

East Stroudsburg Borough, June 2, 2009

A regular meeting of the East Stroudsburg Borough Council was held at the Municipal Building on Tuesday June 2, 2009. The following members were in attendance: Victor Brozusky; Roger DeLarco; Ed Henning; William Reese; and Sonia Wolbert. Donald Repsher was absent. Also attending were: Mayor Armand M. Martinelli; Manager James S. Phillips; Solicitor David J. Williamson of Scanlon Lewis & Williamson; Engineering Representative Samuel D'Alessandro of R.K.R. Hess Associates Inc.; ESU Student Ambassador Ashley Puderbach; DPW Maintenance Foreman Mark Hoke; and several residents in the audience.

Call To Order/Pledge of Allegiance

Mr. DeLarco called the meeting to order at 7:35 p.m. Dennis Noonan led the Pledge of Allegiance.

Minutes of May 19, 2009 Regular Council Meeting

Mr. Brozusky made a motion, seconded by Mrs. Wolbert to approve the minutes of the regular Council meeting held on May 19, 2009 as submitted. The motion carried unanimously.

Public Hearing on Proposed 2009 Year CDBG Program

Mrs. Wolbert made a motion, seconded by Mr. Henning to open the public hearing on the proposed 2009 year Community Development Block Grant (CDBG) program. Mr. Phillips said this is the second required public hearing concerning the use of CDBG monies and this hearing is to receive public comments on the proposed CDBG program for the 2009 year. As an entitlement community, the Borough expects to receive \$165,165 in fiscal year 2009 CDBG funds and in addition, \$33,470 in American Recovery & Reinvestment Act stimulus funds through the CDBG program. Council had held a public meeting in February to solicit public comments on the community development needs of the Borough that may be addressed by the use of CDBG funds. Subsequently Council has discussed proposed uses for the 2009 year allocation and has put together a proposed program for use of the total \$198,635 to be received for 2009. The Borough has determined that the best use of the available funds is for the following activities:

1. Housing Rehabilitation - \$60,000.00
2. Public Facility Improvements including curb, sidewalk, street and other public improvements - \$63,470.00
3. ADA Curb Cuts - \$20,000.00
4. Waterline Improvements - \$40,000.00
5. Administration - \$15,165.00

Mr. Phillips said the proposed use for administration is primarily to pay for the contract cost for the Borough's community development consultant, Mullin & Lonergan Associates, Inc. Mr. Phillips noted that CDBG funds must be used to primarily benefit low to moderate income persons in the Borough. The Borough has three (3) census tracts within the Borough that do qualify income wise under the federal guidelines. However, the Borough does not qualify Borough-wide so funds can't be used for certain activities of a Borough wide nature. Mr. Phillips noted that the Borough may not be able to undertake all the project activities listed in the proposed program, but by including the activities in the plan the Borough keeps open the option of undertaking those activities and can shift funds later from one activity to another. Mr. Phillips said that Council has determined that the \$33,470 in ARRA funds are to be used for repaving the public streets within the County Housing Authority Normal St. housing project area, since that is an income eligible area and the streets need resurfacing, badly.

Mr. DeLarco asked for comments from Council on the proposed program. Mrs. Wolbert said Mr. Phillips had indicated that a resident had asked him about using CDBG funds for a program to hire youth under a program to be coordinated by the Youth Innovation Fund. Mr. Phillips said he does not believe that that project would be eligible for use of CDBG funds because it is not geared exclusively towards low to moderate income persons. Mr. DeLarco asked for comments from persons in the audience and there were none. After further discussion, Mr. Brozusky made a motion, seconded by Mrs. Wolbert to close the public hearing. The motion carried unanimously.

