

East Stroudsburg Borough, May 21, 2013

A regular meeting of the East Stroudsburg Borough Council was held at the Municipal Building on Tuesday, May 21, 2013. The following members were in attendance: Peter Begley, Roger DeLarco; Ed Flory, Don Repsher, William Reese, and Sonia Wolbert. Also attending were: Manager James S. Phillips; Solicitor John C. Prevoznik; Codes Official Marvin Walton; Engineering Representative Samuel D'Alessandro of R.K.R. Hess Associates, Inc.; and Stroud Area Regional Police Department Lieutenant Kevin Transue.

Call to Order/Pledge of Allegiance – President DeLarco

President DeLarco called the meeting to order at 7:30 p.m. The pledge of allegiance was led by David Czahor.

Minutes of May 7, 2013 Regular Council Meeting

Mr. Flory made a motion, seconded by Mr. Reese, to approve the minutes of the regular council meeting held Tuesday, May 7, 2013 as submitted; the motion carried unanimously.

SARPD Report for April 2013

Lieutenant Kevin Transue reported two “Springfests” were held this year by East Stroudsburg University students. Lt. Transue also reported that the Department recently completed testing for patrol officer applicants. Mr. Begley asked if bicycle patrols will be used this summer? Lt. Transue indicated yes, as soon as weather permits.

Public Hearing on Proposed Ordinance No. 1261 Amending the Codified Ordinances of East Stroudsburg Borough to Establish Requirements for Licensing and Inspection of Residential Rental Properties

Mr. Prevoznik swore in Marvin Walton, Codes Official for the Borough, to testify on the proposed ordinance. Mr. Walton submitted the following documents which were introduced into the record for the hearing:

- Exhibit 1 – notice of public hearing on proposed ordinance.
- Exhibit 2 – Proof of publication of notice in Pocono Record on May 14, 2013.
- Exhibit 3 – copy of proposed Ordinance No. 1261.
- Exhibit 4 – copy of letter transmitting Ord. to Monroe County Law Library.
- Exhibit 5 – copy of letter transmitting Ord. to Pocono Record.
- Exhibit 6 – sign in sheet for hearing.
- Exhibit 7 – List of people advised of hearing from last public meeting.

Mr. Walton noted that Borough Council has been reviewing the proposed Rental Housing Licensing Program for approximately two years now. The impetus for inspections was the fatal fire several years ago on Analomink St., where lives were lost.

Mr. Walton reviewed the provisions of proposed Ord. No. 1261 and noted that many other college towns – almost all of the SSHE communities, for example – already have implemented licensing and inspection programs for rental properties.

Upon question from Mr. Prevoznik, Mr. Walton noted that this Ord. does not remove liability from a tenant causing violations – landlords are not responsible for the specific acts of their tenants, per se. Mr. Walton then explained the requirements for having a local property manager.

Next Mr. Walton reviewed the provisions for maintenance of a regulated unit. Landlords are required to have rental agreements with all tenants. Mr. Walton reviewed the procedures for required evictions of tenants and determination of disruptive conduct by tenants.

Mr. Prevoznik asked what violations can a landlord be cited for? Mr. Walton indicated violations of the property maintenance code. Mr. Prevoznik asked about obligations of occupants under the Ord.? Mr. Walton reviewed those provisions, including the duty of tenants to allow inspections of the premises.

Next Mr. Walton reviewed the detailed licensing provisions, based on an August 1 – July 31 year; and the fee schedule for the annual licenses.

Mr. Prevoznik asked about inspection criteria? Mr. Walton said the inspections will be governed by the International Property Maintenance Code of 2006, as adopted by the Borough.

Next Mr. Walton reviewed provisions for failure to obtain licenses or violations of the Ord.; including appeals, suspensions, and revocations by the Property Maintenance Board of Appeals (PMBA). Mr. Walton explained by makeup of the PMBA under the Ordinance.

Mr. Begley questioned the requirement that all occupants have a lease? Mayor Martinelli asked whether a landlord could include language in the lease requiring eviction of tenants whose actions cause a disruptive conduct report? Mr. Prevoznik indicated yes; although he would encourage all landlords to get their own legal counsel. Mr. DeLarco opened up the hearing to questions from the audience.

