

JANUARY 20, 2010
WAYNESBORO, PA 17268
REGULAR MEETING

Council President Craig Newcomer called the regularly scheduled meeting to order at 7:35 p.m. (immediately following Council's workshop which began at 6:30 p.m.) with the following in attendance:

Borough Council Members – Benjamin Greenawalt, Jason Stains, C. Harold Mumma, Craig Newcomer, Wayne Driscoll and Ronald Martin

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
Melissa Dively, Borough Solicitor (Salzman Hughes, PC)
Dave Martin, Fire Chief
Mark King, Police Chief

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

Before proceeding into the meeting (at 7:36 p.m.), President Newcomer announced that Council would adjourn to a brief executive session to discuss potential litigation. Council reconvened to regular session at 7:58 p.m.

APPROVE MINUTES: Councilman Martin made a motion to approve the minutes of the January 4, 2010 re-organization meeting, as written. Councilman Greenawalt seconded; the motion passed unanimously.

ACCEPT REPORTS: Councilman Greenawalt made a motion to accept the reports of the Code Enforcement Officer, Police Chief and Fire Chief, as presented. Councilman Martin seconded. Councilman Martin requested that Chief King include three (3) additional columns in his report – those being for crosswalk, red light and stop light violations. The motion then passed unanimously.

COMMITTEE REPORTS

PERSONNEL COMMITTEE: Councilman Mumma noted that he received a favorable performance evaluation for Doug Whittington, however no action was necessary at this time. He will present two (2) other evaluations for action during the "voting" section of the meeting.

PROPERTY AND PUBLIC SAFETY COMMITTEE: No report.

STREET COMMITTEE: Councilman Martin reported that the Street Committee's next meeting will be held on Wednesday, January 27th, at 9:00 a.m., in the second floor conference room of Borough Hall. He added that signs prohibiting the parking of "5 ton vehicles" have been erected at the Rotary parking lot. Denny Benshoff added that signs for the loading area on S. Church Street, as well as a new parking meter, have been installed. In addition, signs for the drop-off/pick-up area on E. Second Street (at the High School) have been ordered.

INTERGOVERNMENTAL COMMITTEE: No report.

DOWNTOWN REVITALIZATION COMMITTEE: President Newcomer stated that the Downtown Revitalization Committee will begin working vigorously on Waynesboro's Downtown Master Plan. He will arrange a meeting the following week, and will advise MSI as well.

FINANCE COMMITTEE: No report.

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

“On January 7th, Dr. Robertson (Superintendent of the Waynesboro School District) and myself had lunch to discuss issues pertaining to the District and Borough.

On January 12th, I swore-in the Waynesboro Fire Police members for the next two years.

On January 14th, I attended the Greater Waynesboro Chamber of Commerce's Mixer.”

Mayor Starliper encouraged Council members to attend the upcoming Cumberland-Franklin County Boroughs' Association meeting to be held on February 23rd in New Cumberland. RSVP's should be provided to Melinda Knott no later than February 16th.

Councilman Martin requested that the Mayor provide a report to Council members on items discussed during his recent meeting with the WASD Superintendent. On a related matter, Councilman Mumma asked if Mr. Martin had been able to arrange a meeting with the contractor regarding Second Street. Councilman Martin reported that he spoke with the contractor's superintendent (who was off for surgery) ... he advised that a representative would contact him shortly. Mr. Martin will inform all Council members when a meeting has been set.

SOLICITOR'S REPORT: No report.

PUBLIC COMMENT - ITEMS ON AGENDA: None.

VOTING ON ITEMS FROM COMMITTEE REPORTS: Councilman Mumma made a motion to approve a step increase for D'Lynn Scheeler to salary level 6E. Councilman Stains seconded; the motion passed unanimously.

Councilman Mumma made a motion to approve a step increase for Donald Kaiser to salary level 5C. Councilman Greenawalt seconded; the motion passed unanimously.

