

East Stroudsburg Borough, September 6, 2011

A regular meeting of the East Stroudsburg Borough Council was held at the Municipal Building on Tuesday September 6, 2011. 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.; and one resident in the audience.

Call To Order/Pledge of Allegiance

Mr. DeLarco called the meeting to order at 7:31 p.m. Craig Todd led the Pledge of Allegiance.

Minutes of September 6, 2011 Regular Council Meeting

Mr. Brozusky made a motion, seconded by Mr. Henning to approve the minutes of the regular Council meeting held August 25, 2011 as submitted. The motion carried unanimously.

Public Comments – Agenda Items

None

Rescheduling of Public Hearing on the Proposed 2011 Community Development Block Grant Program – October 4, 2011

Mr. Phillips said PA DCED finally released the allocation figures for this year's Community Development Block Grant (CDBG) program. The anticipated funds to be received this year are down almost 19% to a total of \$148,796. Mr. Reese made a motion, seconded by Mr. Henning to authorize rescheduling of the public hearing on the proposed 2011 CDBG program as recommended. The motion carried unanimously.

Public Hearing on Proposed Zoning Code Amendment - Changing the Requirements for Off-Street Parking in the I-U and I-M Zoning Districts and Establishing Additional Criteria for Off-Street Parking in All Zoning Districts

Mr. Brozusky made a motion, seconded by Mr. Reese to open the public hearing. The motion carried unanimously. Codes Official John Blick stated that this proposed ordinance has been under discussion by Council for over a year and makes changes to the requirements for off-street parking in the Institutional zoning districts and establishes additional criteria for off-street parking in all zoning districts. The ordinance provides that an applicant may submit a Parking Management Plan to satisfy parking requirements in any zoning district and also adds requirements for provision of snow removal from parking areas. Mr. D'Alessandro stated that parking requirements for University uses under the proposed ordinance will now be based not on buildings but on who uses those buildings-parking based on the number of students, faculty, staff, visitors/guests etc. The ordinance relies on the University working with the Borough to provide the information needed to compute the parking requirements. If that information is not provided, higher amounts of parking may be required. The ordinance also provides that handicapped access must be provided along the entire route from proposed parking areas to intended uses.

Mr. Williamson noted for the record that Exhibit #1 - will be the notice of advertisement, Exhibit #2- proof of service, Exhibit #3- copy of the Monroe County Planning Commission comments from October 2010, Exhibit #4 - Monroe County Planning Commission comments from July 2011, (which reference the October 2010 comments), and Exhibit #5 – minutes of the Borough Planning Commission meeting on this matter.

Mr. Henning stated for the record that he is not in favor of this ordinance because he believes that parking is a problem for the applicant – if East Stroudsburg University, for example, doesn't have enough parking that is going to be their problem. Mr. DeLarco noted that the proposed ordinance would apply to the Institutional Zoning Districts, not just the University. Mr. Henning commented that Section 5 of the proposed ordinance establishes the basis for calculating the number of required parking spaces on the University campus. Mr. Blick stated that the existing Borough zoning ordinance has similar provisions for calculating parking requirements in other zoning districts. Mr. Henning said he still believes that the Borough is interjecting itself into the University parking situation, and the Borough should give ESU time to implement its Parking Management Plan. Mayor Martinelli said the ordinance gives the University the totals to address their parking issues by developing a Parking Management Plan. Mr. Henning responded that ESU has over 2,300 parking spaces according to the information provided by Mr. D'Alessandro; his spreadsheet provided to Council earlier this year indicates that the new standards in the ordinance will require over 2,800 parking spaces - an 18% increase. Finally, Mr. Henning noted that the economy is currently slow in the entire Pocono region and he is fearful that this ordinance could be a hindrance to economic development here in the Borough.

Mr. Reese questioned what has the University done to date to address its parking needs? Mr. Brozusky said his fear is that this ordinance will only encourage the entire area east of the University campus to be covered with pavement to provide the required parking.

Craig Todd asked about the provisions regarding snow removal – does it require the applicant to haul snow off site? Mr. Todd said his concern would be that an applicant may be hauling snow from a site with an approved stormwater permit to an unpermitted site which may not have the ability to handle the additional run-off.

With no further comments Mr. Reese made a motion, seconded by Mr. Henning to close the public hearing. The motion carried unanimously.

