

LEWISBERRY BOROUGH COUNCIL MEETING

MONDAY AUGUST 1, 2011

The meeting was called to order by David Rough leading in the Pledge of Allegiance to the Flag.

MEMBERS PRESENT

David Rough, President; Sandra Griffith, Vice President; Matthew Kiner, Mayor; Mark Keener, Nora Sowers, Edward Farr and Mary Pelton

Also Present: Mary Ellen Banks, Borough Manager; Steven Miner, Solicitor

PUBLIC PRESENT

Kathy Weems, Robert Smith, Geoff Coder; Residents Allison Dougherty, Patriot News
Danna Lutes, Administrative Jerry Shultz, Zoning Officer
David Lyons, Travis Fuhrman, Dennis Beck; Lewisberry Community Fire Company

RECOGNITION OF PUBLIC

- Newberry Township Police Department reported there were twenty-two (22) incidents in the Borough in the month of June and fourteen (14) incidents in the Borough in the month of July. In addition, there were numerous arrests at 304 Front Street involving drugs in the month of June.
- Geoffrey Coder questioned why Council feels it is necessary to invite the solicitor to each meeting. David Rough explained to Mr. Coder if the Solicitor is not present at the meeting, it may take more time to explain the question or situation that came up during that meeting. He also explained, if anyone on Council or the Borough Manager has a legal question during the month, we have every right to notify the solicitor since we are not lawyers and do not wish to jeopardize the Borough by handling something illegally. David Lyons questioned why we do not utilize the organization Pennsylvania State Association of Boroughs which is free rather than the Solicitor. David Rough stated they do give advice; however, it is not legal advice. At this point, Geoffrey Coder stated he is questioning the judgment of the Borough Council President and the Borough Manager to which David Rough stated, he has only one vote, the Council makes the final decisions. Steven Miner, solicitor also explained to Mr. Coder in reference to his Right to Know request, that he has advised the Borough to deny his request for an enumeration and listing of each incident that Steven Miner's services have been sought and required that the Borough has paid for. He has cited the case of Board of Supervisors of Milford Township v. McGogney, PA, Cmwlt.13 A 3d 569 (2011)
- Lewisberry Fire Company:
 - Travis Fuhrman, Fire Chief reported on the following:
 - The fire report for the month of July.
 - The Company has some interest in the tower truck from a company in Texas.
 - Travis explained and supplied the procedure when an apparatus is out of service and explained to Council how the call boxes work stressing the Borough will always have fire protection.
 - David Rough requested Chief Fuhrman to inspect the Sinsabaugh property.
 - Dennis Beck informed Council they will be hosting National Night Out tomorrow evening, 5:00 to 8:00 pm. In addition, Mellon Restoration and others have made donations to assist them.

SOLICITOR'S REPORT

- Steven Miner reported on the draft he prepared for the Fireworks Ordinance as requested by Council in the July meeting explaining he also received input from Chief Fuhrman. Sandra Griffith informed Steven on the last page it says "commissioners" and should be changed to "council members". In addition, she stated she is opposed to the ordinance since it would allow fireworks at the Borough Park and she would rather the borough ban fireworks completely. Discussion ensued with Steven Miner explaining the way the law is written by the state it is up to the municipality to allow or not allow fireworks; however, if you don't have an ordinance banning specific items, the Borough may be challenged and also will be opening up the Borough to a lawsuit. Other Council members after review stated this ordinance requires a very arduous process if requesting a permit. David **ROUGH** made a motion which was seconded by Mark

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KEENER instructing Steven Miner to advertise this ordinance for the September Council meeting. Motion carried, 5-1 with Sandra Griffith opposing.

APPROVAL OF MINUTES

- Mark **KEENER** made a motion which was seconded by Edward **FARR** to approve the minutes of the July 5, 2011 Meeting. Motion carried, 6-0.

INVOICES AND RECEIPTS

- Nora **SOWERS** made a motion which was seconded by Mary **PELTON** to approve the General Fund, Electric Fund, Road Fund and Building Maintenance account invoices for payment. Motion carried, 6-0.

COMMISSION AND BOARD REPORTS

Zoning Officer Report

- Jerry Shultz informed Council he received one application in July from Glenn Orris, 304 East Front Street, for a driveway. Kathy Weems, tenant of this property explained to Council this is beneficial to her company, the Lewisberry Barber Shop. Discussion ensued on type of material to be used. Kathy Weems stated in her opinion, Mary Pelton as a Council Person should excuse herself from any discussion of this permit since her property is next to the property requesting the permit.

Mayor's Report – Matt Kiner

- Matt Kiner reported the following:
 - A second letter was sent to the Fenicle/Reigle property at 108 E. Front Street concerning the car and travel trailer registrations.
 - Discussion ensued concerning Mr. Sinsabaugh's 314 North Street property. Since there has been no attempt to improve the conditions, Edward **FARR** made a motion which was seconded by Sandra **GRIFFITH** to draft complaints and file with the District Justice. Motion carried, 6-0
 - David Raugh researched blighted properties and received additional information from York County Planning Commission. They explained, you must first site the property owner and file with the district justice. The court must then rule against the property owner. Suggestions made were to take pictures of the property, verify if the taxes have been paid and research if there are any other outstanding invoices with the Borough. In addition, have the Fire Chief inspect the property. At this point, the Borough may then contract to have the property cleaned and access this cost as a lien on the property. Matt Kiner stated the Property Maintenance Code gives the Zoning Officer the power to condemn the property; however, the first step is to cite the property owner. This whole process can take up to 3-5 years.
 - A complaint was received for 206 W. Front Street which is now being managed by a bank. He will supply the Borough Manager with the violations and the additional information on the bank. Mary **PELTON** made a motion which was seconded by Mark **KEENER** to issue a letter for the 206 W. Front Street Property. Motion carried, 6-0
 - Matt requested a letter be drafted and sent to the owner of the Village Apartments in reference to the poison growing behind the property.
 - A discussion ensued on issuing a burn ban during the recent drought situation with the Mayor requesting permission to enact a burn ban when deemed necessary. Discussion was tabled.

