

OCTOBER 17, 2007
WAYNESBORO, PA 17268
REGULAR MEETING

Council President Craig Newcomer called the regularly scheduled meeting of the Waynesboro Borough Council to order at 7:35 p.m. with the following in attendance:

Borough Council Members – Allen Porter, Jason Stains, Richard George, Charles McCammon, Allen Berry and Craig Newcomer

(Mayor Richard Starliper was absent)

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 (Salzmann Hughes, PC)
Ray Shultz, Police Chief
Ron Flegel, Fire Chief

PLEDGE OF ALLEGIANCE: Councilman Stains led those present in the Pledge of Allegiance.

APPROVE MINUTES: Councilman McCammon made a motion to approve the minutes of the October 3, 2007 meeting, as written. Councilman Berry seconded; the motion passed unanimously.

ACCEPT REPORTS: Councilman McCammon made a motion to accept the reports of the Code Enforcement Officer, Police Chief and Fire Chief, as presented. Councilman George seconded; the motion passed unanimously.

COMMITTEE REPORTS

PERSONNEL COMMITTEE: Councilman Berry noted that he received a favorable performance evaluation for Larry Freeman, however no action was required. In addition, he will present several items during the “voting” section of the meeting.

PROPERTY AND PUBLIC SAFETY COMMITTEE: No report.

STREET COMMITTEE: No report.

INTERGOVERNMENTAL COMMITTEE: No report.

DOWNTOWN REVITALIZATION AND FINANCE COMMITTEE: President Newcomer noted that Council is currently involved in 2008 budget deliberations; and the budget meeting originally scheduled for the following evening has been canceled (budget information was discussed at their Joint Committee meeting held prior to the Council meeting),

MAYOR’S REPORT: No report.

SOLICITOR’S REPORT: No report.

PUBLIC COMMENT - ITEMS ON AGENDA:

Carl Jamarik, 493 S. Potomac Street - Mr. Jamarik requested an update from Council on discussions held several months ago regarding the possibility of placing a moratorium on new development in the area because of the flooding situations which have occurred. President Newcomer noted that Council's discussions on the matter were reported on during their June or July meeting. He asked Solicitor Dively to explain the matter further.

Ms. Dively stated that moratoriums are generally "frowned on", and the most recent statewide case law indicates that moratoriums are not permissible in Pennsylvania. She explained the concept of DEP-imposed restrictions, which are entirely different from municipal moratoriums. She heard just last week, however, that a moratorium had been successful; but she is unaware of the particulars of that municipal moratorium. Ms. Dively stated that she will follow-up on new information regarding moratoriums, with Council's direction.

Mr. Jamarik noted that, even though the builders are meeting the Code, there is simply nowhere else for the run-off to go. Mr. Newcomer mentioned that many of the buildings currently in the planning process are proposing to install holding tanks (which would hold the water for a given time and disperse it at a lapsed rate).

Richard Rose, 118 W. Fifth Street - Mr. Rose noted that he has done some personal research on moratoriums, and discovered that there have been some cases where they have been tried and won ... however, this would be quite costly. Ms. Dively noted that she is familiar with challenges in other states, but that law does not necessarily transmit to Pennsylvania. Mr. Rose added that it would seem reasonable that the Borough could impose some type of moratorium (perhaps until the storm sewer study is completed in several months). Mr. Rose was requested to provide any pertinent information on moratoriums to Mr. Hamberger, who will forward it to the Solicitor for review.

Mr. Newcomer reported that the storm sewer study will be discussed later in the meeting. He feels that the residents will be pleased with the progress made since Council's last meeting, adding that present Council has taken steps to move forward on this issue more than any other Council in the past. Mr. Rose agreed, adding that he is confident that the sanitary sewer problem they experienced in the past is now fixed. He fears, however, that additional costs will be incurred for damages when the next storm comes.

Councilman Berry stated that he has spoken with several elderly residents who were volunteer firefighters in the 1950's, and they recall the same flooding problems back then. He stated that this is not a problem that just happened because of the building in the recent past. Mr. Jamarik agreed, but noted that the situation has gotten worse in the last two years.