UNFINISHED BUSINESS

AWARD BIDS (PROPANE): Mr. Hamberger noted the staff is recommending the propane bids be awarded to Bedford Valley Petroleum. After discussion regarding the mark-ups/escalator clauses quoted, Councilman Martin made a motion to table the bids for further review. Councilman Greenawalt seconded; the motion passed unanimously.

APPOINTMENT OF FIRE CHIEF: Councilman Mumma reported that a meeting was held with Dave Martin to resolve communication issues, and he made a motion to appoint Mr. Martin as Fire Chief. Councilman Stains seconded; the motion passed unanimously.

RESOLUTION (TAX COLLECTOR FEE): Mr. Hamberger noted that, on occasion, the Tax Collector provides tax information to realtors, financial institutions, etc., and he would like to increase the

reimbursement fee for this service to \$10.00/bill. Councilman Martin made a motion to approve Resolution No. 2010-01 to set this fee. Councilman Greenawalt seconded; the motion passed unanimously.

RESOLUTION 2010-01

WHEREAS, the Tax Collector of the Borough of Waynesboro provides valuable information to the taxpayers, realtors, attorneys and financial institutions and others; and

Complete copy on file at Borough Hall.

NEW BUSINESS

LAND DEVELOPMENT PLAN (COLD SPRING ESTATES - PHASE 7A): Solicitor Melissa Dively noted that the Planning Commission met and considered the Land Development Plan for Cold Spring Estates (Phase 7A). They recommended approval of the plan, subject to a Letter of Agreement being created and included as a part of the recorded plan, that all future phases (which will be draining into the Antietam Creek side of the property) would be developed using whatever Stormwater Management Plan is currently in place. The developer has agreed to this stipulation; and Ms. Dively suggested the matter be tabled until an agreement can be prepared and reviewed by Council for the developer's signature. Councilman Mumma made a motion to table the matter as recommended by the Solicitor. Councilman Driscoll seconded; the motion passed unanimously.

REQUEST FOR LAND DEVELOPMENT PLAN EXTENSION (WESTWIND GARDENS): Kevin Grubbs noted the Municipalities Planning Code provides that, once a Subdivision/Land Development Plan has been approved by the Borough, a developer has five (5) years to complete the project (or at least have substantial completion, which is defined as 20% of the development completed). Due to current economic conditions, however, several projects proposed in the Borough have not even begun. Bernie McGarity, owner of Westwind Gardens, was contacted by certified mail to ensure that he was aware of the five-year time limit. Mr. McGarity submitted a letter of request for Borough Council to consider granting an extension.

Mr. McGarity was present and explained that he is currently negotiating with a potential buyer for sale of the property. He suggested that a two-year extension should provide adequate time for the new owner to achieve substantial completion of the project. Councilman Mumma made a motion to grant a two-year extension for the Westwind Gardens Land Development Plan. Councilman Stains seconded.

Councilman Martin commented that he would prefer to table the matter until the next meeting so stormwater matters can be considered. Even if a development is 50-60% complete within the five-year time period, developers are now required to upgrade the stormwater management plan(s) before a renewal is granted. Mr. Grubbs noted that calculations regarding stormwater are forwarded to the Borough's engineering consultant (at a cost to the developer for review), but added that this is not a large development (approximately 48 townhouses) and most of the stormwater run-off is contained underground. Any possible changes to the plan would be fairly small.

Stephen Monn, Planning Commission Chairman, was present and suggested that Council may want to consider placing a rider on the approval (particularly since the property is "changing hands" and it has been an inactive development to this point) that before the new owner could start any construction, he would have to re-certify the stormwater management plan.

Councilman Mumma made a motion to grant a two-year extension, with a condition that the new owner re-evaluate the stormwater management plan and the matter be re-visited by the Planning Commission. Solicitor Dively commented that the new owner cannot be part of any motion this plan

will be binding on the current owner; and the new owner will have to meet whatever conditions are placed on the extension as granted to the new owner. She suggested that a letter of agreement be prepared for execution regarding this understanding, and she recommended tabling the matter until Council's next meeting.

