

**THE BOROUGH OF STOCKERTOWN HELD A MEETING ON MONDAY JULY 19, 2010,  
7:30 PM AT BOROUGH HALL.**

**Attendance**

- **Councilors present were:** Mr. Paul Zaboy Vice-President, Mr. Jack Fatzinger, Mr. Carl Zito, Ms. Cindy Hower, Mr. A. Joseph Gosnell and Mrs. Rosemarie Wenzelberger. Ms. Amy Richard was on vacation.
- **Also present:** Mayor Sherman Metzger, Zoning Officer John Soloe, Public Works Supervisor Charles Davis, and Borough Solicitor Gary Asteak of Asteak Law firm.
- Patrolman Joe Vrabel arrived at 8:50PM while on duty.
- There were six additional people in the audience.

**The meeting was called to order at 7:30 PM by Vice-President Paul Zaboy followed by the Pledge of Allegiance**

**Public Comment**

- **Morgan Shafer** – Requested the Borough fix the pond in front of his home. Vice-President Paul Zaboy said it would be checked on and the Borough will get back to him.
- **John Kocher** – **1.** Reported to the Board that last Thursday at 8:30 AM a long bed straight body truck loaded with sheet rock made three attempts at a switch back turn then drove against traffic up Hillside Ave, it then headed North on Rt. #115. He asked why signage isn't put up. **2.** Mr. Kocher noted he received a letter from the Police Chief regarding Ordinance #249 regulating Abandoned and Junk Vehicles. Gary Asteak advised Mr. Kocher to fill out an Open Records Act form at the Borough Office. Mr. Kocher will come to the office on Tuesday morning to request a copy of the Ordinance and minutes of when the Ordinance was originally passed by Council. He will then want to set up a meeting with the Zoning Officer. Mr. Kocher would have liked a knock on his door first to ask what is happening with the vehicle so he could have explained.
- **Eric Wenzelberger** – Thanked Council for the letter regarding his Zoning Hearing Board service. He was happy he was able to serve the public.

**Council Comments**

- **Vice-President Paul Zaboy** – **1. Employee Policy Changes** - Paul reviewed the grammatical and spelling error changes with the Council. A sentence will be added noting PTO time will run with the Borough fiscal year of January 1<sup>st</sup> through December 31<sup>st</sup>.

**A motion was made by Carl Zito to adopt the Employee Personnel Policy with the noted changes. A. Joseph Gosnell seconded the motion. The motion was carried by a unanimous vote.**

**Solicitor Gary Asteak advised the Council every employee should be given a copy of the Employee Policy and sign an acknowledgement of receipt form.**

**Paul Zaboy noted that is the Borough's plan. Each employee will be given an Employee Policy and job description with an acknowledgement of receipt to be placed in their file.**

2. **Road Supervisor Job Description - Vice-President Paul Zaboy** reviewed the grammatical and spelling error changes with the Council. Under E.1 the removal of dead animals will be at will.
3. **Working Public Supervisor Job Description** – Vice-President Paul Zaboy reviewed the changes with the Council. On page four (4) a requirement for safety training will be added.

**A motion was made by Carl Zito to adopt the Road Supervisor and Working Public Supervisor Job Description with the noted corrections. Cindy Hower seconded the motion. The motion was carried by a unanimous vote.**

4. **Public Laborer Job Description** – Vice President Paul Zaboy reviewed the changes with Council.

**A motion was made by Jack Fatzinger to adopt the Public Laborer Job description with the noted corrections. Carl Zito seconded the motion. The motion was carried by a unanimous vote.**

#### **Secretary/Treasurer Report – Jane Mellert**

- **Sewer Fund** - Jane Mellert reported the sewer bills were printed on Wednesday, July 14<sup>th</sup> and mailed out after Amy Richard's review on July 16<sup>th</sup>. There are several bills still needing correction prior to mailing. The WWTP- Sewer Fund has been reconciled to the end of June and at this point the budget has not been put in and additional adjustments may have to be made.
- **General Fund** – Jane Mellert reported the General Fund is in the process of review and updating. We have to go back over every entry and it will take a while. It wasn't possible to have financial reports ready for the accounts at this time.
- **July 7, 2010 Council Minutes**

Vice-President Paul Zaboy noted the Agenda and minutes were sent out to Council Members on Thursday of last week to allow for review time. He appreciates the information being sent out ahead of time. Paul requested approval of the minutes.