Public Hearing on Proposed Zoning Code Amendment Revising Requirements for Adult Uses

Mr. Reese made a motion, seconded by Mr. Henning to open the public hearing. The motion carried unanimously. Codes Official John Blick said the proposed ordinance was recommended by the Borough's Planning Consultant, Charles Schnell of Urban Research and Development Corporation and the proposed ordinance provides for as many safe-guards for such so called "adult uses" as may be permitted. Mr. Williamson asked Mr. Blick, under the current zoning ordinance, if Adult Uses are listed under the definition "Rated X"? Mr. Blick replied yes. Mr. Williamson asked what is the current restriction for the distance for an adult use from an existing church? Mr. Blick replied 5,000 ft. Mr. Williamson asked if under the current ordinance are there any other restrictions on placement of adult uses? Are there any set hours of operation? Mr. Blick replied no. Mr. Williamson asked Mr. Blick if the current 5,000 ft. distance from a church would exclude almost all properties for the consideration for such use under the current ordinance? Mr. Blick replied yes since the entire Borough is only 2.6 sq. miles in size. Mr. Williamson stated that under case law a municipality cannot exclude any use altogether from its zoning. Also the Borough has to be careful not to exclude such uses by effectively precluding their placement; such as by the 5,000 ft. distance requirement from a church. In such case the applicant can easily challenge the Borough ordinance and might be able to locate an adult use anywhere in the Borough.

Mr. Williamson asked Mr. Blick under the proposed ordinance where could such adult uses reasonably be expected to be located? Mr. Blick indicated perhaps Birch Street and Forge Road area. Mr. Blick stated the proposed ordinance for the regulating of adult uses is not a standalone ordinance; an applicant may still be required to file an application for conditional use approval based on the size of the tract, and may have to submit a Traffic Impact Study.

Mr. Henning asked if there had been any inquiries of the Borough concerning such “adult uses”? Mr. Blick indicated no, not to his knowledge. Mr. Brozusky suggested that the Borough might want to “measure” the former IBW property owned by the Borough to see if any portion of that property could meet the various criteria under the proposed ordinance for locating an adult use.

With no further business Mr. Brozusky made a motion, seconded by Mr. Henning to close the public hearing. The motion carried unanimously.

Mr. Reese suggested that before Mr. Blick left the meeting he needs to keep an eye on the numerous group dwellings that are springing up all over the Borough. Mr. Blick stated that one idea he has preliminarily discussed is the hiring of a private investigator to gain information on suspected violators. Mr. Reese said landlords are garnering thousands of dollars from renting out to multiple students – at the sake of our neighborhoods. Mr. Blick commented that he is not opposed to a Rental Housing Inspection Program, but such a program is not the answer to solving all the “more than two unrelated” issues.

Service Line Warranty Program Administered by Utility Service Partners (USP)

Mr. Brozusky made a motion, seconded by Mr. Reese to approve entering into an agreement with Utility Service Partners for making the Service Line Warranty Program available to Borough water/sewer customers. The motion carried unanimously.

Acquisition by Eminent Domain of the Veterans Memorial Property at the Intersection of Washington Street and Brown Streets – Resolution No. 23-2011

Mr. Reese made a motion, seconded by Mr. Brozusky to adopt proposed Resolution No. 23-2011 to authorize and direct the solicitor to take actions necessary to acquire title to the Veterans Memorial Property, by eminent domain as necessary. The motion carried unanimously.

Request by Smithfield Township Sewer Authority for Waivers from Stormwater Management Ordinance Provisions for Construction of New Sewerline through Zacharias Park

Mr. Phillips said Smithfield Township Sewer Authority plans to construct a new sewerline to eliminate their current pump station located at the intersection of Franklin Hill Road and Route 447, and convey sewage via a new gravity sewerline to the Borough’s sewer system, connecting into the Borough system at East Third Street. In order to construct the new sewerline through the Zacharias Park property, the plans show that the proposed construction will be located at several points within the 50ft. stormwater buffers around Zacharias Pond, Gregory’s Pond and a wetland area. Under the Borough’s Stormwater Management Ordinance Council may grant waivers from such buffer zone requirements. Mr. DeLarco noted that the Borough had mandated the location of the connection point to the Borough’s sewer system, so aren’t we also basically dictating the location of the sewerline? Mr. D’Alessandro stated that given the required connection point at East Third Street, and assuming that the sewerline would be a gravity flow-line, there is not much leeway in as to where the sewerline can be located. After further discussion, Mr. Henning made a motion, seconded by Mrs. Wolbert to grant the waivers as requested. The motion carried by a vote of 4 to 1 with Mr. Brozusky voting no. Mrs. Wolbert suggested that every effort be made to minimize the amount of tree clearing and insure restoration after construction of the sewerline.

Request by Pink Light Walk Committee for Waiver of Parade Permit and Deposit Fees for October 6, 2011 Pink Light Walk

Mr. Henning made a motion, seconded by Mr. Brozusky to grant the waiver for the parade permit and deposit fees as requested. Mr. DeLarco said Council should set some sort of criteria for this and future fee waiver requests. Mr. Phillips noted that in this case there is no fund raising associated with the event just raising the level of awareness. The motion carried by a vote of 4 to 1 with Mrs. Wolbert voting no.

Ordinance No. 1248 Amending Vehicle and Traffic Code, Revising Parking Restrictions on Elm Street, Merten Street, and State Street

Mr. Henning made a motion, seconded by Mr. Reese to adopt proposed Ordinance No. 1248 as advertised; Mr. Henning again asked that the new parking restrictions for State Street not go into effect until after the new parking lot expansion construction is completed at JM Hill Elementary School. The motion carried unanimously.