For clarification purposes, Councilman Driscoll noted it is his understanding that the project was approved five years ago; and if it had been developed within the five-year time period, there would have been no problem. President Newcomer agreed, noting that current stormwater management problems in the Borough have caused "a lot of caution".

Councilman Mumma then withdrew his previous motion and amended it to table the matter until the next meeting. Councilman Stains seconded; the motion passed unanimously.

PUBLIC IN ATTENDANCE - NON-AGENDA ITEMS:

Mike Cermak, 135 E. Second Street - Mr. Cermak (Accredited Services) provided Council with a brief update on the recent fire and current situation at the recycling center located on Sixth Street. He met with DEP representatives earlier that day. He, along with Code Enforcement Officer Dan Sheffler and Fire Department officials, wrote reports outlining requirements for the business to continue its operations ... the bottom line on his being a release from PA DEP. He explained that DEP regulates junkyards when they are *outside* and could possibly cause soil contamination(s) or erosion; and the number of tires (200+) in the building was not an extreme issue, as EPA would allow a maximum of 1,500. A copy of their report will be forwarded to Mr. Cermak.

Mr. Cermak admitted that there are many Building Code and Fire Code violations, but the business operator (tenant of the property) appears to be willing to fix everything outlined. He feels that it is the Borough's responsibility to do whatever is necessary to "keep things in-line". As the property owner has not originally "lived up to" requirements of the land development plan, Councilman Mumma feels that the Borough should "take a stand" and insist on compliance with the appropriate rules and regulations.

Dan Sheffler stated he has informed the business owner that Council will issue a directive to him for issuance of an occupancy permit when all issues have been addressed. He cannot open for business until the violations listed by Mr. Cermak, Mr. Sheffler and Mr. Hartman (Fire Marshall), as well as DEP and EPA, have been resolved. Mr. Cermak clarified that Accredited Services has not instructed him to do anything ... the owner has asked if he can do things. He has obtained a permit to repair the electrical work and is pursuing a permit for steel framing around the windows. Mr. Sheffler noted that these items were part of the land development plan; and Mr. Cermak advised he is not holding the permits for this "legal" work. Mr. Sheffler added that he has not been successful in his attempts to contact the property owner since October, but has discussed the buffer zone and siding issues with the business owner. He has since sent Mr. Sheffler a letter stating what he intends to do to take care of these items and achieve compliance with the land development plan.

Discussion followed regarding the fact that first, the property owner violated requirements of the land development plan; and second, the business owner violated additional requirements. Mr. Sheffler noted that the business owner was not aware of these requirements until he advised him of such. Mr. Cermak noted that he can provide Council with pictures of the business, prior to the fire, showing an inch or two of oil throughout the building and stacks of engine blocks with oil dripping out. Councilman Martin reminded Council members that this was approved as a conditional use, with restrictions. Mr. Cermak continued by stating that he will issue the requested permits, as long as the guidelines are met; and when everything is completed with regard to the Building Code, he will give the occupancy permit to Dan Sheffler ... and it is in the Borough's hands from there.

Councilman Martin questioned if the business owner had contacted Dan Sheffler before opening his business to determine what he needed to do in order to open? Mr. Sheffler stated he did not.

Councilman Martin asked if Mr. Sheffler was inside the building before this fire; and was he aware that there were cars being dismantled there? Mr. Sheffler stated that he was inside the building on December 17th, when he delivered an application for a junkyard permit for completion. He continued by stating that no approvals granted prohibit him from scrapping cars. The conditional uses approved by Council on 04/18/2007 were mentioned – in particular, Item #11 regarding fluids being drained and the requirement for a containment area. Mr. Sheffler advised that he has since provided the business owner with a copy of this information.

