

October 9, 2012
Myerstown, PA 17067

President Bryan Rittle called the regular monthly meeting of Myerstown Borough Council to order at 7:00 P. M., prevailing time on Tuesday, October 9, 2012. The meeting was held in Borough Council Chambers in the Myerstown Municipal Center, 101 East Washington Avenue, Myerstown, PA 17067.

ROLL CALL:

After paying respects to the flag, a roll call was taken. Present were: President Bryan L. Rittle, Vice President Gloria R. Ebling, Teresa Allwein, Michael Behm, Park Haverstick, II, Keith Fox, Barry Lutz, Mayor Thomas G. Lush, Treasurer Lee C. Smith, Solicitor Frederick S. Wolf, Public Works Department Supervisor David C. Fake, Wastewater Department Supervisor Dennis N. Mann, Police Officer Mel Hemperly, and Borough Manager/Borough Secretary Eric L. Powell. Planning Commission Chairman James Yiengst was not in attendance.

MINUTES:

Motion by Mrs. Ebling and a Second by Mr. Behm: To approve the minutes of the September 10, 2012 planning meeting and the September 11, 2012 regular meeting as distributed and without any corrections noted.

Motion passed unanimously.

CITIZENS' AND VISITORS' COMMENTS:

Sergeant Mark Tice, commander of the Pennsylvania State Police Barracks at Jonestown, was present to introduce himself to Borough Council. He indicated that he is new to the Jonestown Barracks having been on the job there for only three weeks. He said that he will begin to periodically attend various governing body meetings in municipalities throughout the Barracks' coverage area in eastern Lebanon County. In response to a question from Council President Rittle, Sergeant Tice indicated that he will begin to submit a quarterly report to Borough Council. He asked people to contact him with concerns at any time through the main telephone number at the Jonestown Barracks – (717)-685-2194.

There were no other citizen's or visitor's comments.

REPORTS TO COUNCIL:

Mayor Thomas Lush reported that the Police Department was currently working on the problem of campers (both registered and unregistered) being parked on Borough streets for long periods of time without being moved. He also indicated that the Lebanon County Chiefs Of Police Association recommended that "Trick Or Treat Night" be held on Wednesday, October 31, 2012 throughout Lebanon County. A copy of Mayor Lush's written report is attached to these minutes.

Officer Hemperly was in attendance to present the Police Reports and to answer any questions on it. Since the written reports were not copied and distributed in the Borough Council packets, he advised Borough Council of the following incidents that were responded to and/or investigated by the Police Department:

- One theft of metals in the 800 Block of South Railroad Street at Ray Moyer Plumbing And Heating;
- Six unlocked vehicles entered complaints at the Lantern Lodge;
- One theft of bicycle parts in the 200 Block of South Railroad Street;
- Three thefts of property from unlocked vehicles at various locations throughout the Borough;
- Three criminal mischief complaints involving damage to vehicles in the 200 Block of East Main Avenue;
- Two arrests for assault (one involving a juvenile) at various locations throughout the Borough;
- Five domestic disturbances at various locations throughout the Borough;
- Provided assistance to the Millcreek Township Police in responding to one domestic disturbance incident;
- One disturbance complaint in the 300 Block of South Railroad Street;
- Three noise complaints at various locations throughout the Borough;
- One barking dog complaint;
- One custody dispute;
- Two suspicious person complaints at various locations throughout the Borough;
- Provided assistance to two other Police Departments in responding to disturbance reports - one to the Millcreek Township Police and one to the Pennsylvania State Police for an incident in Jackson Township;
- Two well-being checks at various locations throughout the Borough; and
- One court appearance.

Borough Council President Bryan Rittle asked Officer Hemperly if he was aware that someone driving an older model red and white van was going through dumpsters and containers and taking the recyclables. He said that he did not know this but that he

would keep a look-out for this. Council Member Gloria Ebling advised Officer Hemperly that someone has been stealing firewood that she keeps stacked near her garage. Officer Hemperly indicated that Police Department would make more frequent checks of her neighborhood to see if this could be stopped. Copies of the written Police Reports are attached to these minutes.

At the request of Borough Council President Rittle, Council Member Barry Lutz advised Council that there was no formal report to be made on behalf of the Recreation Commission.

