

East Stroudsburg Borough, December 7, 2010

A regular meeting of the East Stroudsburg Borough Council was held at the Municipal Building on Tuesday, December 7, 2010. The following members were in attendance: Victor Brozusky; Roger DeLarco; Ed Henning; William Reese; Donald Repsher and Sonia Wolbert. Also attending were: Mayor Armand M. Martinelli; Manager James S. Phillips; Solicitor David J. Williamson of Scanlon Lewis & Williamson; Codes Officer John E. Blick; Engineering Representative Samuel D'Alessandro of R.K.R. Hess Associates, Inc.; ESU Student Ambassador Ashley Puderbach, and several residents in the audience.

Call To Order/Pledge of Allegiance

Mr. DeLarco called the meeting to order at 7:30 p.m. Nick Tetro led the Pledge of Allegiance.

Minutes of November 16, 2010 Regular Council Meeting

Mr. Brozusky made a motion, seconded by Mr. Repsher to approve the minutes of the regular Council meeting held Tuesday November 16, 2010 as submitted. The motion carried unanimously.

Stormwater Problem at Walters Residence, Analomink & S. Green Streets

Mr. D'Alessandro said he had met with John Walters prior to the meeting concerning a stormwater problem affecting his garage in the back of the residence located and the corner of Analomink & S. Green streets. Mr. D'Alessandro said he will meet with Mr. Walters at the site this week to review the problem.

Continuation on Public Hearing on Proposed Conditional Use and Land Development Plan for Construction of Loading Docks at Former Cooper Industries Building, Burson & Lackawanna Streets, I-M District

Mr. Brozusky made a motion, seconded by Mrs. Wolbert to reconvene the public hearing which is being continued from October 5, 2010. The motion carried unanimously.

George Westervelt, Esq. and George Strunk were present on behalf of the applicant, DEIN Properties, LLC. Mr. Strunk stated the applicant is proposing to construct ten (10) loading docks along the Burson St. side of the existing building for the purpose of utilizing the building for multiple tenants. The construction will not expand the building footprint.

Paul Courvette, P.E. also was present on behalf of the applicant and reviewed the overall site plan for the property which was introduced as Exhibit A-5. The plan shows a total of 122 parking spaces provided as follows: 33 spaces required for the 30,000 sq. ft. portion of the building being leased to Resin, Inc., 29 spaces required for space leased to Ridell Co., and 25 spaces required for the portion of the building now built out for the East Stroudsburg Fire Station. Mr. Brozusky noted that some of the parking spaces are fairly far away from the building and was wondering if that was a problem. Mr. D'Alessandro stated no, since they are all located on the applicant's property.

Mr. Phillips said the applicant has submitted a traffic study as required. The review letter from the Borough's traffic consultant Traffic Planning & Design, Inc. indicates they are in agreement that the new traffic generated by this development will be minimal and no new traffic improvements are anticipated to be needed.

Codes Official John Blick noted at the previous hearing date the issue of the lack of sidewalks along the Lackawanna Avenue frontage came up. Mr. Westervelt indicated that the applicant is willing to install sidewalks along this side of the property, if the

Borough is willing to construct the street curbs; as was done for the applicants property located at the corner of Lackawanna Avenue & Burson Street.

Mr. Westervelt stated that Mr. D'Alessandro had raised at the previous hearing date the issue of several paper streets which cross the property; and produced a copy of title insurance covering the property which he said should adequately protect against any concerns for rights to these paper streets.

Mr. D'Alessandro said before he stated anything else he must disclose that he has recently entered into a business agreement with the owner of this property, Robert Deinarowicz. This agreement occurred after R.K.R. Hess, Inc. had prepared the review letter concerning this conditional use application.

Mr. Henning asked if there were any other outstanding issues regarding this application? Mr. D'Alessandro stated he had noted one proposed handicapped ramp where the cross-slope exceeded the maximum permitted.

Mrs. Wolbert said the Borough may not want to commit to installing curbs as part of this project, because the Borough doesn't normally install street curbs for applicant's land development plan improvements. Also, the Borough has budget issues which may preclude the Borough participating in this cost.