Kevin Grubbs further explained that, during the Planning Commission's review, Brandon Willard (the property owner) simply stated the type of recycling he was going to do at this location – ferrous (steel) and non-ferrous (aluminum, etc.) The Planning Commission required that these items be placed on the plan. The recycling going on at that time had nothing to do with cars, hazardous materials or environmental issues. He then leased the property to another gentleman, who "took it upon himself" to start dismantling vehicles. Item #11 of the conditions clearly stipulates that "All vehicles must be drained of all liquids before they are placed in the junkyard. An impervious base, free of cracks and sufficiently large for draining liquids from all vehicles, shall be provided. The base should be sloped to drain to a sump or holding tank and liquid shall be removed from the site as often as is necessary to prevent overflow of the system. Curbing around the pad must be able to retain run-off from a 100 year, 24 hour storm. All hazardous liquids shall be properly disposed of according to the Department of Environmental Resources' Rules and Regulations." Mike Cermak noted that there is no sump, drain or curbing. Jerry Hartman noted that labeling is required on the existing diesel fuel tank.

Councilman Martin asked Solicitor Dively for her legal opinion regarding the fact that the plan contains a listing of the items to be recycled at that location and different items are now being recycled there ... isn't that a violation of the approved plan? Solicitor Dively stated that she would prefer to review the matter further before making a statement.

Mr. Cermak then noted that he originally wanted to speak tonight regarding another violation. He provided Council members with an excerpt from the International Building Code, and referred specifically to Section 105.1 - Required. "Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit."

In the past, under previous Council, Mr. Cermak noted he was intimidated and fearful for his job and/or retaliation from the Council. He discussed a violation (a business operating illegally), and he asked for Council's opinion on whether he should enforce the state law or not regarding this matter. He explained that the building was previously a party supply store, but is now occupied by a massage therapist – changing the type of occupancy/use from mercantile to business. Councilman Martin asked what needs to be done in order for the business to be in compliance. Mr. Cermak stated that the owner should apply for a permit, and stamped drawings from an engineer would be required to state that it meets the minimum requirements for that particular classification (which it does).

Discussion ensued regarding the fact that the individuals simply may not be aware of what is required. Mr. Cermak explained that he has attempted to "talk to people" before and state that they need to obtain a permit; but then they complained to Council and his job was threatened. His only response therefore, is not to talk to them but to issue a citation. He doesn't like to operate that way, but asked for Council's direction. President Newcomer stated his opinion that Mr. Cermak should do his job as directed by the state ... go tell them they need a permit, give them the timeframe in which to get the

permit, and issue a citation, etc. if they do not obtain a permit. He asked if any Council members disagree. No one disagreed. Secondly, a procedure is in place for individuals who have a complaint regarding any contracted services, officials or anyone in the Borough – everyone will receive a copy of the complaint, a committee will work on a resolution to address the situation, and then make a recommendation to Council for action. He added that a lot of time was wasted last year by listening to people’s complaints about “this man doing his job”.

Councilman Driscoll commented on the use of discretion. He stated that he has met the individual whom Mr. Cermak was speaking about being in violation. He imagined that she would be “horrified” to learn that the violation was being discussed publicly, and he suggested that the matter could have been discussed with Council in another manner. Councilman Martin suggested that Dan Sheffler, in his capacity as Code Enforcement Officer, inform them that they are in violation and should get in contact with Accredited Services.

After more discussion on the matter, Councilman Driscoll stated that Council (as a whole) supports Mr. Cermak in his actions and he should feel confident in proceeding in the way he sees fit. Other Council members agreed. Mr. Cermak stated that he would like to approach “the violator” and explain to them that a permit is needed (and how to obtain one). He will also email Council members when violations such as this are observed to ensure they are aware of the situation and how it is being handled.

FOR INFORMATION ONLY

SAFETY COMMITTEE CERTIFICATION RENEWAL: Mr. Hamberger noted that the Borough’s Safety Committee is comprised of, and run by, employees of various departments. Their application for annual re-certification was recently approved, and the Borough will receive a 5% credit on their workmens’ compensation insurance premiums as a result.