As Borough Planning Commission Chairman Yiengst was not in attendance at the Borough Council meeting, there was no report from the Borough Planning Commission. However, Borough Manager Powell noted that the forty-five (45) day public comment period under the Municipalities Planning Code (MPC) for the proposed draft Mini-Comprehensive Plan continues to run.

Wastewater Superintendent Dennis Mann was present and asked if there were any questions concerning his written monthly Wastewater Department report that was included in the Borough Council packets. He advised Borough Council that representatives from Siemens have been at the Wastewater Treatment Facility for the last four or five days. They will probably have to remain on site for several more days and then return at least one more time to complete their work. Mr. Mann believes that they are making a lot of headway or progress on restoring fully automatic operations to the SCADA system. He also reported that the employee contracted through ARRO's Operations Group spent two days at the facility last week and that he is scheduled to be at the facility again tomorrow. This person is being utilized on an as-needed basis to fill-in. A copy of Mr. Mann's written report is attached to these minutes.

Borough Council President Rittle noted that the Sewer Engineer provided a written report this month and that a copy of this report was included in the meeting packets for further review by Borough Council Members. A copy of this written report is attached to these minutes.

Public Works Department Supervisor David Fake presented Borough Council with the monthly Public Works Department Report and asked if there were any questions on the written report included in the Council packet. There were no questions concerning the written report. Mr. Fake also advised Borough Council that Myerstown Borough's Annual Leaf Collection Program was scheduled to begin next week on Monday, October 15, 2012 and that it will continue through the end of December. Regular scheduled collections will occur on every Monday and every Friday during this time period. He reminded everyone in attendance that all leaves must be placed at the curb in clear plastic bags purchased from the Borough. A copy of Mr. Fake's written report is attached to these minutes.

MANAGER'S REPORT:

Borough Manager Eric Powell indicated that his written report was included as part of the Council packet materials and asked if there were any questions on the report. There were no such questions on the report. A copy of Borough Manager Powell's written report is attached to these minutes.

SOLICITOR'S REPORT:

Solicitor Wolf advised Borough Council that his written report was included in the Council packets. He asked if there were any questions on the written report. There were no such questions on the report. Solicitor Wolf also indicated that he would be revising his report in the future and removing information related to issues that have been resolved or closed.

Solicitor Wolf provided Borough Council with a verbal update regarding the planned use of Sewer Bond funds for inflow and infiltration repairs. He also indicated that his office had recently filed two new municipal liens for delinquent water and sewer bills and property maintenance costs and that he expected the Borough would be requesting other liens be filed against additional properties in the future. Borough staff is working with him to develop and verify this list of liens. Additionally, two new partial municipal liens were also filed in advance of expected Sheriff's Sales to get the Borough's and Water Authority's claims on record.

Solicitor Wolf also discussed the generalities of the proposed Police Pension Amendment Ordinance. He indicated that he had now contacted and discussed this issue with all of the Police Officers. Officer Kozicki still wishes to proceed while Officer Dahl has indicated that she will not request any changes be made for her. Solicitor Wolf said that he will prepare a revised draft of the Ordinance for presentation to and consideration by Borough Council at a future meeting. Said revised Ordinance will be sent to Conrad Siegel Actuaries for final review before it is presented to Borough Council.

Solicitor Wolf also reported on the planned adoption of the proposed Airport Hazard Zone Ordinance. At the last meeting, he originally suggested that this Ordinance be processed and adopted at the same time as the re-codification is completed. Upon further review, he now believes that it would be better for Borough Council to adopt said Ordinance separately from the re-codification. This is because the Airport Hazard Zone Ordinance is basically a revision of the Borough Zoning Ordinance and the Borough's Official Zoning Map.

The procedures for approving such amendments are covered by the Municipalities Planning Code (MPC) of Pennsylvania. The MPC requires that a Public Hearing on the amendment be held; that all property-owners in the proposed new conical overlay zoning districts must be directly notified by mail of the amendment and of

the Public Hearing; and that notices announcing the Public Hearing must be posted at conspicuous locations throughout the new zones. These are the same requirements and procedures that were followed during the recent consideration and adoption of the new Flood Plain Ordinance this summer. Based on these requirements and considerations, Solicitor Wolf is now recommended that Borough Council adopt the Amending Ordinance (AO) separately and before the re-codification is completed.