Public Comments – New Business

None

Correspondence

Mr. Phillips reported receipt of the following items of correspondence:

1. A letter from the Pennsylvania Liquor Control Board accompanying the receipt of a portion of the Annual Retail Liquor and Malt Beverage License fees allocated to the Borough.
2. A letter from Smithfield Township announcing its Community Day to be held Saturday September 17, 2011 at Waterfront Park.
3. A letter from the Monroe County Conservation District soliciting funds for the Pocono Creek Stream Gauge.
4. A letter from Roseann Alunio thanking the Borough for its response to the high hedges located at the corner of Eagle Valley Lane with Milford Road.

Reports

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

Mr. Reese said the Borough needs to take care of addressing leaks in the Dansbury Park swimming pool this Fall and not wait until April before the next swimming season. Mr. Reese also commented on that the Borough needs to move on installing video surveillance cameras on Crystal Street.

Mr. Henning asked if sewage flows at the Borough sewage treatment plant have been higher because of the recent rainy weather? Mr. Phillips said the flows have been up significantly.

Mr. Williamson reported that he had received a call from the counsel for the State System of Higher Education (SSHE) concerning the stormwater facilities agreement for the ESU Monroe Hall and Gwendolyn Street, parking lot plan, which is well under construction. Mr. Williamson said the University has agreed to several of his points but they have stated that they will not indemnify the Borough. Mr. Williamson said the issue is the Borough could be potentially brought into a lawsuit on the basis of approving their development plan, and even though we enjoy the same limited governmental immunity as the commonwealth, we still could incur legal fees.

Mayor Martinelli noted that in previous years at the first Council meeting in September, the Council chambers meeting room was usually full because of residents complaining about student related issues. The Mayor said the Regional Police Department has been doing a good job on keeping control of these activities.

Mrs. Wolbert announced that the Friends of the Stroud Region Open Space & Recreation Commission (SROSRC) are having an event for municipal officials on September 19, 2011 from 5-7 p.m. at Wine Handlers (Molly's Restaurant).

Mr. Brozusky asked if there was any action on getting the high school administration to agree to assist on cracking down on student driving issues to and from

the high school site? Mayor Martinelli said he has spoken to the new principal at the high school and he appears to be willing to cooperate with the Borough. Mr. Brozusky asked if there is any forecast for the Brodhead Creek due to the current projected rainfall? Mr. Phillips said he has not seen any estimates for the Brodhead at this point. Mr. Brozusky said he still feels there's a need for the Borough to adopt or enforce restrictions on people "digging through the trash" at night. Mayor Martinelli suggested that they call the police if he witnesses people going through the trash at night time.

Mr. DeLarco noted that years ago the Borough had suggested to Pocono Medical Center that they should install an overhead walkway for traffic going to and from the hospital across Brown Street. Now that concept is finally coming into fruition with construction of the overhead walkway for the new cancer center.

Mr. Phillips reported that the Pocono Mountains Council of Governments will hold a dinner meeting on September 26, 2011 at Lake Naomi Club. Mr. Phillips said he has not received information on a confirmed date for meeting with the PennDOT consultant for the Exit 308 reconstruction project. Mr. Phillips noted that the Borough has received notice of a higher than normal number of real estate tax assessment appeals filed by residents for the 2012 year. Finally, Mr. Phillips reported that he had received a complaint, via email, about shrubbery at the intersection of Smith Street & Highland Road blocking the sight view of traffic attempting to pull out onto Smith Street from Highland Road. Mr. Brozusky noted that that would be the Pentz property.

List of Bills

Mrs. Wolbert made a motion, seconded by Mr. Brozusky to approve the list of bills payable and to ratify expenditures and payroll made through September 6, 2011 as submitted. The motion carried unanimously.

Executive Session

Mr. Henning made a motion, seconded by Mrs. Wolbert to adjourn into executive session at 9:10 p.m. The motion carried unanimously.

At 9:29 p.m. Mr. Reese made a motion, seconded by Mr. Henning to reconvene the public meeting. The motion carried unanimously. Mr. Williamson said the executive session had been held to discuss two real estate matters and one potential litigation matter.

Recording Dates for ESU Monroe Hall/Gwendolyn St., Parking Lot Plan and PMC Central Utility Plan

Mr. Phillips noted that the development plans for those two projects are still here at the Borough office and need signatures of approval. Mr. Phillips questioned whether the applicants may have difficulty recording these plans now since the date of approval in both cases is more than sixty (60) days ago? Mr. Williamson stated that he is not sure if the applicant will actually be recording the plans in either case.

Adjournment

With no further business Mr. Brozusky made a motion, seconded by Mrs. Wolbert to adjourn the meeting at 9:32 p.m. The motion carried unanimously.

James S. Phillips, Secretary