“THE WAYNESBORO CONNECTION” RECITAL IN WAYNESBORO, VA: Mr. Hamberger noted that he received correspondence from C. Randall Williams, who grew up in Waynesboro, PA, and will be playing in an organ recital in Waynesboro, VA. He has asked for pictures or other materials to display during the reception in order to generate publicity for Waynesboro, PA. Items will be provided for his use. In addition, Council members were invited to attend the recital scheduled for February 21st.

GENERAL INFORMATION FORM/COUNTY LAND USE LETTER (WEST END DEVELOPMENT):

*Councilman Martin recused himself from discussion on this matter.

Mr. Hamberger noted that the Borough has been provided with a General Information Form for the West End Development project, and a County Land Use Letter to be submitted with their permit application to DEP. This is a standard notification, and no action is required unless Council wishes to submit comments. Councilman Mumma made a motion to acknowledge receipt of the notification. Councilman Stains seconded; the motion passed unanimously.

*Councilman Martin returned to the meeting.

PAY BILLS: No voucher lists were presented for approval.

COUNCIL AND STAFF COMMENTS: Councilman Martin noted that Council members have been invited to attend the Waynesboro Fire Department’s 27th Annual Awards Dinner/Dance to be held on February 14th at the American Legion. RSVP’s are requested by February 1st.

Dan Sheffler requested clarification on Council’s decision regarding the recycling center issue. It is his understanding that he is to inform the business owner that he cannot open for business until all requirements have been met and Council directs him to issue an occupancy permit. Mr. Hamberger

suggested that Council and the Solicitor be informed when everything is in compliance, and they will direct him to proceed. .

Fire Chief Dave Martin reported that the Fire Department *will* hold a carnival this year during the last week in July at the Quincy Ox Roast grounds.

Councilman Greenawalt thanked residents for attending the meeting, and stated he felt the workshop held prior to the meeting was beneficial.

Mayor Starliper requested that Council direct the Civil Service Commission to prepare and conduct an examination for the position of Police Corporal. Councilman Mumma made a motion in response to the Mayor's request. Councilman Stains seconded; the motion passed unanimously.

Mayor Starliper also requested that the Personnel Committee meet with Chief King to discuss the part-time Administrative Assistant's position placed in the 2010 budget.

Mayor Starliper noted that a recent newspaper article stated that modular units previously used at the high school will be sold. He noted that Borough Hall is in dire need of file storage space, and he requested that the Property Committee pursue purchasing one of the units for this purpose. He noted that the unit could be housed at the Maintenance Center behind locked gate.

Pursuant to Kevin Grubbs' report at a previous meeting that yellow paint can no longer be used, Mayor Starliper asked what other arrangements have been made regarding the painting of crosswalks. Mr. Grubbs noted that crosswalks will no longer be painted yellow, but he is looking at various designs for consideration. Discussion followed regarding the new strobe light system that is being donated by PENNDOT. Mr. Grubbs noted that cars must be parked 15' away from the crosswalks, and he is looking at a "bump-out" option currently used by other municipalities.

Mayor Starliper reported that the Borough's Drug Task Force officer has reported more "buys" of heroin so far in 2010 than the entire 2009 year. He asked the public to be aware of their surroundings and report any suspicious activity to the Police Department. Discussion from the public suggested that residents might be more inclined to call if they can do so anonymously. Chief King noted that the Drug Task Force has an anonymous number – he will provide it to the newspapers for publication.

President Newcomer noted he reported earlier that work will begin again on Waynesboro's Downtown Master Plan, and he encouraged the public to provide their comments and input.

Having no further business to discuss, the meeting adjourned at 9:11 p.m. on a Driscoll/Greenawalt motion which passed unanimously.

Respectfully Submitted,

Melinda S. Knott
Administrative Assistant