

COUNCIL CHAMBERS, BOROUGH OFFICE BUILDING
36 West Allen Street
Mechanicsburg, PA 17055-6257

June 19, 2007

7:30 PM

EXECUTIVE SESSION

Borough Council held an executive session on a personnel matter at 7:25 PM.

CALL TO ORDER:

At 7:40 PM, President Whitcomb called the Council meeting to order and informed the public that an executive session on a personnel matter was held prior to the meeting.

PLEDGE OF ALLEGIANCE:

President Whitcomb led those assembled in the Pledge of Allegiance to the Flag.

ROLL CALL: Roll call was taken with the following present: President Whitcomb, Vice President Ryder, Councilmen Humes, McDermott, Seagrist, Stoner, Jr. Councilperson Ford, Solicitor Schorpp, Engineer Barber, Chief Spotts, Manager Stough, and Assistant Secretary Boyer. Councilman Ciecierski, Mayor Ritter and Chief Seagrist were absent.

Also in attendance: Ron Adams, Rick Castranio, David Fieseler, Eric Fussenegger, Doreen Heller, Ava, Bill & Jeff May, Rick Rovegno, Andy Sheely, Clint Timmins, Tim & Laverla Yeager

CITIZENS COMMENTS:

Andy Sheely, Esq. addressed Borough Council on behalf of resident Laverla Yeager. Mr. Sheely distributed a packet of information to Borough Council (attached). Sheely first established the length of time that Mrs. Yeager has owned the property and noted that when she purchased her property originally it was a part of Upper Allen Township. He provided Council with a plot plan of the Yeager property showing the residential dwelling unit and the commercial space located to the rear of the lot. He also included a diagram of the existing sewer line locations at this property and on Gale Street and also the location of the in ground septic system, to which the residential unit was connected. Mr. Sheely stated that due to a problem with the in ground septic system his client was forced to connect the residential unit to the sewer lateral going from the Borough's sewer main in Gale Street to the commercial unit to the rear of her property. He stated that Mrs. Yeager did have a permit from the Borough to connect that unit to the sewer system. The packet of information distributed to Borough Council also included a copy of the enforcement notice sent to Mrs. Yeager by Manager Stough and a copy of the letter sent to Borough Council by Mrs. Yeager. Mr. Sheely indicated that the property is at end of the sewer line as it approaches Simpson Ferry Road and maintained that a separate connection at this location would increase the cost of connecting for his client as well as create traffic congestion, as cartway on Gale Street would need to be shut down during excavating for his client to run a lateral and connect to the sewer line. Mr. Sheely indicated that his client is willing to pay the connection fee, however, does not want to bear the additional expense of installing a separate lateral. This would not create a loss to the Borough, therefore she is asking for an exemption, due to the impracticality in this location. Mr. Sheely indicated that his client had requested to be placed on the agenda, and he was asking that Council add this matter to the agenda for consideration this evening. Solicitor Schorpp asked Mr. Sheely if his client had secured the required permits for this connection. Mr. Sheely indicated that his client did not believe a permit was required, as the excavation would be taking place on her own property. Mr. Schorpp asked if Mr. Sheely client had any communications with the Borough directly, only her son had talked to the Borough about this matter. Mr. Schorpp asked if there is a building or rock formations obstructing her ability to connect the sewer lateral in the street. Mr. Schorpp questioned what made this connection impractical and Mr. Sheely indicated the distance between the home and the sewer main in the street and the heavy traffic volumes in this area. Manager Stough explained that the roadway would not need to be closed for the sewer lateral to be connected to the main line at this location. Mr. Stough stated that staff's position is that this is an enforcement issue, which would normally be handled by Borough Staff. Mr. Stough then gave examples of other locations where the ordinance was enforced in the same manner as it was in this case. Mr. Stough then provided an estimate from Robert Baker Construction on the cost of connecting to the sewer main, which was \$3,438. Mr. Adams, Wastewater Treatment Plant Superintendent, indicated that the lines installed by the Yeager's were not inspected by his department, as required. The septic tank which was taken out of service should also have been inspected to ensure that this work was done correctly. Mr. Stough then reviewed the steps taken by Borough staff to stop the lines from being backfilled, so an inspection could be done. Mr. Stough then read the Police report submitted by Officer Montgomery when he went out to the site to try to halt construction. Mrs. Yeager stated

