

East Stroudsburg Borough, November 16, 2010

A regular meeting of the East Stroudsburg Borough Council was held at the Municipal Building on Tuesday November 16, 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; Codes Official John E. Blick; 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; and several residents in the audience.

#### Call To Order/Pledge of Allegiance

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

#### Minutes of November 2, 2010 Council Meeting

Mr. Brozusky made a motion, seconded by Mr. Reese to approve the minutes of the November 2, 2010 regular Council meeting as submitted. The motion carried unanimously.

#### Public Hearing on Re-zoning Amendment Proposed by Empire Real Estate & Development for the Pentz Property, R-1 District, Highland Road

Mr. Repsher made a motion, seconded by Mr. Brozusky to open the public hearing. The motion carried unanimously. The stenographer administered the oath to all persons intending on testifying at the hearing. Mr. Williamson stated that this is a zoning ordinance map change proposed for the John & Constance Pentz property located off of Highland Road in the R-1 District. Mr. Williamson stated that Council has forty five (45) days to act on the re-zoning request once the public hearing is concluded.

John Blick, Zoning Officer, stated the advertisement of notice of the hearing appeared in the Pocono Record as required and introduced the ad as Exhibit B-1. Mr. Blick also stated that he personally posted the notice of the hearing on the perimeter of the property. Mr. Blick submitted a review letter prepared by the Monroe County Planning Commission (MCPC) concerning the re-zoning proposal and introduced the letter as Exhibit B-2. Mr. Williamson asked if the Borough Planning Commission had also reviewed this proposal? Mr. Blick stated yes and the Borough Planning Commission had voted to recommend against approval of the proposal. Mr. Williamson proceeded to outline procedures for taking testimony for the public hearing.

Anthony Maula, President of Empire Real Estate & Development was present on behalf of the applicant to present the zoning amendment proposal. Mr. Maula highlighted #7 from the MCPC review letter, where it references that a re-zoning question such as this is basically up to the local decision makers; in the case Borough Council. Mr. Maula introduced the following exhibits for the record:

1. Deed for the property - Exhibit A-1
2. A map showing location of the property along Highland Road – Exhibit A-2
3. A copy of the table of use regulations from the Borough's Zoning Ordinance – Exhibit A-3
4. A rendering of the proposed Highland Gardens residences – Exhibit A-4
5. Plot Plan – Exhibit A-5
6. A typical layout for a proposed two bedroom dwelling unit – Exhibit A-6
7. A proposed deed from the Pentz's to Empire indicating that ownership shall be limited to senior citizens 55 years or more of age – Exhibit A-7

Mr. Maula stated that the requested change in zoning is from R-1 to R-2, which is needed to construct the project. Mr. Maula stated this project will be highly beneficial to the community. There is no commercial aspect to the proposed project now or in the future. The number of residential units to be constructed is undetermined but the

maximum number would be 35 under the current R-2 zoning provisions. Mr. Maula stated this would be an age-restricted development and will address the need for senior housing in the area. The units will be rented at market rates but will be affordable. Mr. Maula said this project will also ease the burden to the East Stroudsburg Area School District, because there will be no children to educate living here. The School District will gain at least \$50,000 annually in revenues; and the Borough will realize additional revenues from real estate taxes and water/sewer fees. Mr. Maula noted that the plans include a garden area for the development. Mr. Maula stated that there are additional benefits that will result from this project, including:

1. Highland Road will be reconstructed and sidewalks will also be constructed on the south side.
2. There will be deed restrictions in the development that will require single story construction only. Mr. Maula said that it is not likely that this property would be developed into single family residences at any time soon.
3. Plus, over thirty people will be employed during this construction.

Mr. Maula submitted a copy of petitions signed by area residents which had previously been submitted – these residents are in support of the re-zoning application (Exhibit A-8).