Finally, Solicitor Wolf advised Borough Council that he would have two matters involving litigation to discuss with Council during an Executive Session to be held later in the meeting. A copy of Solicitor Wolf's written report is attached to these minutes.

COMMITTEE REPORTS:

Finance Committee Chairman Mike Behm advised Borough Council that the Finance Committee would be holding its second meeting for 2013 budget planning on Monday evening, October 15, 2012 at 6:30 P. M. Additionally, he reminded Council of the previously advertised and previously scheduled Budget Workshop meeting of Borough Council that will be held on Wednesday evening, October 17, 2012, also at 6:30 P. M.

Council Member Haverstick advised Borough Council that the Community Swimming Pool will be required to have a handicapped accessible lift chair installed by next summer in order for the pool to open. Council President Rittle reminded Council about the letter contained in the packets from the Lebanon County Planning Department concerning escrowed funds (\$2,000.00) from past developments that it is holding for park and recreational activities in the Borough. He thought that perhaps these funds could be used for the lift chair, which is estimated to cost as much as between \$6,000.00 and \$8,000.00 to purchase and install.

Sewer Committee Chairman Barry Lutz announced that the Sewer Advisory Committee made up of the sewer partners will meet next month on Wednesday evening, November 14, 2012 at 6:30 P. M. at the Wastewater Treatment Facility.

Council President Rittle asked Borough Manager Powell to obtain additional information on the Lebanon County Municipal Convention that will be held later this week and to send an e-mail message to all Council Members and Mayor Lush advising them of the specifics concerning the meeting date, meeting time, and meeting location.

Council Member Fox and Council Member Ebling had no Committee Reports to present to Borough Council.

COMMUNICATIONS:

The following items of communication were received by Myerstown Borough: Water Authority Minutes and Agenda; PSATS notice of the Agenda for the 98TH Annual

Convention; FEMA Notice of Flood Plain Map Amendment; Gannett Fleming letter containing the required Quarterly Post-Flow Diversion EDU Verification Report from the Jackson Township Authority; Woman's Club Of Myerstown letter announcing the sale of poinsettias and the prices; Light-Heigel And Associates, Inc. notice that UGI Utilities will be applying for permitting for the replacement of a gas main; copy of letter sent to DEP concerning the polymer spill at the Wastewater Treatment Facility; PennDOT notification of the 2013 turn-back amount (\$680.00); PennDOT letter concerning Agility Agreements; Letter transmitting PURTA check; PennDOT letter estimating Act 655 Funds allocation for 2013 (\$59,241.73); Auditor General letter transmitting Act 205 Funds (\$57,217.75); Heidelberg Township letter of approval for the Schaefferstown Fire Police to provide support for the Holiday Parade on November 24, 2012; PSAB notification of new program - "Municipal Employee Benefits Program"; Lebanon County Planning Department letter concerning amendments to the Lebanon County Subdivision and Land Development Ordinance; Borough Manager's letters to Millcreek Township requesting assistance from the Newmanstown Fire Police, Womelsdorf Borough requesting assistance from the Womelsdorf Fire Police, Heidelberg Township requesting assistance from the Newmanstown Fire Police, South Lebanon Township requesting assistance from the South Lebanon Township Fire Police, Tulpehocken Township requesting assistance from the Rehrersburg Fire Police and the Mt. Aetna Fire Police, the Borough of Richland requesting assistance from the Richland Fire Police, all during the Holiday Parade on November 24, 2012; Lebanon County Planning Department letter reviewing the proposed Draft Myerstown Borough Mini-Comprehensive Plan; Delaware River Basin Commission's Project Review Notice Of Proposed Commission Action (Approval) of the Borough Of Myerstown's Wastewater Treatment Plant NPDES Permit Application; copies of letters sent by Mayor Lush concerning various subjects; copy of letter from Elaine Nagle complaining about the new Lockbox Payment System for water and sewer bills; Greater Lebanon Refuse Authority (GLRA) communication announcing recycling of a new material - # 1 PET Clear Thermoform Plastic; and copies of Notices of Violation of the Borough's Property Maintenance Code prepared by Randy Maurer of Associated Building Inspections, Inc. and sent, on behalf of Myerstown Borough, to the owners of properties located at 125 West Stoever Avenue, 2 East Main Avenue, and 107 North Railroad Street.