**Carl Zito made a motion to approve the July 7, 2010 minutes as submitted by Acting Secretary Amy Richard. Jack Fatzinger seconded the motion. The motion was carried by unanimous vote.**

- **WWTP – PPL Electric Utilities Billing** – Jane Mellert reported there are sales tax charges on this account of approximately \$80 a month. A letter went out to PPL on July 13, 2010 regarding Pennsylvania Sales Tax charges to the Winona St. property, along with a completed PA Exemption Certificate, and a request for an affidavit to credit our account for 36 months of prior sales tax charges.

- **Sewer Fund Reserve Keystone Analysis Account at KNBT – Current Balance \$40,000.00** – Jane Mellert reported to the Council the Keystone Analysis Account which has sewer funds in doesn't generate any interest. The quick fix would be to move the funds into the Sewer Fund Checking or Sewer Fund Savings account until an account with a better rate of interest would be researched. Paul Zaboy noted this account was set up in prior years with an agreement the account would not bear interest and the municipality would not have fees assessed on their other accounts with Keystone. Approval was requested to move the money into the standard sewer savings account. It may be able to be incorporated into the CD's later on.

**Joseph Gosnell made a motion to close the Sewer Fund Reserve Analysis Account with a current balance of \$40,000 and incorporate it into the KNBT Sewer Savings Account. Carl Zito seconded the motion. The motion was carried by unanimous vote.**

- **Correspondence**
  1. Bushkill Stream Conservancy emailed July 20, 2010 Agenda, Treasurer's Report and Test Results
  2. Penn DOT – National Aviation Day – 2<sup>nd</sup> -6<sup>th</sup> graders can participate
  3. PennDOT – Smart Transportation – Grants are due Sept. 15<sup>th</sup>, 2010
  4. North County Ordinance – DJ Office rent - Hearing Aug 5<sup>th</sup>, 2010
  5. Additional seminar items are available for Council to review

#### **Mayoral Report – Sherman Metzgar**

- **Mayor Sherman Metzgar** will attend the Bushkill Stream Conservancy meeting on July 20, 2010.

#### **Solicitor's Report**

- **Elan Financial Services Acct. Ending in 5986 Visa Account Settlement** – Gary Asteak spoke to Ryan Ferry of Elan Financial Services the agency Fulton Bank was using for the Visa card the Borough had. They offered to settle the account for fifty percent \$4,463.51 of the current amount due if paid on or before July 31, 2010. Solicitor Asteak noted Donna Frey was the signatory on the account and the Borough had a difficult time getting the account information. It took many months of letter writing to finally get the documentation. Gary noted this is the first time this evening he has received the packet listing the charges to the account for 2005-2009, which is missing one month of documentation. Solicitor Asteak had originally recommended settling the account however the account was analyzed by Amy Richard and she has a different recommendation. He requested Jane Mellert update the Council. A question was asked if the charges were for stuff the Borough purchased or was it for anything else. Solicitor Asteak responded that is the problem. The Council had a discussion regarding the charges. Solicitor Asteak noted no one checked on the account charges over the period of four years. Jane Mellert reported Amy Richards does not want to settle the account because they are not the Borough's charges. The Visa account set up through Lafayette Ambassador Bank by Donna Frey has a current balance as of \$8,927.01.  
Amy highlighted the questionable charges. Jane also just received the packet and from Amy's notes there wasn't too much of a problem during the years 2005 through 2007 but in 2008 and 2009 there were many charges not belonging to the Borough. Jane further noted there would be a fifty percent drop in the charges if paid by July 31, 2010, but Amy believes the account should not be settled at this time. The Council discussed what happens to the Borough credit rating if settlement is made. Solicitor Asteak doesn't believe the Borough's credit rating is good at this

point. Vice- President Paul Zaboy believes the Borough charges should be paid. Jane Mellert responded she will have to check again with Amy but she believes the Borough's charges have already been paid. Paul Zaboy believes there are still some of the Borough charges that are outstanding.

Solicitor Asteak asked what the Council wants to do about the charges. The Council held a discussion and decided not to settle at this time because the issue is still under dispute. Solicitor Asteak said it isn't as if she forged someone's signature she was the Borough's employee and she was signing her name as a Borough employee. The bank will probably say we are responsible for the charges. Council asked if this were a misappropriation of funds.