Constance Pentz distributed copies of her letter explaining further several of the points raised by Mr. Maula in favor of the project. Mr. Pentz questioned Mr. Blick's comments regarding the Planning Commission recommendation "against the proposal". Mr. Blick clarified that he stated that the Borough Planning Commission has recommended not approving the plan, not the Monroe County Planning Commission. Mrs. Pentz said she hopes Council will take into account the increased revenues that the Borough and School District will see from this proposed project. She reiterated that the County Planning Commission had noted that the proposal is "not entirely incompatible with existing adjoining land uses".

Mr. Williamson asked if this project will be owner occupied or rental units? Mr. Maula replied rental units operated by Empire Real Estate. Mr. Williamson asked whether the small parcel at the end of Highland Road at Smith Street, which had previously been submitted for subdividing, would remain in the R-1 zoning? Mrs. Pentz stated yes. Mr. Williamson asked what is the zoning of all the adjoining properties? Mr. Maula stated R-1, single family residential. Mr. Williamson asked what will happen with the existing Pentz residence? Mr. Maula stated that the house will be renovated and included as part of the new development.

Mr. Brozusky noted that the County Planning Commission letter also pointed out that this re-zoning could be considered "spot zoning". Mr. Maula said he believes that argument can potentially be limited after further discussion.

Ed Kimes of 10 Highland Road asked whether Empire currently operates any other "55 plus" properties? Mr. Maula replied no, but nationally there have been many successful senior housing projects.

Cathleen Kauderer of 198 Highland Road stated that she has concerns for additional stormwater runoff from the site if it is developed as proposed.

Mr. Kimes stated that when the East Stroudsburg Methodist Church acquired the property where he lives now in 1993, the Church was told by the Pentz's that the Pentz property would never be subdivided and that was in a deed covenant.

Michael Moynihan of 122 Highland Road said he feels this project will have a significant negative impact on adjoining home owner's property values.

Rob McKenzie stated that he lives at the corner of Smith and Analomink Streets and asked that Council not take action or disapprove this zoning proposal. Mr. McKenzie stated the Pentz house is the "most blighted" in the neighborhood and he could not trust that the property would be redeveloped in any better manner.

Steve Miller of 5 Spangenburg Avenue said his concern is whether the Borough will be able to monitor or enforce the restrictions requiring 55 plus residency? Mr. Williamson stated the Borough cannot enforce private deed covenants.

Mr. Maula stated that in response to previous comments, Empire is not proposing any subdivision of the property. The 55 plus projects are somewhat “self policing” because other tenants would complain to the landlord operator if these provisions are not being enforced.

Joseph Watach of 40 Spangenburg Avenue noted that the Pentz property has rubbish and litter strewn throughout the property.

Gary Hartshorn of 24 Smith Street said his father had built a “senior project”, and he believes that you cannot legally restrict families with children from living in such a development. Mr. Maula said that he agrees that you cannot legally prohibit children completely; but statistically such a project will have few children.

Jay Armitage of 36 Spangenburg Avenue stated that the Borough Planning Commission has already recommended against this proposal, and hopes that Council will turn it down as well.

Ed Kimes introduced into the record a copy of the deed for his property when it was obtained by the Methodist Church from the Pentz’s (Exhibit K-1)

Mr. Williamson noted that all exhibits mentioned will be formally included in the record. Mr. DeLarco commented that if the property is re-zoned from R-1 to R-2 then any permitted uses within the R-2 District could be developed on the property in the future.

With no further testimony or questions, Mr. Brozusky made a motion, seconded by Mrs. Wolbert to adjourn the public hearing at 8:30 p.m. The motion carried unanimously.