that the report was not accurate and that the Police Officer had given permission for her to continue working as long as she did not excavate in the roadway. President Whitcomb stated that he is of the opinion that staff acted in accordance with the ordinance and does not believe that Council can take any other action in this matter. Mr. Sheely indicated that his client is willing to have the trench opened for inspection by the wastewater department. Discussion followed on the possible future problems associated with shared laterals. Mr. Sheely indicated that if a subdivision occurred at a future time, which is not likely due to the lot size, his client understands that separate laterals would need to be installed prior to sale. After further discussion, Solicitor Schorpp stated that he would have a hard time advising Borough Council that this situation is any more impractical than any other proposed connection in the Borough, other than costs. Mr. Sheely indicated that while there may be issues with the way this connection was done, the request for the exemption is still valid. Much discussion followed on the location and practicality of the separate sewer laterals, with Manager Stough stating that if Mrs. Yeager believed that an impracticality exists at this location, she had ample opportunity to bring this to Borough Council, prior to making an illegal connection to the Borough system. Vice President Ryder asked why Mrs. Yeager did not come and apply for an exemption prior to making this connection. Councilman Seagrist answered for the Yeager's stating that due to the back up of sewage into the home, the Yeager's did not have time to come in and request the exemption prior to hooking onto the system. Councilman Seagrist stated that under these circumstances he may have made the same decision as the Yeager's. Councilman Humes asked Mrs. Yeager if this was the fifth time this had happened, why did she wait so long to explore her options. Councilman Seagrist asked Mrs. Yeager if the last backup was the first occurrence when she became aware that she had an in ground septic system. Mrs. Yeager indicated that was correct. Tim Yeager, Mrs. Yeager's son, indicated that his late father had hooked the commercial unit onto the sewer in the 1990's and his mother thought that connection included the residential dwelling unit. Vice President Ryder asked if Mrs. Yeager had been having the septic pumped out when backups occurred and she indicated that she had been doing that. Discussion followed on this matter for some time. Mr. Adams stated that he spoke to Mr. Yeager back in March and the sewer department went out to the site and marked the lines and informed Mr. Yeager of the proper steps to connect to the Borough system and distributed photographs of the site with the line marking dated April of this year. Mr. Adams stated that the contractor on the job, McCorkel Construction, was also advised of the proper location to make the connection. Mr. Yeager stated he was trying to comply with the regulations. Solicitor Schorpp questioned Mr. Yeager on his actions. Mr. Sheely indicated that he is not maintaining that everything occurred in the proper order, but he is still requesting that the Borough Council take action on the exemption request. Solicitor Schorpp reviewed the ordinance as it relates to sewer connections with Council to provide clarification. Manager Stough stated that staff makes every effort possible to enforce the ordinance enacted by Borough Council uniformly for all residents. Mr. Yeager asked why the Borough paid some of the costs for the connections on Elmwood and Maplewood, but does not help other residents with costs. Mr. Adams explained that was construction of a new sewer main and the Borough only installed to the property line, which was done because the street was being excavated to install the main and the residents were being required to connect regardless of the status of their in ground system. Much discussion followed on the installation of new sewer lines versus existing homes hooking onto the sewer system and which homes in the area of the Yeager property have yet to hook onto Borough sewer. After considerable discussion President Whitcomb stated that he did not see any action for Borough Council to take at this time. Councilman Seagrist stated that he would like to take action to place this matter on the agenda, at the appropriate time.