Solicitor Asteak would like the Council to formally authorize, now that we have this information for the first time and Amy has gone through it, that this packet be handed over to the Chief of Police (John Soloe) who is directed to meet with the District Attorney of Northampton County and request them to conduct a full investigation and possible forensic audit of the books because we have reason to believe there was misappropriation of Borough Funds.

Solicitor Asteak noted he has been asking since January and he has been demanding a forensic audit of the Borough records and finally he has something to show clearly that these charges, including the ones to Giant, were clearly not Borough charges. His recommendation to Council is to have the Chief of Police take possession of these charges and take possession of the boxes in the back and take these to the District Attorneys office to file charges.

**A motion was made by Carl Zito to authorize the Chief of Police to contact the District Attorney's office and request an investigation into the potential misuse of Borough funds. A. Joseph Gosnell seconded the motion. The motion was carried by unanimous vote.**

- **Borough Audit – Solicitor Gary Asteak** asked the status of the Audit. Jane Mellert noted Amy Richard has a list of materials the Auditors want copies of to complete the audit. Gary Asteak noted it is July and the audit should have been completed. Jane Mellert recommended to the Council that future audits be conducted in house. The auditors will then see the daily operation of the Borough and how records are filed. The auditor sees how fast records can be retrieved and if the office is operating efficiently. They ask the staff questions. They review bank statements, the books, advertising requirements and minutes in house. Good auditors will really go in depth in questioning the Treasurer and see the accuracy of what is taking place. Amy Richard is going to help with the items the Auditors need when she returns.

Solicitor Gary Asteak requested the date the audit will be complete. Jane Mellert doesn't know when it will be complete she suggested placing a required date of completion on future audits. Audits are usually done in the first quarter of the year. Solicitor Asteak noted the required time is covered by State statute.

Solicitor Asteak advised Jane to contact the Auditor and ask when the audit will be completed and contact the bonding company and notify them of what is taking place with the filing. The bonding company needs to be put on notice.

- **Comprehensive Plan – Solicitor Gary Asteak** copies of the Comprehensive Plan were sent out to the adjacent municipalities, school district and LVPC and the Planning Commission. The Planning Commission needs to review the Comprehensive Plan. The review should take place this month. He needs a date for the public hearing so he can do the advertising. He will use the second meeting in August or September after the Planning Commission has had a chance to review the plan. He thanked Paul for putting it together.

#### **Engineer's Report – Al Kortze, Keystone Consulting Engineers**

There was no report for the meeting.

#### **Public Works Report - Charles Davis**

- Reports Submitted – Jobs complete to date for June, Jobs in the Borough, Projects planned for the next two weeks.
  1. Charlie Davis reported the bucket truck needs to have the boom inspected every two years. It has to be taken to Lehighton for inspection. The truck hasn't been used this year and when it sits it won't start. It has to be started every other day and let run. They now need to use it to trim overhanging trees.
  2. Jack Fatzinger – Asked about drawings for the garage. There is about 20 feet behind the public works building. Bathrooms were planned to occupy this area.
  3. Carl Zito asked for yellow lines to be painted on the curbs on Centre St. Charlie Davis said they could paint the lines.

**A motion was made by Jack Fatzinger to accept the Public Works reports. Cindy Hower seconded the motion. The motion was carried by unanimous vote.**

#### **WWTP Report – Charles Davis**

- Charlie Davis reported a problem at the sewer plant. There are large items coming into the system. He needs serrated knives in order to cut the debris off so it doesn't go into the influent chambers. The size of the influent chamber needs to be expanded or a pre-chamber constructed. An engineer did look at it before, but the situation is getting worse. The debris gets digested eventually, but it takes a while.

#### **Status of chlorine de-chlorination project**

- **Charlie Davis** hasn't heard anything to date. Amy Richard was speaking to someone regarding this. Charlie noted there are still tanks of chlorine sitting at the sewer plant. The chlorine is considered hazardous.

#### **Request approval for purchasing at the Harrisburg Surplus Center**

- Paul Zaboy explained at a previous meeting. They reported about going to the Harrisburg Surplus Center. The following possible items to purchase were discussed: generator, flat bottom boat, spare chipper and blankets for emergency management. Items that are necessary or a benefit to the Borough. Jane Mellert asked if the items were budgeted for 2010. They were not budgeted. Rosemarie Wenzelberger asked if they can get a list of items together. Paul explained they won't know until after they go down and view what is available.