#### Public Hearing on Proposed Zoning Ordinance Amendment by East Stroudsburg Borough Changing off Street Parking Requirements

Mr. Brozusky made a motion, seconded by Mr. Repsher to open the public hearing at 8:34 p.m. The motion carried unanimously. Mr. Williamson stated this is a public hearing on a proposed amendment to the zoning ordinance proposed by East Stroudsburg Borough which would revise parking requirements in the I-U District and change other off street parking requirements. John Blick, Zoning Officer, stated the public hearing was advertised as required in the Pocono Record on November 1 & 8, 2010 and provided a copy of the proof of publication (Exhibit B-1). Mr. Blick stated the proposed ordinance was also sent to the Monroe County Planning Commission for review comments as required and a review letter was received from MCPC (Exhibit B-2). Mr. Blick also presented Exhibit B-3, a review letter by R.K.R. Hess Associates, Inc., Engineers for the Borough, which was prepared in response to comments submitted by letter from East Stroudsburg University. Finally, Mr. Blick introduced a copy of the Uniform Federal Accessibility Standards as Exhibit B-4. Mr. Williamson asked if this proposal had been reviewed by the Borough Planning Commission as well? Mr. Blick stated yes and the Borough Planning Commission has recommended approval of the proposal.

Mr. D'Alessandro stated that the Borough was faced with different interpretations of certain provisions of the zoning ordinance as part of the review of the recently submitted and approved housing plan by East Stroudsburg University, and Borough Council and staff have identified certain areas of the zoning ordinance that they feel need to be addressed. Mr. D'Alessandro said the ordinance incorporates or allows for submittal of a parking management plan by an applicant to address the required parking requirements; and this came about directly as a result of the discussion on the ESU housing plan and its subsequent review and approval. Mr. D'Alessandro said the proposed ordinance also recognizes the potential for wintertime use of parking areas that

may result in the loss of availability of parking spaces. Finally, the ordinance also requires that pedestrian safety access be provided to and from all parking areas to be provided under provisions of the ordinance.

Mr. Blick noted that the “snow removal policy” and the handicapped accessibility requirements apply to any new parking plan submitted under the zoning ordinance, not just for university uses in the I-U District.

Mr. DeLarco asked if the Borough had invited representatives from the East Stroudsburg University (ESU) and Pocono Medical Center (PMC) to discuss the proposed parking changes? Mr. D'Alessandro said that a meeting was held between the professional staff from the Borough and the University and hospital representatives to discuss the new provisions.

Mrs. Wolbert asked if the intent of the parking changes under this zoning ordinance amendment is to look at the University as a whole concerning parking requirements? Mr. D'Alessandro said yes, the requirements are based on the University as whole, but based on different uses and factors such as number of students, number of employees etc.

Richard Staneski, Vice President for Finance & Administration for East Stroudsburg University stated that ESU representatives did attend the recent meeting, but they were unable to respond effectively to the proposed changes because they were only recently provided with a copy of the proposed amendment. Mr. Staneski said ESU has asked Chance Management, Parking Consultants, to review the proposed ordinance on behalf of the University and provide comments. Mr. Staneski introduced Robert Furniss, Operations Consultant from Chance Management who proceeded to present testimony concerning the proposed zoning ordinance amendment.

Mr. Furniss stated that he has reviewed parking ordinance requirements for several “peer” communities that have SSHE schools; including Town of Bloomsburg, California Borough, Indiana Borough, Lockhaven Borough and Millersville Borough. Mr. Furniss said he strongly feels the University should be considered as a single entity based on total student population, not basing parking on the sum of individual uses. Mr. Furniss noted that none of the other communities require parking specifically for visitor uses as this proposal does.

Mr. Furniss reviewed the following issues with respect to specific provisions of the ordinance amendment as proposed:

Section 3.A. – Sub-paragraph 9 – A required numbering of all parking spaces for the University as a whole will not provide useful information and will be difficult to provide and maintain.

Section 3.A. – Sub-paragraph 10 – The provisions for snow plowing and snow piles does not seem to allow for alternative means of handling snow such as hauling snow out which the University does now.