Mr. Brozusky asked how many new jobs will be created by this project? Mr. Strunk estimated that a total of 10 to 20 jobs may result from leasing out space in the building.

Mr. Williamson said he has reviewed the title policy submitted by Mr. Westervelt and agrees that it appears adequate. Mr. Williamson recommended that the title policy be admitted into the record as Exhibit A-6.

Mr. Phillips noted that the Borough had installed new curb and sidewalk along a portion of the applicant's property as part of the new fire station project and thus has already contributed to the value of this property for the applicant.

With no further discussion Mrs. Wolbert made a motion, seconded by Mr. Repsher to adjourn the public hearing. The motion carried unanimously.

Public Comments – Agenda Items

None

Discussion on Proposed Zoning Ordinance Amendment Submitted by DEIN Properties, LLC

George Westervelt, Esq. stated that he had prepared a draft of a zoning ordinance amendment which would permit retail auto parts stores as a permitted use in the I-M Zoning District. Mr. Blick said the applicant had approached Borough's Zoning Ordinance Review Committee with the amendment to allow auto supply stores since auto service centers are already a permitted use in the I-M District. Mayor Martinelli commented that a retail business may increase traffic and wondered whether that might affect the results of the traffic study that was done for the conditional use application?

After further discussion, Council took no action on the application but agreed that the proposed amendment should be submitted to the Borough Planning Commission and County Planning Commission to initiate the re-zoning amendment process as required under the Municipalities Planning Code (MPC).

Action on Proposed Re-Zoning Amendment by Empire Real Estate & Development for the Pentz Property, R-1 District, Highland Road

Mr. Repsher made a motion, seconded by Mr. Brozusky to deny the request to re-zone the Pentz property from R-1 to R-2 as submitted by the applicant. The motion

carried by a vote of 5-0 with Mr. Henning abstaining because he was absent on the date of the November 16, 2010 public hearing.

Proposed Zoning Ordinance Amendment by East Stroudsburg Borough – Change of Requirements for Off Street Parking in the I-U and I-M Zoning Districts and Establishing Additional Criteria for Off Street Parking in All Districts

Mr. Williamson said he, Mr. D'Alessandro, Mr. Phillips, and Mr. Blick had met with Representatives from East Stroudsburg University on December 1, 2010 to review the University's concerns with the proposed zoning ordinance amendment. Mr. D'Alessandro said he had sent Council a letter outlining his synopsis of the meeting, and noted that the University Officials had offered to craft language to address several items in the ordinance which they feel, require clarification. Mr. D'Alessandro said he agrees there are several items that perhaps could be clarified, and several items which the Borough and University Officials remain in disagreement over. Mr. D'Alessandro said the University Officials still disagree over the number of parking spaces required and noted that he has done an analysis of the number parking spaces that would be required under different municipal zoning ordinance requirements – and the number that East Stroudsburg Borough provisions require is generally on the low side. Mr. D'Alessandro said the biggest issue which was discussed at the meeting is the University's position that it is unable to provide bonding for their number of required parking spaces to be done under a parking management plan, because counsel for the Pennsylvania System of Higher Education (PASSHE) states that the Commonwealth as Sovereign can't be required to post a financial guarantee. Mr. D'Alessandro said he also has some concerns with a statement made by Vice President Richard Staneski for the University that ESU was unable to implement its parking management plan, because PASSHE will not let them impose a parking fee on faculty members at this time.

Mr. Williamson said he agrees that the Commonwealth will not post a financial guarantee- the question then is for future projects is there some other way of addressing the provision of required parking? Other alternatives may need to be identified. Mr. Blick stated that at the meeting the PASSHE attorney had suggested adding the clause "except where prohibited by law".

Mr. Williamson said Council basically has three (3) alternatives for proceeding with this ordinance:

1. Adopting the ordinance as is – and then making changes to the ordinance provisions later.
2. Delaying action on this proposed ordinance and making changes to the ordinance based on the input received from ESU.
3. Delaying action on the ordinance but only if ESU agrees to accept that the ordinance comes under the "pending ordinance doctrine"

Syed S. Zaidi, Facilities Director for East Stroudsburg University, said ESU will live up to what it has committed to, and noted that the University has formally requested a one month delay by Council in acting on this ordinance.