Jeff May, 211 South Broad, addressed Borough Council regarding flooding issues with the Mechanicsburg Commons Development being constructed next to his property. Mr. May stated that he spoke to Mr. Ressler and Engineer Barber about the storm water issues related to the development. Mr. May stated that his landscaping and grass have been adversely effected by this run off and he has been told that once the street is constructed the run off will be contained. Mr. May continued to describe the conditions at his property after this evening's rain storm. Mr. May stated that the roadway constructed is higher than the cartway on Broad Street and with the addition of the handicapped curb cut, the water problem has become intolerable. The retention pond on the construction site has no water in it, but the neighboring properties are flooded. Mr. May stated that there has been no work on the construction site for over six months and he feels the Borough needs to hold the property owner to task to correct these issues. Mr. May stated that he feels the design of the roadway needs to be examined. Solicitor Schorpp asked the Manager if the Borough is still holding bond monies for this land development. Manager Stough stated that the Borough does have bond funding available and can call the bond and complete the work if the developer does not get the required work completed in a timely manner. Engineer Barber stated that he was on site before the roadway and curbing was installed during a rain event, and at that time survey work was done to verify the grades; however, the developer has not called for any inspections on any of the work completed since that time. Engineer Barber stated that the contractor was made aware of two sinkholes that need to be repaired. Mr. May clarified that the water coming down Broad Street is now being diverted onto his property with the addition of the handicapped curb cuts for the new roadway. Mr. May stated that he wants the Borough to hold the contractor to task to correct the stormwater issues. After discussion Manager Stough was directed to confer with the Solicitor on the proper steps to take to call the

developers bond and Engineer Barber stated that he will go out to the site and check the grades on the roadway and stormwater system to make sure that it is constructed in accordance with the Land Development Plan. Solicitor Schorpp recommended that the Borough not issue any new building permits until this issue is resolved. Mr. May suggested until this issue can be addressed that the handicapped curb cut be sandbagged, to prevent further damage to his property. Mr. May also asked the developer be asked to cut the weeds on his site. Mr. May also asked if anything could be done about the high school kids hanging out and leaving trash along their property. Mr. May also asked about parking adjacent to his driveway on Broad Street obstructing the view of the street from his driveway. Much discussion followed on parking regulations on Borough streets.

Clint Timmons, 604 York Circle, addressed Borough Council regarding a stormwater issue. Mr. Timmons explained that this stormwater problem is due to his neighbor blocking the drainage swale with an illegally erected fence. Mr. Timmons asked the Borough to have his neighbor remove the obstruction in the storm drainage area. Councilman Seagrist stated that the Borough has a legal opinion from former Solicitor Sunday that determined this to be a civil matter, and as such the Borough can take no action to have the fence removed. The right of way for storm drainage was never deeded over by the developer to the Borough, so it is a private matter. Mr. Timmons asked Councilman Seagrist what is right about a 74 year old resident having to clean up debris and stormwater because the Borough will not take action to remove this illegally constructed fence. President Whitcomb asked Manager Stough to see if there is a copy of the legal opinion on the matter, and if so have that distributed to Borough Council, Solicitor Schorpp and Mr. Timmons for review to see if the Borough can do anything to correct this problem.

ADDITIONS TO AGENDA:

Councilman Seagrist requested that 1016 E. Simpson Street be added to the agenda as a matter for possible action. Chief Spotts asked that Civil Service Resolution 3-2007 be added to the agenda for possible action, prior to the offer of employment being discussed.

Manager Stough asked that the Certificate of Appropriateness for Christopher J. Byerly of 104 E Main Street for roof replacement and a wooden privacy gate be added to the agenda, under the Certificates of Appropriateness to be considered this evening.

APPROVAL OF AGENDA:

Councilman Stoner made a motion, second by Councilman McDermott, to approve the agenda, as amended. The motion carried with all in favor.