Section 4.B. - Sub-paragraph A – Mr. Furniss said the University needs clarification on the phrase “all land owned by the applicant”. Mr. Furniss stated that the current trend is for Universities such as ESU to develop parking in perimeter areas and cited the example of California University of Pennsylvania which currently is developing a parking facility on the outskirts of campus.

Section 5.C. – Mr. Furniss stated clarification is needed concerning the calculation of number of parking spaces required. Mr. Furniss said the peak parking time is daytime use so the critical factor should be the number of ESU staff on duty during the daytime. Mr. Furniss also asked for a definition of “subcontractor’s”. Finally, Mr. Furniss questioned the requirements for student parking (1 space per three 3 students), because the number of students who have vehicles depends on the number of commuting students. Also, the provision requiring one parking space per each housing bed does not allow for policy restrictions such as ESU has in place which prohibits first year students

from having cars on campus. Mr. Furniss said the University recently did a study and found that 32% of the students are commuting students.

Section 6.E. – Mr. Furniss suggested that the required width for parking spaces be standardized at 8 ½ ft. whether located in a parking garage or parking lot.

Section 7.H. – Mr. Furniss stated it would be an undue burden for ESU to report student population numbers on a semi-annual basis. Also he questions the requirement for the University to have to bond the number of public parking spaces required to be provided under a development plan. Finally Mr. Furniss questioned the provision, requiring the provision of handicapped parking on the basis of one (1) for each twenty (20) parking spaces and suggested that the University be permitted to comply with the Federal ADA standards instead. Overall, Mr. Furniss stated he feels that there are more issues raised by this zoning amendment proposal than are addressed by it.

Mr. Furniss also asked if the Borough has considered increasing the fine for a parking meter violation from the current \$4 figure? Also, is the Borough considering any changes in its parking enforcement? Finally, is the Borough addressing the issue of conversion of single family homes into student housing?

Mr. Staneski stated that the University has had minimal opportunity to work with the Borough on these proposed parking requirement changes. The University feels the proposed ordinance has not been prepared based on the best parking practices available. Therefore the University would formally request Council to delay action on this proposal in its current form.

Mr. D'Alessandro asked Mr. Furniss for a copy of the ordinances he had reviewed from the five (5) university communities cited. Mr. D'Alessandro stated that the proposed ordinance is based on the assumption that it would apply to all properties owned or under control of the University. Therefore it would not matter whether particular parcels are owned by the University, by the Department of General Services or by the State System as was discussed and determined with the ESU housing proposal. Mr. D'Alessandro said the bonding or financial guarantee requirements are based on the fact that sometimes third party entities are involved (such as with the current housing plan development by University Properties, Inc.). Finally, Mr. D'Alessandro stated that the ordinance allows for submittal of a parking management plan and the Borough felt that should provide sufficient leeway for the University concerning meeting the proposed parking requirements.

Mr. Brozusky asked how many of the five other university campus's surveyed have parking garages? Mr. Furniss stated he doesn't know for sure, but does know that California of PA is developing a parking garage. Mr. Brozusky asked what percentage of ESU students are commuter students and how does the compare to other SSHE schools?

Mrs. Wolbert asked if any of the communities mentioned were the same ones surveyed by R.K.R. Hess plan, when they prepared the draft of the new parking provisions? Mr. D'Alessandro stated his firm did look at several of these communities including California and overall it appears that the East Stroudsburg parking requirements are on the low side.

Mr. Staneski noted that in doing parking calculations, the different nuances do matter. Mrs. Wolbert stated that the Borough has been telling the University for years now that parking is a problem.

Mr. DeLarco asked if the Borough also had its traffic consultant's (Traffic Planning & Design, Inc.) review these parking issues? Mr. D'Alessandro replied yes. Mr. DeLarco said this ordinance does therefore include information from other communities parking provisions and also incorporates some of the suggestions from the Chance Management parking study that was prepared for ESU for the housing plan.