TREASURER'S REPORT:

Motion by Mr. Fox and a Second by Mr. Lutz: To approve the Treasurer's Report subject to audit. Motion passed unanimously.

INVOICES:

Motion by Mr. Haverstick and a Second by Mrs. Ebling: To approve payment of the invoices as listed and attached. Motion passed unanimously.

OLD BUSINESS – PENDING ISSUES:

Borough Council President Rittle read the list of current Committee and Board vacancies. He asked anyone interesting in volunteering to serve on any of these panels to contact the Borough office.

NEW BUSINESS:

Motion by Mrs. Ebling and a Second by Mr. Behm: To officially designate Wednesday, October 31, 2012 from 6:00 P. M. to 8:00 P.m. as "Trick Or Treat Night" in the Borough Of Myerstown, in accordance with the date recommended by the Lebanon County Chiefs Of Police Association. Motion passed unanimously.

Council Vice President Gloria Ebling, Mayor Thomas Lush, and Borough Manager Eric Powell indicated that they would volunteer to represent Myerstown Borough and to attend the ELCO School District Breakfast for municipal officials on Tuesday, October 30, 2012.

Motion by Mr. Lutz and a Second by Mr. Behm: To officially approve the request received from the Womelsdorf Fire Police for the assistance of the Good Will Fire Police during Womelsdorf Borough's 250TH Anniversary Parade on Saturday, October 13, 2012. Motion passed unanimously.

Motion by Mrs. Ebling and a Second by Mr. Fox: To accept the Scope Of Work and Cost Proposal in the maximum amount of \$6,000.00, as submitted to the Borough Of Myerstown by Skelly And Loy Engineering And Environmental Consultants, Inc., to perform the required Phase II wetlands delineation; conduct the required Phase II pre-construction bog turtle study; and perform construction supervision for the planned South Broad Street Bridge and South Railroad Street Bridge Repair Project. (The proposal submitted by Rettew Associates, Inc. to perform the same services listed above was not selected). Motion passed unanimously.

Motion by Mr. Lutz and a Second by Mr. Fox: To officially require the Fiscal Year 2011 ADA Handicapped Accessibility Ramp/Curb Cut Installation Project, funded with Lebanon County Community Development Block Grant (CDBG) Funds and which will be completed during 2012 and 2013, to utilize the alternate bid conventional pour method of construction with the Borough Of Myerstown paying for the \$238.00 difference between that method of construction and the monolithic pour method of construction for the thirty-two (32) ramps proposed for installation. (This will result in a total expenditure by the Borough of \$7,616.00 in General Reserve Funds). Motion passed unanimously.

Motion by Mr. Behm and a Second by Mrs. Ebling: To officially approve the request received from the Heidelberg Township Board Of Supervisors for the assistance of the Good Will Fire Police during the Schaefferstown Halloween Parade on Saturday, October 27, 2012. Motion passed unanimously.

Consideration of the letter from the Lebanon County Conservation District seeking financial assistance from all Lebanon County municipalities for the 2013 Municipal Farmland Preservation Appeal Request was tabled by the general consensus of Borough Council until a future meeting.

Council Vice President Gloria Ebling, Mayor Thomas Lush, Council Member Barry Lutz, and Borough Manager Eric Powell indicated that they would attend the quarterly dinner meeting of the Dauphin-Lebanon County Borough's Association (DLCBA) on Tuesday evening, October 30, 2012 at 6:00 P. M. to represent Myerstown Borough. The meeting will feature speakers on the recently adopted Revised Borough Code.

Motion by Mrs. Ebling and a Second by Mr. Fox: To officially authorize Borough Solicitor Frederick Wolf, Esquire, to initiate a separate advertising and notification process for the adoption of the proposed Airport Hazard Zone Ordinance. Motion passed unanimously.

Council President Bryan Rittle presented an additional item not listed on the Agenda for consideration under New Business. He advised Borough Council that he recently met with Duane Andresen of First Energy Solutions. This company is a subsidiary of Met-Ed (First Energy Company) and is not an electricity broker. As such, its representatives do not receive any commissions from their sale of long-term electricity supply contracts.