Joe Sheppard, 412 S. Potomac Street - Mr. Sheppard stated his opinion that the manhole covers installed on W. Fifth Street may make problems worse for the residents on S. Potomac Street, because the water will have nowhere to go except under the alley and into their yards.

Councilman Newcomer commented that many scenarios are being looked at to relieve the pressure in this area, including re-routing the water and installing a holding tank in the Rotary parking lot. These will be reviewed with the consulting engineers when their study has been completed. The possibility of making the storm sewer system larger was also mentioned, but Mr. Hamberger explained that this would force more water onto the residents at Cemetery Avenue quicker – that is why an overall (system-wide) study is being done.

VOTING ON ITEMS FROM COMMITTEE REPORTS: Councilman Berry noted that the Borough Office will be short-staffed for several weeks, due to a scheduled surgery and vacation. Accordingly, Mr. Hamberger is requesting to hire Lori Frantz as a temporary Clerk during the months of November

and December, at the rate of \$8.00/hour. Mr. Berry made a motion as such. Councilman Porter seconded; the motion passed unanimously.

Councilman Berry made a motion to accept Paul Minnich's letter of resignation, effective October 26th. Councilman McCammon seconded; the motion passed unanimously.

Councilman Berry made a motion to authorize the Civil Service Commission to conduct an examination for the position of Police Officer. Councilman Porter seconded; the motion passed unanimously.

UNFINISHED BUSINESS

BUILDING CODE REVISIONS: Mr. Hamberger noted that, following Council's recent meeting on Building Code issues, it was recommended that the Borough come into conformance with the current State Code and abolish vestiges of the 1996 BOCA Code that remain in effect; however retain sections of the 1996 BOCA Code that deal with the Electrical Code for one and two-family dwellings. Councilman George made a motion to approve the staff's recommendation, as presented. Councilman Porter seconded.

Councilman McCammon commented that any part of the Code which gives the authority to arrest to the Building Inspector should be removed. Mr. Cermak clarified that he can only issue citations; and if an individual is found guilty, the District Magistrate assigns fines of up to \$1,000/day. Solicitor Dively explained that the concept of an arrest means taking a subject into custody; and there is no authority in the Code for that. There is, however, the authority for issuance of a citation ... but that is not the equivalent of an arrest. She further noted that if the State legislature has created the authority of an Inspector to issue citations, she is not sure that that authority can be removed (because you would be lessening the State Code). If Council directs her to do so, however, she offered to review the matter further.

A vote was then called on the motion to proceed with the appropriate requirements for preparation/adoption of the State Code as indicated. The motion passed 5-1 (Councilman McCammon opposed). The appropriate ordinance will be prepared for advertisement and Council's consideration.

UPDATE ON STORM SEWER STUDY: Kevin Grubbs reported on information he received from Dennis E. Black Engineering, Inc. regarding their analysis of the existing stormwater channel between S. Potomac Street and S. Church Street, as follows –

“On October 8, 2007, the undersigned performed a walk-through visual inspection of the existing stormwater channel in the referenced location. The review will be broken into two segments, the segment between South Potomac and Maple Streets and the segment between Maple and South Church Streets.

The channel segment between South Potomac and Maple Streets was found to be in fair condition. There are some voids in the gabion baskets along the walls. There are also signs of voids occurring behind the gabion baskets from erosion. Some of the gabions' wire mesh on the floor of the channel is damaged and needs to be repaired. This section of the channel contains some sediment and vegetation that needs to be removed. The build up of sediment and vegetation reduces the velocity and capacity of the channel over time.

We recommend that the Borough perform yearly inspections of the gabion walls to ensure that the voids behind the gabions do not enlarge. If large voids are found, they should be filled with earthen fill immediately. At this point in time, the gabion walls should

be maintained as is. The Borough should also perform yearly maintenance and cleaning of the channel to prevent excessive build up of sediment and vegetation. We feel that the gabion energy dissipater located at the exit of the box culvert along Potomac Street should be removed. The energy dissipater collects debris and sediment as well as slows the channel flow at a point where the channel is very shallow. The downstream channel has large boulders that currently act as energy dissipaters to slow the water flow for erosion purposes.