Mr. Henning asked what is the status of the University hiring a Parking Manager? Zaidi said ESU is still interviewing applicants.

Mr. Brozusky asked if Council delays action on the ordinance in its current form, would anything change if the University admits more students for its second semester? Mr. D'Alessandro replied no.

Mrs. Wolbert said whatever Council does on the ordinance we need to find a timeline for final action, because Council has been working on this ordinance draft for a while. Mrs. Wolbert asked must the University continue to comply with its submitted parking management plan for the duration of the current project? Mr. D'Alessandro replied yes. Mr. D'Alessandro also noted that ESU has the option to do several things which may affect the number of parking spaces required, other than by building new facilities – such as by changing when classes are held, etc.

Mr. Williamson said if Council is agreeable on holding off action on the proposed ordinance until the December 21, 2010 meeting, then he will send a letter to ESU tomorrow in response to Mr. Staneski's letter, stating that Council will delay acting on the ordinance for a one month period if the University acknowledges that the proposed ordinance comes under the pending ordinance doctrine.

Resolution No. 31-2010 Authorizing Re-Adoption of Cafeteria Plan

Mr. Phillips explained that Benecon Insurance, the administrator for the Boroughs health insurance plan, has prepared a new premium only (cafeteria plan) document to comply with recent legislative changes. Mr. Henning made a motion, seconded by Mr. Reese to adopt proposed Resolution No. 31-2010 authorizing re-adoption of the plan document as submitted. The motion carried unanimously.

Resolution No. 32-2010 Approving Schedule of Costs for Delinquent Earned Income Tax Collection

Mr. Phillips explained that the new agreement between Berkheimer Tax Administrators and the Monroe County Tax Collection Committee (MCTCC) specifies that Berkheimer will not charge the municipalities a commission for collection of delinquent wage taxes, but the cost of collection will be passed on to the delinquent tax payers if each Municipality approves the schedule of costs. Mr. Brozusky made a motion, seconded by Mr. Repsher to adopt proposed Resolution No. 32-2010 approving the schedule of costs to be imposed on and paid by delinquent EIT tax payers as submitted. The motion carried unanimously.

Resolution No. 33-2010 - Adopt a Mission Statement of support for Employee Safety Program

Mr. Phillips said the Borough's Workers Compensation Safety Group, Penn Prime, is requiring that each Municipal participant adopt a mission statement for employee safety, approved by senior management. Mr. Brozusky made a motion, seconded by Mr. Repsher to adopt proposed Resolution No. 33-2010, approving the Mission Statement as submitted. The motion carried unanimously.

Amend Vehicle & Traffic Code (Chapter 150) to Increase Parking Rates and Parking Fines in the University District

Mr. Phillips said in order to enact increased parking fees and parking fines for parking meters near the University Section 72 of Chapter 150 needs to be completely revised to specify parking rates and fines for the various streets listed. Mr. DeLarco suggested that another name be designated instead of the "university district". Sonya Cole asked why the Borough would want to impose higher fees and fines in this area? Mr. Brozusky replied that the purpose is to make fines equivalent to fines charged by the University for parking violations on its property. After further discussion Mr. Brozusky made a motion, seconded by Mrs. Wolbert to authorize preparation of an ordinance to increase parking rates and parking fines at metered parking areas other than the downtown area. The motion carried unanimously.

Amend Vehicle & Traffic Code (Chapter 150) to Permit Lease Parking at Dansbury Terrace Parking Lot

Mr. Henning suggested that the Borough may want to keep the parking lot next to the old fire hall available for use by someone who may be interested in buying the old fire hall property. Mark Hoke, Borough Maintenance Foreman suggested that the Borough should sell the parking lot along with the fire hall property. Mr. Phillips said the proposed ordinance would permit leasing of spaces at the parking lot on a temporary basis. After further discussion, Mr. Reese made a motion, seconded by Mr. Brozusky to authorize advertising of a proposed ordinance to permit lease parking at the Dansbury Terrace parking lot. The motion carried unanimously.