Jim Fondi, of Stroudsburg, asked if a landlord has four (4) unrelated tenants, must he have a separate lease for each? Mr. Walton indicated yes. Mr. Fondi asked if the inspection criteria will be the same as used for Certificate of Occupancy inspections? Mr. Walton said the Property Maintenance Code is more comprehensive than the CO requirements.

Bill Zacharias of 468 N. Courtland St. also questioned the requirement for separate leases? Mr. Prevoznik clarified that all tenants must have a written lease; and each tenant must receive a copy of the lease. Mr. Zacharias asked if a Unit is not rented as of August 1, is the annual fee still due? Mr. Walton replied no; but also stated that the fee is due upon rental of the unit. Mr. Zacharias questioned the penalties under the Ord. – first violation \$200? Mr. Prevoznik said the landlord is not fined for tenant actions.

Pat Jeanschild of 126 East Brown St. asked if evictions are required if three disruptive conduct reports are filed within a 24 month period? She thought it was only for 12 months. Ms. Jeanschild noted that visitors, not tenants, often create a lot of the problems that do occur.

David Czahor of 167 Analomink St. asked about the definition of dwelling unit; and was answered by Mr. Walton. Mr. Czahor asked whether the Borough can provide information on tenants who have been evicted from other units? Mr. Prevoznik said that information probably could be requested under a Right to Know application.

Sonya Cole of 288 Marguerite St. asked about the fees? Mr. Walton said that will be covered in the next hearing for proposed Ord. 1268.

Spiro Darcinos of Stroud Township said the stated reason for this program is public safety – but how will Borough find out whether more than four unrelated persons may be living in a residence? Mr. Walton said that is the job of the Inspectors and the inspections. Mr. Prevoznik also noted that the Ord. does include provisions for the Borough to seek to obtain administrative search warrants.

Don Heller of DNA Property Management said he agrees that some action is needed to improve housing in the Borough, but noted that these requirements do not apply to owner-occupied dwellings.

Sonya Cole also questioned what will prohibit landlords from renting to more than four persons? Mr. Prevoznik said there will always be people who do not comply, and regulations will still be subject to the judicial process.

Bill Zacharias asked about the application of a third disruptive conduct report? Mr. Walton said a landlord is required to give notice to tenants of previous disruptive conduct reports.

Jim Fondi asked if a new lease is required even if there is an existing lease in effect? Mr. Walton said this is covered by section 124-3 G.(2) of the ordinance.

Pat Jeanschild said she is not against students, but does not feel residents should have to put up with unacceptable behaviors. Mrs. Wolbert said it all comes down to this being a “quality of life” issue.

Mayor Martinelli said the landlords here tonight are not the ones causing problems.

Mr. Walton noted that the proposed Ord. also requires that landlords must be current in paying taxes, water/sewer charges, etc. to be issued their rental license.

Don Ludwig of East Stroudsburg asked about requirements for bringing a residence “up to Code”? What if 40 days is not enough time? Mr. Walton said the Borough is looking for compliance; and would work with landlords as needed.

With no further questions, Mr. Flory then made a motion, seconded by Mr. Reese, to close the hearing; the motion carried unanimously.

Public Hearing on Proposed Ordinance No. 1268 – An Ordinance of East Stroudsburg Borough Council Establishing Fees for Inspections, Appeals, and Other Actions Required Under Chapter 124, Licensing and Inspection of Residential Rental Properties

Mr. Phillips reviewed the fee schedule under proposed Ord. No. 1268 for license fees, inspections, appeals, and other actions.

Sonya Cole questioned the discounted fee for rental complexes with more than 30 units? How many are in the Borough? Mr. Walton noted Greentree Drive/Parktown apartments, Braeside Apartments, and possibly the Deshler-Griffin apartments off King St.

Don Heller said Council should consider a lower license fee, but charge higher inspection fees. He questioned the \$45 fee for a third inspection, and whether two part-time inspectors can do all the required inspections. Mr. Phillips reviewed in detail the proposed costs for the program used in coming up with the proposed \$55 annual license fee per unit.

