

East Stroudsburg Borough, March 26, 2015

A special meeting and Committee meeting of the East Stroudsburg Borough Council was held at the Municipal Building on Thursday, March 26, 2015. The following members were in attendance: Peter Begley, Roger DeLarco, Edward Flory, William Reese, and Sonia Wolbert (arrived 8:15 p.m.). Richard Smith was absent. Also attending were: Mayor Armand M. Martinelli; Solicitor John C. Prevoznik, Manager James S. Phillips; and Codes Official Marvin Walton.

Call to Order/Pledge of Allegiance – President DeLarco

Council President Roger DeLarco called the meeting to order at 7:30 p.m. The Pledge of Allegiance was led by Nicole Mark.

Moment of Silence

A moment of silence and reflection was observed by all in attendance.

Public Comments - Agenda Items

None.

Action on Bid Proposals received 3/13/15 for Removal and Disposal of Sewage Sludge from Wastewater Treatment Plant

Mr. Phillips said two bids were received for the sludge removal contract. The low bid is from Solid Waste Services, Inc. (doing business as J. P. Mascaro & Sons); however they submitted an exception to the bid specifications and cited that they do not have to follow the requirements for disposal of all waste at the county-designated landfills because of their existing long-term contract for landfill space at Keystone Landfill.

Mr. Prevoznik said the Monroe County Municipal Waste Management Authority had adopted a County Waste Plan pursuant to Act 101 but that Plan expired in 2008. A new Plan was adopted in April 2014. Mascaro asserts they have an existing contract for landfill capacity with Keystone that was extended in 2009, and thus pre-dates the current County Plan. The Waste Authority cited Mascaro for taking waste to Keystone in violation of the County Plan, and that matter is now in litigation in Lackawanna County. The Authority did not fight a preliminary injunction request by Mascaro, and is no longer citing Mascaro pending the outcome of that litigation. Mr. Prevoznik said the Borough is between a rock and a hard place, because we need to dispose of sewage sludge now and cannot wait for the outcome of the litigation between the Authority and Mascaro.

Bill Fox, General Counsel for J. P. Mascaro, was present and stated that they believe they have a valid exemption from the County Plan requirements under Section 506 (b) of Act 101 regarding non-interference with existing waste disposal contracts. Mascaro is not challenging the County Plan; that would have to have been an appeal filed with the State Environmental Hearing Board. Mascaro is still paying the County \$8.50 per ton administrative fee for waste disposed of at Keystone. Mr. Fox said the Mascaro proposal will save the Borough money over the life of the contract. Mr. Fox also said, that in response to the Borough's concern for possible litigation over this issue, Mascaro is willing to indemnify the Borough if it enters into the contract with Mascaro.

Mr. Reese made a motion, seconded by Mr. Flory, to adjourn into executive session at 7:48 p.m. to discuss the potential legal issues involved with this sewage sludge bid proposal; the motion carried unanimously.

Council members reassembled in the meeting room at 7:59 p.m., and Mr. Flory made a motion, seconded by Mr. Reese, to reconvene the public meeting. The motion carried unanimously.

Mr. Prevoznik said Council discussed the potential litigation aspects of this matter. Mr. Begley asked what are tipping fees? Mr. Fox said tipping fees on each ton of waste disposed of at the landfill include the state per ton fee of \$4.25, the County administrative fee of \$8.50, and the disposal fee charged by the landfill operator. Mr. Reese asked what is a contract for airspace? Mr. Fox said that refers to the landfill permitted capacity for disposal.

After further discussion, Mr. Flory made a motion, seconded by Mr. Reese, to accept the proposal from and award the sewage sludge disposal contract to J.P. Mascaro based on their low bid proposal, subject to Mascaro providing the Borough with indemnification in form satisfactory to the Borough Solicitor. The motion carried unanimously.

#### Committee Meeting Discussion Items

Council proceeded with the Work Session Meeting discussion list.

Mrs. Wolbert made a motion, seconded by Mr. Begley, to adjourn into executive session at 8:38 p.m. to discuss the two appeals filed from decisions of the Property Maintenance Board of Appeals; Charles and Wanda Lasher v. PMBA and John Tarhovicky v. PMBA. The motion carried unanimously.

Council members reassembled in the meeting room at 8:55 p.m., and Mr. Begley made a motion, seconded by Mrs. Wolbert, to reconvene the public meeting. The motion carried unanimously.

#### Lasher and Tarhovicky Appeals from Property Maintenance Board of Appeals

Mr. Flory made a motion, seconded by Mr. Reese, to authorize Todd Weitzmann, Solicitor for the PMBA, to take the lead on filing a response to the two appeals filed on decisions of the PMBA with Mr. Prevoznik to assist as needed; the motion carried unanimously.

#### Adjournment

With no further business, Mr. Flory made a motion, seconded by Mrs. Wolbert, to adjourn the meeting at 8:56 p.m.; the motion carried unanimously.

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James S. Phillips, Secretary