New Requirements for Keystone Opportunity Expansion Zone (KOEZ) Properties

Dennis Noonan was present on behalf of the Pocono Mountains Economic Development Corporation (PMEDC). Mr. Noonan said the KOZ legislation was originally passed in 1998 and focused on providing tax abatement for blighted, under-utilized or abandoned properties. New legislation was passed in September of 2008 which permits extension of the tax abatement period for properties within a KOZ or KOEZ, zone however the law now addresses some shortfalls of the original program. The legislation now permits that PILOT (payment in lieu of taxes) agreements may be negotiated by the taxing bodies as a condition for approving KOZ status. Also KOZ benefits do not accrue to the property owner until a certificate of occupancy permit for a project is issued. The KOZ benefits may be extended for a period of seven (7) years or up to ten (10) years at the option of the taxing bodies. Only undeveloped properties qualify now for the KOZ designation.

Currently the Borough has five (5) properties designated for the KOEZ including:

1. The former IBW property owned by the Borough
2. The former Johns Manville property owned by Charles Hannig along Forge Road
3. The ESU Business Accelerator property owned by the Borough
4. The former Cooper Industries property off of Burson St.
5. The former Mack Printing Company property on North Courtland St. next to Borough Hall.

Only the former IBW property and the Hannig property are eligible for extension of KOZ benefits under the new legislation. Applications must be submitted by June 30, 2009.

Mr. Henning asked if the Hannig property had been re-zoned? A review of the Borough's map indicated that the property was rezoned from the S-1 to the IM (Institutional Medical) district. Mr. Noonan noted that KOZ designation provides guaranteed future real estate taxes to the taxing bodies, and increased earned income taxes and increased local service taxes. Plus the municipality may require payment in-lieu of taxes up to the amount 110% of the taxes owed for the property in the previous year, and if a project is not started by the year 2015 all KOZ benefits for a property will be lost. Mr. DeLarco commented that with the ability to require payments in-lieu of taxes, there really is no reason why the Borough should not approve the designation of the KOZ status for these two properties.

After further discussion, Mrs. Wolbert made a motion, seconded Mr. Brozusky to adopt proposed Resolution No. 28-2009 extending the term of KOEZ designation for two properties within the Borough as recommended, subject to the option of the KOEZ designation be extended for a period of ten (10) years from the date of occupancy and also requiring that payment in-lieu of taxes be made to the Borough in the amount of 110% of the amount of real estate taxes payable for the tax year immediately prior according to Section 310 of the new act. The motion carried unanimously.

Public Comments – Agenda Items

George Strunk was present and introduced himself to Council as a new employee of DEIN Properties, LLC. Mr. Strunk said he has been hired by Mr. Robert Deinarowicz to handle his real estate interest including possible acquisition from the Borough of the former IBW property. Mr. Strunk explained that Mr. Deinarowicz is interested in acquiring the property to relocate his existing business because they are interested in reusing the existing structure at the IBW property to house the larger equipment needed

for their operations. Mr. Brozusky asked Mr. Strunk if by moving the operations of Fabricated Components, Inc. to the IBW site, aren't we just moving one industrial operation from one site to another within the county and not adding to the region's tax base? Mr. Strunk said that this would create additional inventor and they do not believe that they would have any trouble selling or leasing the existing facility which is in good condition. Mr. Reese asked if they would plan on using the nearby rail access? Mr. Strunk said this is an opportunity for them to be able to purchase their steel and have it delivered by rail. Upon a question from Mr. Phillips, Mr. Strunk indicated that the existing former Cooper Industries building owned by Mr. Deinarowicz, now designated as the Burson St. facility, has two (2) tenants and approximately twenty (20) employees including Slate Mountain Industries and PATH. Mr. Henning stated that Council is interested in negotiating a deal for the sale of the IBW property and suggested that a meeting be set up with Mr. Deinarowicz to discuss the acquisition. Mrs. Wolbert asked if there were any financing concerns? Mr. Strunk indicated that financing would not be needed for the purchase although financing would be needed for development of the site, which needs a lot of work. Mr. Henning asked how many jobs would potentially be created at the former IBW site and Mr. Strunk stated that there are 75 jobs currently at the Fabricated Components facility. They are also one of the few local industries that have not cut back on employment during the recent recession. Mr. DeLarco gave Mr. Strunk a copy of the proposed deed restrictions which the Borough is considering for placement regarding the IBW property.