CORRESPONDENCE:

None

APPROVAL OF MINUTES

Vice President Ryder made a motion, second by Councilman Seagrist to approve the minutes of the June 5, 2007 Regular Council meeting as submitted. The motion passed with all votes in the affirmative.

MONTHLY REPORTS:

Councilman Seagrist made a motion, seconded by Councilman McDermott, to approve the monthly reports as submitted. The motion carried.

MANAGER'S REPORT:

No Report

MAYOR'S REPORT:

Mayor Ritter was absent

CHIEF OF POLICE REPORT:

No Report.

SOLICITOR REPORT:

No Report.

ENGINEERS REPORT:

Engineer Barber reported on the pole location discussed at the last meeting, particularly the pole at the southwest corner of Main and Market. He reported that the pole was redesigned, and a pedestrian pole was added.

FIRE CHIEF REPORT:

Chief Seagrist was absent

JR. COUNCILPERSON REPORT:

Jr. Councilperson Ford asked why the Council does not ask the School District to advise students not to park on the Mechanicsburg Commons property. President Whitcomb stated that the Borough has tried to resolve this problem by working with the School District, but has been unsuccessful.

COUNCIL COMMITTEE REPORTS:

At the request of the Council President, committee Reports were postponed until the July 17, 2007 Council meeting for the purpose of brevity during an otherwise lengthy and disjointed meeting given the combination of complicated Borough business, as well as, recovery from the unusually heavy thunderstorms that occurred prior to the meeting.

AGENDA ITEMS – JUNE 19, 2007

♦ **Consider approval of Certificates of Appropriateness for the following applications:**

1. Elmer Ritter – 712 S. Market Street – Roof Replacement.

Councilman McDermott made a motion to approve the Certificate of Appropriateness for Elmer Ritter for roof replacement at 712 South Market Street. Vice President Ryder seconded the motion. Discussion followed on this applicant having started the work without receiving a Certificate of Appropriateness from Council. Councilman Seagrist asked why staff is failing to enforce this ordinance. Solicitor Schorpp stated that the property owner or contractor can be cited for violation of the ordinance for doing the work without a permit, even if the Certificate of Appropriateness is approved. Solicitor Schorpp stated that it is up to the Codes Enforcement Officer if enforcement action should be taken, not Council. Manager Stough stated that some residents and contractors have been cited for working prior to the COA being issued. Councilman Seagrist stated that staff is selectively enforcing the ordinance, not citing every homeowner who is in violation. President Whitcomb asked if there is misinformation going out from the HARB to the applicant about the timeline for approval. Manager Stough stated that the HARB is not telling residents to proceed, without Council approval. Councilman Humes stated that the difficulty with this new ordinance is that residents are not all aware of the process involved in obtaining a COA, but that HARB is working on a publication that should help to educate residents on the regulations. Councilman Seagrist stated that this ordinance is not working, and Council should look at the ordinance and try to fix this problem. After some additional discussion, President Whitcomb called for a vote and the motion passed with all in favor.

2. Scott A. Rainey – 325 E Main Street – Fencing.

Councilman McDermott made a motion, second by Councilman Humes, to approve the Certificate of Appropriateness for the fence at the property of Scott Rainey, 325 East Main Street. The motion passed with all in favor.

3. Christopher J. Byerly -104 E Main Street - roof replacement and a wooden privacy gate

Councilman McDermott made a motion, second by Vice President Ryder, to approve the Certificate of Appropriateness for a roof replacement and privacy gate at 104 E. Main Street for Christopher J. Byerly. The motion passed with all in favor.