Road Commission

- The Front Street grant endorsement from Scott Perry was received via mail.
- Discussion ensued and was tabled on paperwork supplied to Council on the sign Reflectivity Assessment.
- There are various street signs missing and will be ordered.

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COMMISSION AND BOARD REPORTS, CONTINUED

Electric Commission

- Mark Keener informed Council the Forgas' meters were moved outside the residence after a letter was drafted and sent by the solicitor.
- Mary Jo Keener has not contacted Frontier concerning the new phone message service.
- The light on North Street has been repaired.
- A resident has been put on COD after two checks were returned from the bank as Stop Payment.

Library Commission

- Sandra Griffith in reference to the Chili Cook-off on September 10th would like the netting rolled up by RLGSA and the port-a-potties moved to the back of small shed. She also stated she will get the pony ride vendor's insurance certificate as required.
- Sandra inquired about the library's ceiling tiles. David Raugh explained he has made various attempts to contact Patrick Groft with no success. Robert Smith, resident suggested Terry Yinger to help with maintenance; therefore, he will have him contact David Raugh.

Insurance Commission – No Report

Recreation and Grounds Commission

- David Raugh explained Donald Dodson repaired the pavilion as requested by Mary Pelton.
- The Borough Manager explained someone has offered to repair the broken tables at no charge.
- Sandra Griffith stated the air conditioning vents need cleaned also.

Lewisberry Community Building Commission

- David Raugh explained Edward Farr will arrange a meeting of the commission Wednesday @ 7:00 in the library.
- After a discussion concerning the trash which is put by the street from the Community Building on Friday evenings, it was decided to have the janitor put at rear of building and Edward Farr will then move the trash to the street on Sunday evenings.
- Borough Manager reminded Council the mowing and snow removal costs at the Community Building have never been included in the expenses of the building when the Corporation was in effect. It was decided this will be discussed at budget time.
- The Borough Manager also informed Council Donald Dodson was asked to weed the playgrounds.

OLD BUSINESS

- The Borough Manager has attempted to call York County to inquire about the Community Service Workers program; however, no one has returned her call.
- The Borough Manager stated per our Penn Dot representative there is no requirement for height of trees over streets; however, most utilities require 16'. There must be a municipal ordinance to enforce any height requirement of the resident; therefore any problems will fall back on the Borough since the road is considered their property.
- In addition, the Borough Manager stated per our Penn Dot representative there are no requirements to keep right-of-ways cleared. He also suggested vacating the right-of-ways to the property owners abutting them if the Borough is not going to utilize these areas; however, the Borough can do anything on this property including erecting a building or let it grow into woods.
- Act 32 Information was given to all Council Members for review explaining the new processes.
- The Borough Manager contacted the State concerning the historical records of Lewisberry. This organization will come to the office, pick up the records, put on microfilm for all to be able to view and return the papers to the Borough in acid-free boxes for no charge.

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OLD BUSINESS, CONTINUED

- All Council Members were supplied with the letter from the West Shore Rec concerning the West Shore School District's decision on charging West Shore Rec for use of their buildings. Sandra Griffith also stated in the Board's mission statement, it states six (6) municipalities which should state eight (8) since Lewisberry has participated from the beginning.
- A letter from York County Department of Emergency Services was given to all Council Members for review in reference to the performance of the 911 radio system.
- The Borough Manager once again explained to Council Members the PA Open Records Office Recommendation and Requirements state strongly to the agencies (municipalities) to review their records and keep them up-to-date in accordance with Pennsylvania laws that govern how long an agency must keep particular records. They also have explained as an example, if a RTK request is received for "all paid telephone invoices", the agency must supply whatever is there, which could be years if the files are not kept current. In addition, I no longer had room for storage and files in office are full; therefore, we have begun the closet cleaning. Before anything will be shredded, a resolution must be passed by Borough Council listing all that will be shredded. The files go back to the sixties and seventies and the list is currently at five and one-half pages.

COMMUNICATIONS RECEIVED

- Cumberland County Comprehensive Plan Amendments CD
- West Shore Recreation Commission July Agenda and June Minutes
- AMP 2010 Annual Report

NEW BUSINESS

- Mary Ellen Banks reported the Refuse contract will be advertised for bid opening during the September meeting.
- The Budget Committee was selected with Mary Pelton, David Raugh and Sandra Griffith volunteering.
- Mark Keener stated he has had contact from TMI requesting to put a siren at the Fire House. He requested they attend this meeting since Council will make the decision.

RECESS TO EXECUTIVE SESSION FOR LEGAL AND PERSONNEL

RECONVENE TO REGULAR MEETING

The regular meeting of the Lewisberry Borough Council was reconvened.

- Edward **FARR** made a motion which was seconded by Mark **KEENER** to accept Mary Ellen Banks, the Borough Manager's resignation effective when a new manager is hired or December 31, 2011 whichever happens first. Motion carried, 6-0. Council requested this position be advertised.

ADJOURNMENT

Edward **FARR** made a motion which was seconded by Nora **SOWERS** to adjourn the Meeting. Motion carried, 6-0.