Proposed 2009 CDBG Program

Mr. Reese made a motion, seconded by Mr. Brozusky to adopt proposed Resolution No. 29-2009 approving the proposed CDBG Program, and authorizing submittal of the application to the PA Department of Community and Economic Development (DCED). The motion carried unanimously.

Report and Possible Action on Bids Received for Equipment Rental for DPW Projects

Mr. Phillips said he had put together a specification and bid notice requesting prices for rental of various pieces of equipment needed for several projects that the Borough is undertaking, including the Dansbury Trailhead project, the sewerline replacement below Braeside Avenue, and Smith St. road widening work. Mr. Phillips reported that two bids were received, one from E.F. Possinger & Sons, Inc., another from Hardrock Trucking & Excavating Co., LLC. Possinger has submitted a price for rental of all the requested pieces of equipment. However, Hardrock Trucking did not submit a proposal for three of the equipment items. Mr. Phillips said he has to recommend going with the Possinger bid because they could provide all the necessary equipment and we do not want to get into a situation of renting one piece of equipment and operator from one company and another piece of equipment from a different contractor for working on the same job. Mr. Reese made a motion, seconded by Mr. Brozusky to accept the bid from E.F. Possinger & Sons, Inc. as submitted. The motion carried unanimously.

Contract Extension for Downtown Streetscape Project

Mr. Phillips said the current contract expiration date with Wyoming Electric & Signal, Inc. expires May 30, 2009; however there is still some work left to be done on the handicapped ramps, and the milling, paving and installation of crosswalk markings has to be done as well. Mrs. Wolbert made a motion, seconded by Mr. Brozusky to approve an extension of the contract with Wyoming Electric & Signal Inc. until July 15, 2009 as recommended. The motion carried unanimously.

Bids Received for Street Curb Reconstruction

Mr. Phillips noted that three bids were received in response to the Borough's notice for proposals for replacing portions of street curb along Prospect St., State St., and Center St. However, all three bids received were in excess of \$25,000 which is the limit where state prevailing wage requirements kick in. Mr. Phillips said unfortunately he must recommend that all bids be rejected and advertise for new proposals. Mr. Brozusky made a motion, seconded by Mrs. Wolbert to reject bids received dated May 28, 2009

and to authorize advertising for bids for work with a reduced scope of project. The motion carried unanimously.

Proposed Ordinance Amending Zoning Code - Parking Requirements at ESU

Mr. Henning stated that Council needs to review and discuss the proposal prepared by Mr. Blick that would establish requirements for the number of parking spaces required in the “core campus” of the university, not just the total number of parking spaces on campus. What should the definition be for the “core campus”? Mayor Martinelli said he agrees with Mr. Henning and doesn’t want to see Council pass bad legislation. Mrs. Wolbert said Council could table action on the proposed ordinance until later this summer. Mr. Brozusky said he would only agree to delay action on this proposal if there is a definite timetable set up for adoption of an ordinance by August.

Mr. D'Alessandro reviewed with Council his plan review of the proposal by University Properties Inc. to build new dormitory housing on the ESU campus. Mr. D'Alessandro said he sees two (2) major issues:

1. ESU has submitted these plans as a separate parcel from the rest of the campus. He believes the zoning ordinance requires that they provide parking under the ordinance for the uses proposed for this parcel – three (3) new residential buildings. There is not nearly the number of parking spaces provided as would be required for three (3) dormitory units.
2. Normal St. as defined by the Borough is a collector street and therefore would require a 34’ wide cartway. In addition the ordinance states that on street parking cannot be included as spaces provided for a land development plan. The plan submitted by the university includes the perpendicular on street spaces on Normal St. near the fieldhouse and the plans call for slightly reducing the cartway width of Normal St. from 28’ to 26’. Mr. D'Alessandro said he thinks that the zoning ordinance should require parking based on number of students, number of classrooms for classroom buildings, number of university staff, number of dormitory housing units, etc.