Bill Zacharias asked if Council could waive the license fee for Borough resident landlords only? Mr. Flory said that would not be possible.

Marie Summa of 249 East Broad St. said she has compared the proposed fee to those charged by other college towns, and feels ours is higher.

Spiro Darcinos asked if he could receive a discounted rate for having 30 units in three locations; and was advised that does not apply.

Sonya Cole said the license fee could encourage landlords to rent to students instead of to families.

Mr. Phillips asked that the following exhibits be introduced into the record for the public hearing:

Exhibit A – notice of public hearing on proposed ordinance.

Exhibit B – Proof of publication of notice in Pocono Record on May 14, 2013.

Exhibit C – copy of proposed Ordinance No. 1268.

Exhibit D – copy of letter transmitting Ord. to Monroe County Law Library.

Exhibit E – copy of letter transmitting Ord. to Pocono Record.
Exhibit F – sign in sheet for hearing.

Mrs. Wolbert then made a motion, seconded by Mr. Repsher, to close the hearing; the motion carried unanimously.

Proposed Ordinance No. 1261 Amending the Codified Ordinances of East Stroudsburg Borough to Establish Requirements for Licensing and Inspection of Residential Rental Properties

Mrs. Wolbert made a motion, seconded by Mr. Repsher, to authorize consideration of enactment of proposed Ordinance No. 1261 at the Tuesday, June 4, 2013 meeting. The motion carried by a vote of 5-1, with Mr. Begley voting no.

Proposed Ordinance No. 1268 – An Ordinance of East Stroudsburg Borough Council Establishing Fees for Inspections, Appeals, and Other Actions Required Under Chapter 124, Licensing and Inspection of Residential Rental Properties

Mr. Repsher made a motion, seconded by Mrs. Wolbert, to authorize consideration of enactment of proposed Ordinance No. 1268 at the Tuesday, June 4, 2013 meeting. The motion carried by a vote of 5-1, with Mr. Begley voting no.

Public Comments – Other Agenda Items

None.

Public Comments – New Business

Mark Idhe of 337 Merten St. described a situation involving illegal parking on his street when he called the Police Department, but did not receive satisfaction as to how the matter was handled by the officer involved. Mr. Idhe was advised that that was a Police Commission matter, not for Borough Council. Mayor Martinelli said he would check with Captain Kimmins on this matter for Mr. Idhe.

Correspondence

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

- i. Smithfield Township – Public Hearing July 9, 2013 on proposed Ordinance to Adopt Official Map for Township
- ii. Glace Associates, Inc. – Act 14 Notification by Brodhead Creek Regional Authority for renewal of water allocation permit
- iii. Northeast Pennsylvania Alliance (NEPA) – Meeting on new designation of Metropolitan Planning Organization (MPO) for Monroe, Carbon, Pike, and Schuylkill Counties

Reports

Mr. D'Alessandro reviewed his written Engineers Report previously submitted to Council.

Mr. Prevoznik briefly reviewed new considerations involved with renewal of the Borough's water allocation permits before the PA DEP.

Mrs. Wolbert stated she is still working on revitalization efforts for the Borough and is looking for volunteers.

Mr. Begley said the Fire Company is looking for the Borough to install the new flagpole at the Fire Station. Also, he has been auditing a class at ESU on Public Budgeting.

Mr. DeLarco asked Council members to attend the next meeting early, for review of the Manager's Performance Evaluation. Also, Mr. DeLarco said he had received

several letters that he will respond to; and asked about ordinance requirements for conversion of residences – thinks we should require installation of separate water meters.

Mr. Phillips noted that Council has received a copy of the completed 2012 year Audit Report from Anthony Ardito, C.P.A.

List of Bills Payable – May 21, 2013

Mr. Flory made a motion, seconded by Mr. Reese, to approve the list of bills payable as submitted and to ratify payroll and expenditures made to date; the motion carried unanimously.

Executive Session

None.

Adjournment

Mr. Repsher made a motion, seconded by Mrs. Wolbert, to adjourn the regular meeting at 10:23 p.m.; the motion carried unanimously.

James S. Phillips, Secretary