♦ **Consider Final Subdivision plan for Schoolhouse Apartments – 133 W. Locust Street.**

Mr. Rick Rovegno, the applicant, was present to represent the plan. Councilman Seagrist made a motion to approve, Councilman McDermott seconded the motion and Engineer Barber reviewed his memo of June 18, 2007(attached) with Borough Council. The Engineer stated that this applicant is requesting five waivers and the only other outstanding items are additional notes that will need to be added to the plan prior to recording. Councilman Humes asked Engineer Barber if he concurred with the waivers and he indicated that he did. Councilmen Seagrist and McDermott withdrew their motion on the plan so Council could take action on the requested waivers. Solicitor Schorpp indicated that due to a conflict, he would not be participating in the discussion on this plan. Councilman Seagrist made a motion to grant the five waivers requested by the applicant. Councilman McDermott seconded the motion, which passed by unanimous vote. Councilman Humes made a motion, second by Councilman Seagrist to approve the subdivision plan for Schoolhouse Apartments contingent upon the two notes requested being added to the plan prior to recording and that the applicant must provide the Borough with a Deed of Consolidation for all the parcels included in this plan. The applicant, Mr. Rovegno, agreed to the conditions and the motion passed with all in favor.

◆ **Consider Preliminary Land Development Plan for the Hollinger Group.**

Rick Castranio, Alpha Consulting, was present to represent the plan. Engineer Barber reminded Council that this is a preliminary plan submission, and this applicant will have to return to Council for final plan approval. Engineer Barber reviewed his comments, from his June 12, 2007 memo with Borough Council. Solicitor Schorpp stated that he has some concerns regarding the condition on the Planning Commission memo which states the applicant will make a potential donation to the Borough to be earmarked for future traffic improvements, stating that the amount of the donation should be decided prior to the approval so all parties are on the same page. Mr. Castranio stated that the developer has offered \$5,000 to Upper Allen Township for traffic improvements and they have accepted that offer. Solicitor Schorpp also expressed concern that the traffic study extent has not been outlined. Mr. Castranio stated that his experience has been that the cost of a full blown traffic study is not the best use of resources for the developer or the Borough. He suggested that a donation to the Borough would be a better use of resources. Solicitor Schorpp asked the applicant if he was willing to stipulate to the condition that the scope of the traffic study must be approved by the Borough Engineer. Engineer Barber stated that the only improvements on this project that are located in the Borough are stormwater, however, the traffic impact study that was submitted has been revised to include an additional roadway accesses point and no revised traffic study is planned. Engineer Barber stated that he did not think that a revised traffic study would be warranted. After discussion, Mr. Castranio stated that he is in the position to offer \$5,000 to the Borough to be used however the Borough sees fit. Borough Council discussed a possible easement for stormwater. Vice President Ryder made a motion, second by Councilman Stoner, to approve the preliminary plan contingent upon the applicant resolving the comments on the memo from Engineer June 12, 2007 and contingent upon the application making a \$5,000 donation to the Borough of Mechanicsburg for future traffic improvements prior to recording of the final plan. Mr. Castranio indicated that all these conditions were acceptable to the applicant. The motion passed with all in favor.

◆ **Consider action on the 2007 paving bid award.**

Manager Stough reviewed the bid with Borough Council and recommended that Council award the bid to Handwerk Construction in the amount of \$133,179.00. Vice President Ryder made a motion, second by Councilman Humes to award the bid to Handwerk Construction of Hummelstown in the amount of \$133,179. The motion passed with all in favor.

◆ **Discussion and possible adoption of Ordinance 1097 setting an intergovernmental agreement for use of Special Fire Police.**

Councilman Seagrist made a motion, second by Vice President Ryder to table Ordinance 1097 till the July 17, 2007 meeting. The motion passed with all in favor.

◆ **Discussion and possible action to advertise the Intermunicipal Pool Ordinance.**

Solicitor Schorpp stated that he received a request from Upper Allen's Solicitor today that Upper Allen would like to send a check to the Borough for \$50,000 which will be placed in escrow by the Borough Solicitor until the intermunicipal agreement is signed by both the Borough Council and the Township Commissioners. Councilman Seagrist made a motion, second by Councilman Stoner, to authorize the Solicitor to draft and advertise the Intermunicipal pool agreement. The motion passed with all in favor.