The channel segment between Maple and South Church Streets was found to be in poor condition. The concrete box culvert located under South Church Street is also in poor structural condition. The channel contained vegetation and sediment that needs to be removed as soon as possible. The sidewalls of the channel are eroding and the bottom of the channel is made up of large boulders that decrease the flow of stormwater through this particular section.

We recommend that the section of the channel between Maple and South Church Streets needs to be high priority. Two options to consider for correcting the channel issues are provided.

Option one would be to use gabions like what is between South Potomac and Maple Streets. The gabions would provide adequate erosion protection to the bottom and sides of the channel. The flow characteristics would improve from the existing condition which would result in a higher capacity. However, gabions require more maintenance than other alternatives. They need to be cleaned more often and are hard to clean due to the wire mesh. They also are porous which results in some minor erosion of the embankment behind the gabions over years of service. The estimated cost to line the existing channel in this section is \$300,000.

Option two would be to use a concrete channel in lieu of the gabions. The concrete would provide superior erosion protection and would increase the capacity and stormwater characteristics immensely. There would be little to no maintenance for a concrete channel. The estimated cost for this option is \$375,000.

These options are only provided to correct the condition of the existing channel. Further analysis of the required capacity and flow characteristics of this channel will be performed after the stormwater analysis of the contributing watershed has been completed.

We also highly recommend that the Borough replace the old concrete box located under South Church Street. The replacement culvert should have its hydraulic opening increased. The estimated cost for a new concrete box culvert would be \$350,000. This option will also be addressed in the overall stormwater analysis and report.

The final issue that was observed during the inspection was the lack of a protection barrier along the channels. We strongly recommend that the Borough should install some type of chain link fence or barrier to prevent access to the channels. This is a liability issue to the Borough. The estimated cost for a railing system would be \$75,000.

Please note that all estimated costs include engineering, construction by contractors and contingencies."

Mr. Grubbs reviewed and compared the various options recommended by Mr. Black, noting that the Borough can take immediate action as follows:

- In the Potomac and Maple Streets corridor – repair the wire mesh on the gabion baskets on the floor of that channel, remove the sediment and vegetation, fill the voids behind any gabions as they appear, and remove the energy dissipaters.
- In the Maple and Church Streets corridor (high priority) – remove large boulders in the floor of the channel and replace with something smaller, and remove sediment and vegetation.

Mr. Grubbs added that, to date, they have received 25 of the expected 59 plates from the mapping company – this will enable Dennis Black to begin their analysis work.

The possibility of establishing a retention area was briefly discussed, and residents voiced their concern over the fact that they have already lost property due to the erosion encroachment. Mr. Grubbs clarified that a survey will be completed before anything is done in this regard.

Councilman George made a motion that the correspondence received from Dennis Black Engineering be referred to the Property Committee for discussion and recommendation at their next meeting. Councilman Stains seconded. (Kevin Grubbs advised that the lower section causes the most concern and will require immediate attention. After that, work should begin on Maple Street and then up to Potomac Street.) A vote was called and the motion passed unanimously.

President Newcomer stated that the costs of this work “scare everyone”, but he assured the residents that Council “will find the money”.

REPORT ON RENTAL UNIT INSPECTION PROGRAM: Code Enforcement Officer Dan Sheffler reported that this matter is currently being considered by the Planning Commission. He anticipates that it will be several months until a recommendation is forwarded to Council for consideration.

NEW BUSINESS

DISCUSSION OF LOCAL SERVICES TAX: Councilman George made a motion to table the matter. Councilman Stains seconded; the motion passed unanimously. Solicitor Melissa Dively reminded Council that the existing tax will cease to exist, and any action Council takes to repeal and enact a Local Services Tax must be taken by the end of November.

PLANNING COMMISSION ITEMS:

- 1) **WAYNESBORO HOSPITAL** - Kevin Grubbs noted that Waynesboro Hospital is requesting that Council vacate the following streets and alleys, in conjunction with their future plans for expansion:
 - N. Enterprise Avenue from E. Main Street to Roadside Avenue
 - Prospect Avenue from N. Enterprise Avenue to the east approximately 100'
 - The alley north of Prospect Avenue from Prospect Avenue to the east approximately 222.45'
 - The alley south of Prospect Avenue from N. Enterprise Avenue to Sunnyside Avenue

The request has been reviewed for several months by the Waynesboro Planning Commission. At their last meeting, they recommended that Council vacate the streets and alleys, subject to having the appropriate engineering documentation and stormwater management plan completed based on the proposed concept.