Mr. Brozusky stated he feels Borough Council should hold off on taking action on this zoning ordinance proposal until some of these additional questions are addressed.

Mr. Williamson asked when will ESU be coming to the Borough with the plans for its next major project? Mr. Staneski stated the proposed new University Center project is still several years down the road, even for design. Funding is not even in place yet for this entire project.

Mr. DeLarco said the University could always permit the Borough to count the number of parking spaces if the University was unable to do so. Mr. Staneski again stated that ESU feels the requirement for reporting twice a year is onerous, when once a year should be sufficient.

Mr. Williamson moved that all exhibits previously mentioned be introduced into the record. With no further discussion, Mr. Repsher made a motion, seconded by Mrs. Wolbert to close the public hearing. The motion carried unanimously.

#### Public Comments – Agenda Items

None

#### Proposed Land Development Plan by Eastburg Community Alliance (ECA) for Relocation of Former Dansbury Depot (Old Train Station)

Troy Nauman presented the proposed land development plan for relocation of the former Dansbury Depot building. Mr. Blick noted that the land development plan has been reviewed by the Borough Planning Commission and recommended for approval.

After discussion, Mr. Brozusky made a motion, seconded by Mr. Reese to grant preliminary and final land development approval for the old train station relocation according to the plan submitted by ECA, as submitted. The motion carried unanimously.

#### Sketch Plan Review for Proposed Franklin Hill Common Subdivision, Revised

Troy Nauman said he was present to review with Council the proposed revised three parcel subdivision of the 10.4 acre tract located off of Franklin Hill Road in the R-1 District. Mr. Nauman said the plan has been revised to create separate parcels for the two existing houses on the property for re-sale. Mr. Blick said Buff/Nauman LLC has submitted a letter dated November 9, 2010 requesting various waivers from requirements of the subdivision and land development ordinance. Mr. Nauman said he wishes to obtain a determination on the waiver request prior to proceeding with full engineering plans.

Mr. Brozusky stated that he is uncomfortable discussing granting waivers from the SALDO requirements on the basis of only a sketch plan. Mr. Nauman said he would be fine with just getting an indication from Council at this point as to how they would look at the different waivers requested.

Mr. Nauman said he is requesting a waiver from the requirements to construct sidewalks and curbs along the entire frontage; as his intention would be to install these improvements if and when the balance of the property is developed after separation of these two existing homes from the property.

The second waiver request is for an access easement to be permitted for lot #2 across lot #1, where the existing driveway is located. Mr. D'Alessandro stated he would need to know that the existing driveways have adequate sight distance before recommending to grant that waiver.

Mr. Nauman said the third waiver is a request to utilize individual wells and on lot septic systems for the two lots since that is how they are currently served. Again Mr. Nauman said his intention would be to extend water and sewer lines if and when the balance of the property is developed.

Mr. Nauman said the fourth waiver request is from the requirements for additional landscaping since there are existing woods, trees and shrubbery that will be retained on the existing property.

Mr. Nauman said the fifth request is that the plan be considered at the same time for preliminary and final plan approval, given the nature of the three lot subdivision. Mr. Phillips noted that the Borough on a regular basis considers preliminary and final plan approval at the same time.

Mr. Nauman indicated that the sixth and final request for a waiver concerns the width of the existing driveways. Mr. Nauman said widening of the driveways to the 20' width requirement is not proposed so that no additional stormwater runoff will be created.

Mrs. Wolbert stated her concern that sidewalks should be installed in the developments whenever possible.

#### Request by Eastburg Community Alliance for Free Parking Downtown for Christmas Season

Cheryl Hayne, Downtown Manager for the Eastburg Community Alliance (ECA) said the ECA Board requests that Council grant "free parking" downtown for the several days leading up to Christmas Day. Mr. Phillips noted that with Christmas being on a Saturday it probably would make sense to grant the "free parking" for the work week prior to Christmas starting on Monday December 20, 2010. After discussion, Mr. Henning made a motion, seconded by Mr. Reese to grant the request for "free parking" downtown for December 20-25, 2010 as requested. The motion carried unanimously.