Request by PennDOT for use of Lincoln Avenue and Forge Road for An Emergency Truck Detour Route During Replacement of the Seventh Street Bridge in Stroudsburg

Mr. Phillips reminded Council that PennDOT is awaiting an answer from the Borough on the request concerning emergency truck detours during the Seventh St. Bridge construction project. Mr. Repsher made a motion, seconded by Mr. Reese to authorize return of the signed letter to PennDOT assenting to the PennDOT request for utilizing the Borough streets for an emergency detour route. The motion carried unanimously.

Public Comments – New Business

None

Correspondence

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

1. A letter from Monroe County stating that due to computerization of records, old tax books for the Borough from the years 1836 thru 1989 will be disposed of unless the Borough notifies the County that it wants to retain the records. Mr. Phillips said he would check further with the County concerning the number and size of the books in case the Borough would wish to keep the old records.
2. A copy of the audit of the Twin Boroughs Recycling Program for the 2009 Year prepared by Kirk Summa & Co., LLP.
3. A copy of the November 17, 2010 inspection report of the East Stroudsburg Borough Water Department conducted by the Pennsylvania Department of Environmental Protection (PA DEP).
4. A letter from PA DEP announcing that the Borough's application for a flood protection grant has been approved in the amount of \$9,854. Mr. Phillips said the Borough had applied for matching funds to purchase a new diesel tractor with mowing attachment to be used for cutting grass along the lower level of the flood protection levee. Mr. Reese made a motion seconded by Mr. Henning to accept the grant award from PA DEP and return the executed contract as required. The motion carried unanimously.
5. A copy of the annual report for the Northeast Pennsylvania Alliance (NEPA) for the 7/1/09 to 6/30/10 fiscal year.

Reports

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

Mayor Martinelli said a resident had brought to his attention that parking restrictions along North Courtland St. between Burson St. and Cramer's are unclear; and suggested that an additional "No Parking Anytime" sign be posted there as needed. Mayor Martinelli also suggested that a "Stop" sign be installed on Vine St. at Elizabeth St. near the East Stroudsburg High School Stadium. Mr. Reese made a motion, seconded by Mr. Brozusky to authorize preparation of an ordinance for installation of a "Stop" sign at this location. The motion carried unanimously.

Mrs. Wolbert noted that this was Ashley Puderbach's last Council meeting that she is attending as the East Stroudsburg University Student Ambassador, and commended Ashley on her work for the Adopt-A-Street program for the Borough.

Mr. Repsher questioned a drainage problem along Milford Road near Strawberry Fields shopping plaza. Mr. Hoke explained that the property owner had previously dug a ditch to drain stormwater run-off around the parking lot which then was finding its way onto Milford Road. Mr. Phillips said he and Mr. Hoke had met with PennDOT officials and property owners last fall to review possibilities for piping this run-off into the storm

sewer system. However, the storm drains near Eagle Valley Lane on Milford Road drain through the Eagles Glen Shopping Center property and that property owner would have to approve discharge of additional stormwater through their property. Mr. Hoke said the property owner has filled in the ditch and the run-off will probably drain across the parking lot again.

Mr. Phillips reported that he and Mr. Hoke had met with Representatives of the US Army Corp of Engineers today at the Flood Protection Levee to review erosion that is occurring at the base of the levee just downstream from where the Sambo Creek enters the Brodhead and also further up the creek along the East Stroudsburg Area School District Property. This erosion is being caused, or at least exacerbated, by the stone rip rap that Stroud Township has placed on the west-side of the creek just upstream of the Flood Protection Levee. Mr. Phillips said the US Army Corp of Engineers is supposedly going to require Stroud Township to mitigate the erosion on the east bank. Mr. Phillips also reported that Governor Rendell has vetoed House Bill 1231, the so called Cancer Presumption Legislation Effecting Fire Fighters. Finally, Mr. Phillips noted that Hayward Labs has installed an evaporation system and they now will be discharging only domestic sewage to the Stroud Township sewer system and then onto the Borough system.