Mr. DeLarco noted that the university proposal will go before the Planning Commission next week and there is no guarantee that the Planning Commission will render a favorable recommendation. Mr. Phillips said that the University may want to proceed before Borough Council with or without a favorable recommendation from the Planning Commission. Mr. DeLarco stated that the Borough needs to make sure that its review consultants are present for the conditional use hearing, including representatives from R.K.R. Hess Associates, Inc. and Traffic Planning & Design, Inc.

Proposed Deed Restrictions for Former IBW Property

Mr. Phillips distributed a revised copy of the deed restrictions that had been prepared by Solicitor Robert Williamson previously. The proposed covenants have been reduced from approximately six (6) pages as drafted to less than three (3) pages. Mr. Henning stated there are still several provisions listed that may be unnecessary because they were already covered by existing zoning provisions.

After further discussion, Mr. Henning made a motion, seconded by Mr. Reese to approve the proposed deed restrictions to be placed on the former International Boiler Works property by the Borough prior to conveyance, subject to review of paragraphs 5.07 & 5.08 whether they are needed or already covered by Borough ordinance provisions. The motion carried unanimously

Proposed Memorandum of Understanding with Johnson Controls, Inc.

Mr. Phillips reviewed a copy of a proposed memorandum of understanding with Johnson Controls, Inc. for possible development of an energy and operations performance contract with JCI. Mr. Phillips said he had Mr. Williamson review the memorandum, and it does not commit the Borough to anything at this point but is needed in order to make a commitment to JCI before they invest additional time and expense in

analyzing possible energy cost saving measures for the Borough. Mr. Williamson suggested that the one provision calling for a fourteen (14) day review of the analysis prepared for the Borough be extended to at least thirty (30) days. After discussion, Mr. Henning made a motion, seconded by Mrs. Wolbert to approve the proposed memorandum of understanding with revisions as recommended by Mr. Williamson. The motion carried by a vote of 4 to 1 with Mr. Brozusky abstaining from the vote.

Agreement with Smithfield Township for 2009 Use of Dansbury Park Swimming Pool

Mr. Henning made a motion, seconded by Mr. Reese to ratify an agreement with Smithfield Township Supervisors whereby Smithfield Township residents again obtain season passes for the Dansbury Park swimming pool at Borough resident rates, with the Township making up the difference in cost between the resident and non-resident rates. The motion carried unanimously.

Public Comments – New Business

None

Correspondence

Mr. Phillips reviewed the following items of correspondence received:

1. A copy of the 2008 Year Audit by the Monroe County Controller of District Court #43-2-02, District Justice Michael Muth.
2. A letter from the Oaks Property Owners Association (POA) concerning renaming of streets in the Oaks townhouse development.
3. A letter from Northeast Pennsylvania Alliance (NEPA) requesting municipal support for restoration of funding for NEPA and other development districts in the proposed 2009 year state budget.

Reports

Mr. D'Alessandro reviewed his written engineer's report previously submitted to Council.

Mr. Williamson reported that he had done further research on the ownership of East Fifth St. The upper portion of the street is owned by the American Legion on the south side and Mr. & Mrs. Jennings on the north side. There is a portion of road "in the middle" where ownership appears to still rest with the Norman Gregory estate. Mr. Williamson said the Borough had acquired another parcel of property several years ago from the heirs of Mr. Gregory and he feels the Borough would be able to obtain approval for dedication of this portion of the roadway. The lower part of the roadway however, appears to have a less clear ownership record with many properties and heirs potentially having an ownership right or interest. Mr. Williamson said it could be difficult and expensive to try to obtain dedication of that portion of the road. After further discussion, Council decided that the Borough should attempt to obtain dedication of the portions of the roadway that can be done.

Mr. Brozusky noted that there are many properties with high grass and weeds, including two on his street and asked whether Mr. Blick is actively pursuing notifying these property owners to cut the grass, or if necessary having the Borough contract to cut the grass and weeds on these properties. Mr. Brozusky also asked Mr. Phillips if he has set up a procedure for department heads to attend Council meetings on a periodic basis?