Councilman McCammon made a motion to proceed with the process necessary for vacation of the requested streets and alleys. Councilman Berry seconded.

Discussion followed regarding the Hospital's intentions for actual closure. Attorney Bill Dick explained that their goal is to have the vacation approved, but they will not take over the streets until sometime in the future (12-18 months). He assumed that a public hearing will be held regarding this matter, and they anticipate discussing exact plans at that time. Utility relocation will be discussed with the Waynesboro Borough Authority in the near future.

Wayne Driscoll, 14 Sunnyside Avenue, noted that the plans he saw at the last Planning Commission meeting were "reasonably acceptable", but added his concern that the plans may change after the vacations have been approved. President Newcomer indicated that Council will hold a public hearing regarding this matter before the vacation process moves forward. During that time, the public will have an opportunity to view and discuss the specific plans. Mr. Dick clarified that complete expansion plans will not be available at that time, but their drawings will show their intentions for the areas to be vacated.

Stephen Monn, a member of the Waynesboro Planning Commission, was also present. He explained that the Planning Commission's recommendation was for Council to "express good intent toward the vacations as drawn on the current plans" and to proceed with those vacations in the future, provided that the Hospital fulfills its requirements in the planning process and does not drastically alter their plans.

Solicitor Dively clarified that the vacations cannot be approved by motion, but must be approved by adoption of an advertised ordinance. A public hearing is only required if a petition is filed by interested parties within the next forty (40) days. She added that a public hearing can be held for discussion on the matter prior to advertisement of the ordinance for consideration, if Council so desires.

Mr. Hamberger reported that he has confirmed with the Borough's CDBG consultants that there will be no issues over abandoning Prospect Avenue since it was rebuilt several years ago with CDBG funds; and no reimbursement of funds is required.

A vote was then called on the motion to proceed with the process necessary for vacation of the requested streets and alleys. The motion passed unanimously.

- 2) **TURKEY HILL CONVENIENCE STORE** - Kevin Grubbs presented Final Land Development Plans for the proposed Turkey Hill Convenience Store, to be located at C.V. Avenue and W. Main Street. After several months of review and studies by PENNDOT, the plans meet all requirements of the Borough's Subdivision/Land Development and Zoning Ordinances. The Waynesboro Planning Commission has recommended approval of the Final Land Development Plans, subject to revisions on the stormwater management plan requested by Dennis Black (minor) and approval by the Franklin County Planning Commission and Franklin County Soil Conservation District. Councilman George made a motion to approve the Final Land Development Plan for Turkey Hill Convenience Store, as presented. Councilman Stains seconded; the motion passed unanimously.
- 3) **WALNUT ACRES LAND DEVELOPMENT PLAN** - Kevin Grubbs noted that this development is located in Washington Township, but abuts the Borough line just west of

Frick Avenue (near the existing West End Development). The developer and Township have presented plans for Council's review – comments should be forwarded to the Township by the end of the week. They will meet to review this plan in November.

Mr. Grubbs explained that this development will consist of seven (7) two-acre lots. The Waynesboro Planning Commission noted concern regarding any potential run-off onto the Pine Grove Drive Development, as they have experienced problems in the past. Additional information on stormwater management is being requested from the Township's engineering firm for further review. He also noted that the developer will be requesting to access a portion of King Street that ties onto Frick Avenue (which will need to be done by ordinance). He explained that King Street is currently ordained from Tritle Avenue to the alley west of Tritle Avenue.

Councilman Porter made a motion to proceed with ordaining the street in accordance with the developer's request, from the alley west of Tritle Avenue to the Borough line (for access to the development). Councilman McCammon seconded; the motion passed unanimously.