**A motion was made by Carl Zito to approve purchases up to and not to exceed \$5,000 for the additional items when they go on the trip to the Harrisburg Surplus Center for necessary items or items to benefit the Borough. The motion was seconded by Jack Fatzinger. The motion carried by unanimous vote.**

## **Emergency Management Administrator – Charles Davis**

### **Status of emergency generator search and repair**

- **Charlie Davis** reported the emergency generator was on the traffic light during the last power outage last week. The generator worked fine operating the lights. Paul Zaboy noted the situation will change again once the bridge project is complete. Charlie Davis said when the change occurs the Borough should be notified. Paul Zaboy said on the plans an inter-connect control unit will be located on Grant St. this will give the ability to connect the generator and be out of the line of traffic.

There was a question whether the traffic light would be synchronized with the light on Rt. 115. Paul Zaboy said it is in the approved plans.

- **Radios for Emergency Management** – Charlie Davis hasn't been able to get in touch yet with the 911 center contact. The NC 911 center has to give permission to use with the County emergency radio system. Paul Zaboy noted during an emergency the current radios are useless. Charlie does have a radio to use in case of emergencies. He can talk to the Police Dept. during emergencies, but not the other departments. The radio requirements keep changing. Three radios are needed at approximately \$700 each along with a base.

### **Police Report – John Soloe**

- No report for this meeting.

### **Fire Service Report – Charles Chapman, Chief Forks Fire Dept.**

- Reports for April, May and June were emailed for Councils review
- Article copied to Council – In It Together – Sharing municipal services can save towns money, so why aren't more taking the plunge?

**A motion was made by Jack Fatzinger to accept the Fire reports for April, May and June. The motion was seconded Cindy Hower. The motion was carried by unanimous vote.**

### **Planning and Zoning Reports**

- **Chrin Commerce Centre Business Park** – ADA Curb Ramp Modifications HOP Permit #05040178 – Zoning Officer John Soloe reported the set of plans are in the back on the table for anyone wanting to review. The plan shows crosswalks for Route #191 going across four (4) lanes of traffic. There is a pole with a button on to cross where there is no sidewalk. John spoke to Ann Marie Vigilante last week. They are looking for Borough approval. John told her to proceed with PennDOT requirements. Jane Mellert noted Amy Richard doesn't like the point of crossing. Amy believes it is dangerous.

### **Zoning Officer – John Soloe**

- No report for this meeting.

### **Old Business**

- **Rails to Trails Project** - The Rails to Trails Advisory Group presented Northampton County Council with the plan and approval of funds from 2001 Grant award for their approval. Paul Zaboy will report at the next meeting after checking on the status of what action took place at the Northampton County Council meeting. The contracted project will cost approximately \$204,000. \$100,000 State grant, asking for \$29,236 from the Northampton County Open Space Bond issue and the Borough needs to fund \$75,000 out of pocket or with in kind services or materials. The project can't be started until after the funding approval is received.

### **New Business**

- **Rosemarie Wenzelberger** thanked the Police Department for checking on her Mother during the heat wave.

### **Executive Session**

**A motion was made by A. Joseph Gosnell to hold an Executive Session at 9:20 PM to discuss a legal issue. Carl Zito seconded the motion. The Motion was carried by unanimous vote.**

**A motion was made by Cindy Hower to exit the Executive Session and reconvene the meeting at 9:31 PM. The motion was seconded by Jack Fatzinger. The motion was carried by unanimous vote.**

### **Status of Wenzelberger Cease and Desist Order**

**A motion was made by Carl Zito to allow the Wenzelberger's to resolve their Zoning issues and remove the Cease and Desist Order for 10 business days ending on July 31, 2010. The motion was seconded by A. Joseph Gosnell. The motion carried with Paul Zaboy, Carl Zito, Jack Fatzinger, Cindy Hower and A. Joseph Gosnell voting yes. Rosemarie Wenzelberger abstained.**

Rosemarie Wenzelberger noted she thought it was OK to have a beauty salon in her home. John Soloe responded it is a permitted use, but it still requires permits.

### **Adjournment**

- **A motion was made by Jack Fatzinger to adjourn the meeting at 9:36PM. The motion was seconded by Carl Zito. The motion was carried by unanimous vote.**

The next meeting of Borough Council will held on Monday, August 2, 2010 at 7:30 PM.

Respectfully Submitted,

Jane A. Mellert, Secretary  
Borough of Stockertown