◆ **Consider accepting the resignation of Kathy Bernd from the Zoning Hearing Board.**

Vice President Ryder made a motion, second by Councilman McDermott, to accept the resignation of Kathy Bernd from the Zoning Hearing Board. The motion passed unanimously.

◆ **Consider appointment to fill the vacant seat on the Civil Service Commission.**

Vice President Ryder made a motion, second by Councilman McDermott to table this. The motion carried with all in favor.

◆ **Consider request of Ross King, 210 E. Keller Street for a handicapped parking space.**

Councilman McDermott made a motion, second by Councilman Stoner to table this for review by the Police Department. The motion passed with all in favor.

◆ **Consider approving Civil Service Resolution 03-2007 Certifying the eligibility list for patrol officers.**

Councilman Seagrist made a motion, second by Vice President Ryder to adopt Civil Service Resolution 03-2007, certify the eligibility list for patrol officers. The motion passed with all in favor.

◆ **Consider offer of employment for the open patrol officer position with the Borough Police Department.**

Vice President Ryder made an offer to authorize Chief Spotts to extend a conditional offer of employment for a probationary patrol officer position to Timothy P. Lazzarevich effective July 2, 2007. Councilman Stoner seconded the motion. The motion carried by a vote of 5 in favor (Humes, Ryder, Seagrist, Stoner, Whitcomb) and one against (McDermott).

◆ **Discussion on implementation strategy for the total nitrogen and total phosphorus removal at the Wastewater Treatment Plant and authorization to send letter to the Department of Environmental Protection.**

Manager Stough stated that Ron Adams, Wastewater Treatment Plant Superintendent, is here this evening to answer any questions Borough Council may have on the plan prepared by Gannett Fleming for implementation of nitrogen and phosphorus removal. Discussion followed on if this plan can be implemented as presented within this timeline.

Councilman Humes made a motion, second by Vice President Ryder, to send a letter with the Borough's nitrogen and phosphorus removal time line to the Department of Environmental Protection. The motion passed with all in favor.

◆ **Approval of the Sewage Planning Module Exemption for 510 W. Main Street.**

Vice President Ryder made a motion, second by Councilman Seagrist to approve the sewer planning module exemption for 510 West Main Street. The motion carried, 6-0.

◆ **Approval of the 90 day extension on the Joint Compost facility 902 Grant.**

Manager Stough asked Borough Council to accept the 90 day time extension offered by DEP on the 902 grant for the compost facility. Councilman Humes made a motion, seconded by Vice President Ryder to accept the time extension. The motion passed with all in favor.

◆ **Consider granting an exception to the sewer connection ordinance for 1016 E Simpson Street.**

Councilman Seagrist made a motion to grant an exemption to Mrs. Yeager at 1016 E Simpson Street to allow for a joint lateral at this location. Councilman McDermott seconded the motion. Much discussion followed on the subject, with Councilman Seagrist stating that he felt Mrs. Yeager had no options in this situation. Vice President Ryder stated that he disagreed, Mrs. Yeager had been advised of her option and chose to take a course of action that she was aware was in violation of the ordinances. After some additional discussion, President Whitcomb called for a vote and the motion failed by a vote of two in favor (McDermott, Seagrist) and four against (Humes, Ryder, Stoner, Whitcomb).

APPROVAL OF EXPENDITURES PAID: Councilman Humes stated she is still waiting for the May reports to be distributed and has a problem approving the expenditures without receiving a complete set of reports. Councilman Seagrist made a motion to table and Councilman McDermott seconded the motion, which passed with all in favor.

CITIZEN COMMENTS:

There were none.

ANY OTHER BUSINESS TO COME BEFORE COUNCIL:

There was none.

ADJOURNMENT:

At 10:30 PM, with no further business to discuss, President Whitcomb adjourned the meeting.



Jonathan S. Stough
Borough Secretary