Mr. Phillips stated that the loan proposal forms were distributed today to several local banks that the Borough is soliciting proposals from for a twenty (20) year loan for financing the additional costs of the new fire station project. Mr. Phillips said the water plant personnel report that the Borough's main reservoir is still flowing over the spillway at this point and thus is at full capacity. Mr. Phillips stated that Council may need to hold a special meeting in June to act on the loan proposals which are supposed to be submitted to the Borough by June 12th. After discussion, Mrs. Wolbert made a motion, seconded by

Mr. Henning to schedule a special meeting for Tuesday June 16, 2009 at 5:00 p.m. The motion carried unanimously.

List of Bills

Mr. Henning made a motion, seconded by Mr. Brozusky to approve the list of bills payable and to ratify payroll and expenditures made through June 2, 2009 as submitted. Mr. Phillips asked that one additional invoice be added to the list, estimate #7 to Wyoming Signal & Electric Inc., for the streetscape project in the amount of \$96,400. Mr. Henning and Mr. Brozusky agreed to amend their motion to include the additional payment and the motion passed by a 4 to 1 vote with Mrs. Wolbert abstaining.

Executive Session

Mr. Henning made a motion, seconded by Mr. Brozusky to adjourn into executive session at 9:40 p.m. The motion carried unanimously.

At 9:45 p.m. Mr. Reese made a motion, seconded by Mr. Brozusky to reconvene the public meeting. The motion carried unanimously. Mr. Williamson said the executive session had been held to discuss one (1) real estate and one (1) personnel matter.

Parking Enforcement

Mr. Phillips noted that he has discussed with staff the possibility of authorizing the Borough's street sweeper to issue parking tickets. Mr. Reese asked Mr. Hoke if this is a problem and whether we get the cooperation from the Regional Police in writing tickets for violators? Mr. Hoke said rarely are tickets written by the Regional Police in some of the areas where the streets are posted "No Parking" for the early morning hours. After discussion, Mr. Henning made a motion, seconded by Mr. Reese to authorize the Manager to appoint one or more DPW personnel to act as parking enforcement officers to enable them to issue parking tickets, subject to review and approval of this matter by the solicitor. The motion carried unanimously.

Proposed Ordinance Authorizing Incurring of Debt – PennVest Loan

Mrs. Wolbert made a motion, seconded by Mr. Brozusky to authorize preparation and advertisement of an ordinance needed to incur debt in form of the PennVest loan for waterline improvements. The motion carried unanimously.

Annual Performance Review for Manager James S. Phillips

Mr. DeLarco noted that Council had met with Mr. Phillips on May 28th to review his performance as Manager and is pleased to report that the results of the review by Council were very favorable and Council has agreed to approve a salary adjustment for the Manager position. Mrs. Wolbert made a motion, seconded by Mr. Brozusky to authorize a 5.0% based salary adjustment for Manager James Phillips effective with his anniversary dated of employment on May 25, 2009 based on the recent performance review. The motion carried unanimously.

Resolution No. 30-2009 Approving Pay Rates for Summer Recreation Employees

Mr. Phillips said Council has in past years has approved adjustments in the pay rates for summer recreation employees up to the same amount of cost of living adjustment granted to regular Borough employees, which this year is 2.25%. In previous years the increase for the summer employees has been approximately \$0.25 per hour. Mr. DeLarco asked if increasing the rates for returning employees has reduced turnover and Mr. Phillips stated that almost all of the employees hired for the park and swim pool this year are returning employees. Mrs. Wolbert made a motion, seconded by Mr. Reese to adopt proposed Resolution No. 30-2009 approving the proposed schedule of pay rates for summer recreation employees, as discussed. The motion carried unanimously.

Adjournment

With no further business Mr. Henning made a motion, seconded by Mrs. Wolbert to adjourn the meeting at 9:55 p.m. The motion carried unanimously.

James S. Phillips, Secretary