Mr. Andresen told Council President Rittle that the current price to compare rate for electricity is 6.61 cents per kilowatt hour and that this rate has just started increase to approximately 7.3 cents per kilowatt hour. He is currently offering long term contracts to lock in the price of electricity for one, two, or three years. The current rates are: One-Year Contracts – 6.83 cents per kilowatt hour; Two-Year Contracts – 6.68 cents per kilowatt hour; and Three-Year Contracts – 6.63 cents per kilowatt hour. There is also a special limited time promotional rate of which the Borough may be available to take advantage. It is 6.61 cents per kilowatt hour, which is the current price to compare rate or market rate. The cost of electricity (non-contract price to compare rate) is projected to increase to at least 8.1 cents per kilowatt hour over the next six months. It is estimated that the Borough could save \$500.00 per month in General Fund expenditures and \$200.00 per month in Sewer Fund expenditures by locking in the current low rates and avoiding future rate hikes. This equates to approximately a projected 10% savings over the three-year period. After much discussion, Borough Council decided to proceed as follows in this matter.

Motion by Mrs. Ebling and a Second by Mr. Behm: To officially enter into a three-year electricity purchase contract with First Energy Solutions for all Borough electric accounts and to lock-in at the best available price rate of either 6.63 cents per kilowatt hour or 6.61 cents per kilowatt hour. A roll call vote was taken and the motion passed unanimously on a vote of Yes – 7 and No – 0 as follows:

Council Member Allwein - Yes

Council Member Behm	-	Yes
Council Member Ebling	-	Yes
Council Member Fox	-	Yes
Council Member Haverstick	-	Yes
Council Member Lutz	-	Yes
Council Member Rittle	-	Yes

Borough Manager Powell also presented an additional item not listed on the Agenda for consideration under New Business. He advised Borough Council that the low bidder on the South Broad Street Bridge And South Railroad Street Bridge Repair Project was not willing to grant any additional extensions of time for the Borough to act on the bids received for the project. Based on this, Manager Powell regrettably recommended that Borough Council reject all bids received and authorize the project to be re-advertised and re-bid during Spring 2013.

Motion by Mr. Fox and a Second by Mrs. Ebling: To officially reject all bids received for the South Broad Street Bridge And South Railroad Street Bridge Repair Project and to authorize that the project be re-advertised and re-bid during Spring 2013. Motion passed unanimously.

EXECUTIVE SESSION:

Borough Council recessed the regular meeting and went into Executive Session at 8:16 P. M., prevailing time to discuss several legal and personnel matters.

Borough Council returned from Executive Session at 9:45 P. M., prevailing time and reconvened its regular session and resumed consideration of and action on the regular meeting agenda.

NEW BUSINESS: (continued)

Upon returning from the Executive Session, Borough Council discussed the specific recommendation of Borough Manager Powell to initiate legal action against the owners of 8 North Cherry Street, Myerstown, PA, for continuing and new violations of the Borough's Property Maintenance Code and other related Ordinances, which have not been corrected and which have gotten more severe during recent months. At the suggestion of Borough Solicitor Frederick Wolf, Esquire, Borough Council decided by general consensus to officially authorize him to send a "Final Notice" to the owners of this property consolidating all violations (including the Property Maintenance Code violations) under this notice and to initiate subsequent legal action against them if they fail to respond to this notice and fail to resolve the problems.

Council President Bryan Rittle announced that Borough Council would meet with representatives of the Myerstown Borough Police Officers' Association immediately prior

to its next regularly scheduled monthly meeting on Tuesday November 13, 2012 at 6:00 P. M. for the purpose of conducting a hearing on the grievance recently submitted by the Association and denied by Mayor Lush.

One other additional item not listed on the Agenda was presented to Borough Council on the specific recommendation of Solicitor Frederick Wolf, Esquire, for consideration and action under New Business. It is as follows.

Motion by Mr. Behm and a Second by Mr. Haverstick: To officially authorize Borough Council President Bryan Rittle to sign the Pension Plan documents, on behalf of the Borough Of Myerstown, in the Denise Krall Restitution And Settlement Matter. Motion passed unanimously.

COMMENTS FOR THE GOOD OF THE BOROUGH:

There were no such comments due to the late hour of the meeting.

ADJOURNMENT:

Borough Council President Rittle adjourned the meeting at 9:50 P. M., prevailing time.

Respectfully Submitted,

Eric L. Powell
Borough Secretary