#### Resolution No. 28-2010 Approving Joinder Deed for Michael Davison/Diane Williams Property, Harris Street

Mr. Williamson said he has reviewed the proposed deed prepared by Attorney Bill Cramer for the jointure of two lots owned by Michael Davison/Diane Williams located between Harris Street and North Courtland Street. Mr. Williamson said the property owners are requesting the required tax certifications from the Monroe County Tax Claim Bureau. Mr. Brozsky made a motion, seconded by Mr. Repsher to adopt proposed Resolution No. 28-2010 approving the joinder deed as submitted; subject to submittal of the required tax certifications for the two parcels. The motion carried unanimously.

#### Resolution No. 29-2010 – Official Designation of Intent to Use Borough Funds to Initially Finance The East Stroudsburg Dam Rehabilitation Project Cost

Mr. Phillips said the Borough just received notice that its application for a low interest PennVest Loan to finance the balance of dam rehabilitation project cost not covered by the H2O grant, was not approved by PennVest at their most recent meeting. Mr. D'Alessandro said PennVest was not able to approve the Borough's application because the Pennsylvania Department of Environmental Protection (DEP) has not yet issued the Borough its permit required for the actual dam rehabilitation work. Mr. Phillips said the Borough still hopes to obtain approval for the PennVest loan at the April 2011 PennVest Board meeting; however, we need to proceed with the construction of the project in 2011 as a condition to receive the H2O grant funds therefore we can request a letter of no prejudice from PennVest. Resolution No. 29-2010 declares the Borough's official intent to use Borough funds to initially finance the project cost to be covered by the PennVest loan, prior to receipt of the PennVest monies. Mrs. Wolbert made a motion, seconded by Mr. Repsher to adopt proposed Resolution No. 29-2010 as submitted. The motion carried unanimously.

#### Proposed 2011-2015 Five Year Capital Improvement Program

Mr. Phillips said he has submitted a copy of the proposed Five Year Capital Plan to Council; but due to the late hour of this meeting, he does not intend to review the details of the Capital Improvement Program tonight. Mr. DeLarco noted that Council has

scheduled two budget work session meetings later in the month to review the capital plan and proposed Borough budget.

#### Public Comments – New Business

Sonya Cole asked Council a question on the Pentz property.

#### Correspondence

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

1. Notifications from the Monroe County Assessment Office that two tax parcels owned by the Borough will be considered in the taxable category effective for the 2011 year. The two parcels include the former ESU Business Accelerator building and parking lot, and the adjoining Borough parking lot on N. Kistler Street, both of which have been in exempt status because of being part of the Keystone Opportunity Expansion Zone Designation. Mr. Phillips said the Borough should apply for exemption on the N. Kistler Street parking lot parcel and he would recommend appealing the assessment for the former Business Accelerator building property.
2. A letter from the United Way of Monroe County concerning the 2010 Fund Raising Campaign.
3. A copy of the latest remedial action progress report for the Smith Gas Station site on North Courtland Street as prepared by MEA, Inc. and submitted to Pennsylvania DEP.

#### Reports

Mr. D'Alessandro reviewed his written engineer's report previously submitted to Council. Mr. D'Alessandro noted that the Brodhead Creek Regional Authority has had a contractor working on the emergency waterline interconnection located on the Veteran's Bridge and it appears that there is a leak in the waterline leading to the bridge on the East Stroudsburg side, within the dike. Mr. D'Alessandro also noted that the stormwater work on the Summa and Irracane properties on East Broad Street has been completed; but the Borough will need to hold funds to insure that the grass grows back in properly next spring. Finally, Mr. D'Alessandro reported that the proposed stormwater infiltration area proposed by East Stroudsburg University for their new housing project off of Smith Street did not pass inspection today; and the plans will have to be revised to address the stormwater management.

