hope that they will be able to enter into a contract without going to arbitration. Based upon the

Solicitor's recommendation, Councilman Newcomer made a motion to authorize the Council President to sign a representation letter with Mr. McLaughlin to serve as the Borough's partial arbitrator, if needed. Councilman Cermak seconded; the motion passed unanimously

Mr. Wisner also requested a very brief executive session regarding a litigation issue immediately following the meeting.

Fire Chief Martin reported that the new Rescue Engine should be delivered in mid-October.

Police Chief Sourbier advised Council that he has issued a standing order for his officers to promptly, aggressively and consistently enforce the crosswalk rules and regulations in the Borough (both those that are marked, as well as those that are unmarked).

Councilmen Greenawalt and Newcomer also welcomed Chief Sourbier.

Mayor Starliper advised that he is on the PA Flag Notify Alert System – and he passes on information regarding lowering the state flag to half-staff to Richard Doll (who does maintenance at the various Borough parks). For clarification purposes, he advised that the flag was lowered yesterday and today in memory of Plymouth Township Police Officer Brad Fox, who was killed in the line-of-duty on 09/13. Mr. Hamberger requested that the Mayor inform Denny Benschhoff (Mr. Doll's supervisor) to ensure that the administrators are also made aware.

In addition, Mayor Starliper noted that the PA State Mayors' Association has forwarded correspondence to members of the House and Senate regarding support for the use of radar by municipal police departments.

President Stains also welcomed Chief Sourbier.

Having no further business to discuss, Council then adjourned to executive session at 9:05 p.m. They reconvened and adjourned the meeting at 9:10 p.m.

Respectfully Submitted,

Melinda S. Knott  
Administrative Assistant