Kevin Grubbs also mentioned the proposed crosswalks on N. Grant Street, which were discussed at Council's last meeting. PENNDOT requires that two (2) handicapped ramps be installed on the west side for each of the crosswalks. An estimate of \$2,945.00 was received, but it was suggested that the contractor doing curb work on Second and Third Streets (with CDBG monies) could do these as part of that contract. This was pursued, but would cost \$24,500.00 due to prevailing wage requirements. Accordingly, it is recommended that Council proceed with the first quote. Councilman George made a motion to move forward with installation of the two (2) handicapped ramps on N. Grant Street for the estimated price of \$2,945.00. Councilman Stains seconded; the motion passed unanimously.

PUBLIC IN ATTENDANCE - NON-AGENDA ITEMS:

Carole Malin, Mainstreet Waynesboro, Inc. - Ms. Malin expressed appreciation for the Borough's support during their Market Day activities, noting that having Main Street closed made it a nicer event. Members of the maintenance crew helped at the beginning and end of the activities, the fire police assisted with blocking off the streets, the Police Department was very visible and helpful, and the Fire Department helped with ladders for electrical hook-ups. She noted she is very thankful for the amount of cooperation she received from the Borough's staff that day.

Stephen Monn, 126 W. Main Street - Mr. Monn noted that he lives next to Rose Manor, who experienced a "near emergency" the other evening, during which the entire building was evacuated. He commented that he has never seen so many groups of people from various organizations cooperate so well; and he noted that everyone involved should be commended.

Carl Jamarik, 493 S. Potomac Street - Mr. Jamarik voiced complaints regarding equipment stored on George Clopper's property on W. Sixth Street . He noted that, in the mid-1980's, he requested that Council require him to erect a fence or similar barrier because the property was an eyesore. Council was unable to do anything at that time, but he stated that many of the same items that were there in the 1980's are still there and the property remains a continual eyesore. He suggested that regulations for junkyards and/or salvage yards could apply, which would require that a fence be placed around the property since it abuts a residential area. Mr. Hamberger noted that when this case was prosecuted in the past, the District Justice deemed that the equipment on the property was used in Mr. Clopper's business. President Newcomer stated he would like to meet with Mr. Jamarik regarding this matter sometime following this meeting.

FOR INFORMATION ONLY

FRANKLIN COUNTY DRUG TASK FORCE 2007 FALL BREAKFAST (NOVEMBER 9, 2007):

Council members received an invitation to attend the Franklin County Drug Task Force 2007 Fall Breakfast to be held on November 9th at the Mountain Gate Restaurant in Waynesboro. Those interested in attending were asked to contact Melinda Knott.

PARKING REGULATIONS: Mr. Hamberger noted that he was requested to obtain copies of the parking regulations from Palmyra, which he included in Council's packets for their review. The matter was referred to the Street Committee for discussion at their next meeting.

PAY BILLS: Councilman Stains made a motion to approve the payment of Voucher List VL-07-29. Councilman Berry seconded; the motion passed unanimously.

COUNCIL AND STAFF COMMENTS: Councilman McCammon suggested that Council "take a hard look" at any future large developments with regard to water supply.

Councilman Stains noted that a resident approached him about the Police Department's ride-along program, and he questioned how the program works. Chief Shultz responded that the opportunity is available if an individual is in a high school "shadowing" program or higher education criminal justice program. After an incident this past week, however, he noted that they are taking a "hard look" at the future of the program.

Councilman Stains also noted that a resident of Rose Manor approached him regarding motorists driving through their parking lot at high rates of speed. The matter was referred to the Street Committee for review.

Councilman George thanked Mainstreet Waynesboro, Inc. and the Chamber of Commerce for their efforts in regard to the Market Day events. He noted that their promotions seem to have a positive effect for the Borough.

Code Enforcement Officer Dan Sheffler informed Council members that the house on W. North Street mentioned at the last Council meeting (which reportedly had partially collapsed) has been demolished. He also reported that he is working on the issues regarding George Clopper's property – a hearing date has been set for November 1st.

Council President Craig Newcomer also thanked Carole Malin and Carlene Willhide for their efforts for the downtown, as well as all constituents in attendance at the meeting for their thoughts and comments about various issues.

Having no further business to discuss, the meeting adjourned at 9:05 p.m. on a McCammon/Stains motion which passed unanimously.

Respectfully Submitted,

Melinda S. Knott
Administrative Assistant