Ashley Puderbach reported that East Stroudsburg University students this week voted to approve funding for the proposed new University Center construction project which will now proceed for full planning with an opening date proposed for Fall 2018.

Mr. Williamson suggested that the Borough meet with representatives of East Stroudsburg University concerning the proposed parking revisions sometime prior to the next regular Council meeting which will be December 7, 2010.

Mayor Martinelli reported that the "STOP" sign on Elizabeth Street at Lions Street is too far back from the Vine Street intersection. This causes students and other people driving on Elizabeth St. to stop short of the intersection.

Mr. Repsher stated that he is still receiving complaints from residents at the Stones Throw Development concerning the brush that needs to be cut back on the Zacharias Pond Park property.

Mr. DeLarco said that he had forwarded onto other Council members pictures that he had received from Janice Giannolla of North Courtland Street concerning uncovered cars on her neighbor's property immediately in back of her residence. Mr. DeLarco asked Mr. Phillips to place on the next Committee agenda discussion of the Boroughs ordinance requirements concerning unlicensed uncovered vehicles.

Mr. Phillips reported that the Salvation Army will be holding free food distributions and toy distributions for the Christmas holiday and the Stroud Area Regional Police Department has requested that the Borough restrict parking on Washington Street on those days to permit traffic to move on Washington St. while allowing cars to queue up in line for entering the Salvation Army. Mr. Phillips reported that the next Mid-Eastern County Association of Boroughs meeting will be held at Fountain Hill Borough on Wednesday November 24, 2010. Mr. Phillips reported that the water level at the East Stroudsburg reservoir continues to rise and the reservoir is now safely within normal levels for this time of year. Mr. Phillips reported that an application submitted by the Stroud Regional Open Space & Recreation Commission (SROSRC) for improvements to the levee trail has been approved for a \$37,000 grant from the Pennsylvania Department of Conservation and Natural Resources (DCNR). The application is for surfacing the top of the levee from the Veteran's Bridge to the high school property with a semi-permeable material. Finally, Mr. Phillips inquired of Council whether they wish to schedule the up-coming budget work session meetings at 7:00 or 7:30 p.m. The consensus of Council was to schedule both meetings at 7 p.m.

#### List of Bills Payable

Mr. Brozusky made a motion, seconded by Mr. Repsher to approve the list of bills payable and to ratify payroll and expenditures made through November 16, 2010 as submitted. The motion carried unanimously.

#### Executive Session

At 10:05 p.m. Mr. Repsher made a motion, seconded by Mr. Brozusky to adjourn into executive session. The motion carried unanimously.

At 10:20 p.m. Council members reassembled in the meeting room and Mrs. Wolbert made a motion, seconded by Mr. Henning to reconvene the public meeting. The motion carried unanimously. Mr. Williamson reported that the executive session had been held to discuss two litigation matters and a personnel matter.

#### Resolution No. 30-2010 Appointment to Shade Tree Commission

Mrs. Wolbert made a motion, seconded by Mr. Repsher to adopt proposed Resolution No. 30-2010 appointing Margaret Sexton-Stiff to the Borough Shade Tree Commission for the balance of a five (5) year term ending April 30, 2013. The motion carried unanimously.

#### Wal\*Mart Assessment Appeal Settlement

Mr. Williamson said in order for the Borough to participate in the proposed settlement of the tax assessment appeal with Wal\*Mart, Council must authorize signing of the settlement agreement. Mr. Reese made a motion, seconded by Mr. Brozusky to authorize execution of the proposed settlement agreement as submitted, which stipulates assessed values for the property for the year 2006-2011. The motion carried unanimously.

#### Adjournment

With no further business Mr. Repsher made a motion, seconded by Mrs. Wolbert to adjourn the meeting at 10:25 p.m. The motion carried unanimously.

---

James S. Phillips, Secretary