Mr. Henning asked for an update on the relocation of the old train station building? Mr. Phillips said the rigging company, is supposed to come back on Thursday of this week to prepare the building for moving and the building will actually be relocated to its permanent location within the parking lot on Friday. Mr. Henning suggested that the Borough needs to examine a possible increase in sewer rates and then made a motion, seconded by Mrs. Wolbert to authorize the Borough engineer to analyze a sewer rate increase, using the same basis as was done with the water rate increase done earlier this year. The motion carried unanimously.

Mr. DeLarco stated that the Eastburg Community Alliance (ECA) has recommended that the Borough not enforce parking meter violations during the week before Christmas, as opposed to granting "free parking". Mr. Henning made a motion, seconded by Mr. Brozusky to follow the recommendation of the ECA Board concerning parking enforcement abatement the week before Christmas. The motion carried unanimously.

Ashley Puderbach reported that East Stroudsburg University has made some changes to who is permitted to utilize certain parking lots on the university campus in response to recent complaints concerning parking. Ms. Puderbach also introduced Nick Tetro as her successor as the new ESU Student Ambassador to Borough Council. Mr. Tetro introduced himself to Council members.

Mr. Phillips then presented Ashley Puderbach with flowers and with a gift certificate on behalf of the Borough in recognition of her service for the last 2 ½ years as the ESU Student Ambassador.

List of Bills

Mrs. Wolbert made a motion, seconded by Mr. Reese to approve the list of bills payable and to ratify expenditures and payroll made through December 7, 2010 as submitted. The motion carried unanimously.

Proposed 2011 Year Borough Budget

Council proceeded to review and discuss the proposed 2011 year Borough budget, in continuation from the December 1, 2010 budget work session meeting. Mr. Phillips said he has revised the budget totals to reflect Councils wish to increase the revenues indicated from parking fee and parking fine increases by a total amount of \$55,000. Mr. Phillips said he had also upped the estimate for 2011 water rental income as directed by Council, and also updated the figure in the proposed general fund budget for the contribution to the Stroud Area Regional Police Department budget, to reflect the Borough's revised allocation under the Police Department budget formula due to recent

negotiations with the Police Association to advert the proposed lay-off of two police officers. Mr. Phillips reiterated his recommendation that the Borough needs to adopt a general fund real estate tax increase in order to keep up with cost increases and avoid the situation where the Borough could be in serious financial condition after the 2011 year.

After extensive discussion, Mr. Repsher made a motion, seconded by Mr. Brozusky to authorize advertising the proposed 2011 year Borough budget for all funds, incorporating a 1.5 mil increase in real estate taxes under the general fund. Mr. Reese, Mr. Repsher, & Mr. Brozusky voted in favor of the motion; Mr. Henning, Mrs. Wolbert & Mr. DeLarco voted against the motion. Mayor Martinelli cast his vote to break the tie, in favor of the motion which carried by a total of four (4) yes and three (3) no.

Mr. Phillips stated that we typically allow ten (10) days between advertising the availability of the proposed budget and final action on adoption of the budget; therefore Council could not act on the budget at the regular December 21, 2010 meeting but would have to hold a special meeting. After discussion, Mr. Reese made a motion, seconded by Mr. Repsher to hold a special meeting on Thursday December 23, 2010 at 12 noon to take action on the proposed 2011 year Borough budget and tax levy ordinance. The motion carried unanimously.

Executive Session

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

At 9:55 p.m. Council members reassembled in the meeting room. Mr. Brozusky made a motion, seconded Mrs. Wolbert to reconvene the public meeting. The motion carried unanimously. Mr. Williamson said the executive session was held to discuss a personal matter and two litigation (tax assessment appeal) matters.

Assessment Appeal for Former Business Accelerator Building Property

Mr. Henning made a motion, seconded by Mr. Brozusky to authorize McKeown Reality to do an appraisal and represent the Borough in a tax assessment appeal of the Borough owned property located at 66/68 Analomink Street because the existing assessment on this property definitely seems too high. The motion carried unanimously.

Adjournment

With no further business Mr. Brozusky made a motion, seconded by Mrs. Wolbert to adjourn the meeting at 9:59 p.m. The motion carried unanimously.

James S. Phillips, Secretary