

East Stroudsburg Borough, May 7, 2013

A regular meeting of the East Stroudsburg Borough Council was held at the Municipal Building on Tuesday, May 7, 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; and Engineering Representative Samuel D'Alessandro of R.K.R. Hess Associates, Inc.

Call to Order/Pledge of Allegiance – President DeLarco

Vice President Reese called the meeting to order at 7:33 p.m. The pledge of allegiance was led by Ken Brown.

Minutes of April 16, 2013 Regular Council Meeting

Mr. Flory made a motion, seconded by Mr. Repsher, to approve the minutes of the regular council meeting held Tuesday, April 16, 2013 as submitted; the motion carried unanimously.

Mr. DeLarco arrived at the meeting at this time and presided over the balance of the agenda.

Proposed Fourth Amendment to Intermunicipal Water Service Agreement and Facilities Transfer Agreement with Brodhead Creek Regional Authority

Ken Brown, Manager for the Brodhead Creek Regional Authority was present to review the proposed agreement that had been discussed at a previous committee meeting. Mr. Brown said the Authority's permits from Pennsylvania Department of Environmental Protection (DEP) have been "tied up" with the issue of water allocation permits applied for by the Borough. Since DEP will now be reviewing the BCRA permits, they will also review the Borough's permits. The intent of this new Amendment is to extend the term of the agreement between BCRA and the Borough by 25 years. It will also approve the Authority service area within Smithfield Township, and amend language deleted from a previous amendment.

Mr. DeLarco asked if the amount of water sold by the Borough to BCRA is increasing? Mr. Brown said it is now up to about 125,000 gallons per day; future increases will be dependent upon the economy. Mr. Brown said the urgency is that BCRA must submit all its required information to DEP by May 31, 2013.

After discussion, Mr. Reese made a motion, seconded by Mr. Flory, to authorize preparation and advertising of an ordinance to approve the proposed Fourth Amendment to the Water Service Agreement with BCRA for action at a special meeting on May 28, 2013 as discussed; the motion carried unanimously.

Public Comments - Agenda Items

None.

Public Hearing on Community Development Needs of the Borough that may be addressed by Use of Community Development Block Grant (CDBG) Funds

Karen Parish of Mullin & Lonergan Associates was present, and said that the Borough has used CDBG funds for various projects to benefit low to moderate income families, such as the housing rehabilitation program, installation of handicapped ramps, construction of water improvements and sidewalk replacements, etc. This year the timing of the application process is different; the final allocation numbers may not be available until June, so the 2<sup>nd</sup> public hearing on the proposed use of funds may not be conducted until July or later. Ms. Parish referred to the handout given to Council which covers the eligible uses of CDBG funds.

Mrs. Wolbert asked about using CDBG funds for homebuyer incentives? Ms. Parish said CDBG funds can be used to pay down payments on mortgages for low income buyers; also the Borough can apply for HOME funds for first-time buyer assistance. Mrs. Wolbert asked if CDBG funds are used, for example for down payments, do the same CDBG requirements come into play, like for abatement of lead-based paint? Ms. Parish said the requirements may not be quite as restrictive. Mrs. Wolbert asked Ms. Parish to send information on these programs to the Borough.

Mr. DeLarco opened the hearing to comments from the audience. Sonya Cole of 288 Marguerite St. asked that Council consider using CDBG funds to make the old train station accessible from the two rear entrances closest to the railroad tracks; also to use CDBG funds for more streetscapes in the downtown area.

Deanne Romero of 201 Chickadee Ct. said the area needs more sidewalks. She was advised to contact Stroud Township concerning sidewalks in her particular neighborhood.

With no further comments, Mr. Flory made a motion, seconded by Mrs. Wolbert, to adjourn the public hearing; the motion carried unanimously.

Public Hearing on Proposed Ordinance Amending the Code of the Borough of East Stroudsburg, Chapter 157 Entitled Zoning, To Permit By Right Places of Worship In the C-1, C-2, S-1, I-M, I-U, I-UA, and C-1A Zoning Districts

Mr. Reese made a motion, seconded by Mr. Begley, to open a public hearing on the proposed Ordinance; the motion carried unanimously. Marvin Walton was sworn in to give testimony on proposed Ord. 1273 on behalf of the Borough. Mr. Walton stated a summary notice of the hearing on the proposed ordinance was advertised in the Pocono Record on April 29, 2013, and a copy of the notice and ordinance was provided to the Monroe County Law Library on March 14, 2013. Mr. Walton said the proposed Ordinance had been submitted to the Borough Planning Commission for review, and the PC recommended approval at its Feb. 12, 2013 meeting. The proposed ordinance was also submitted to the Monroe County Planning Commission on 2/13/13, and comments were received back from MCPC on 3/14/13. Mr. Walton said this ordinance basically permits Places of Worship as permitted uses in the rest of the zoning districts within the Borough – except the R-1 district – to avoid any issues with the zoning ordinance being exclusionary.

Pastor Eliezer Candelario spoke in favor of the proposed ordinance, and thanked Council for considering this change, which he said will help his church and others serve the community.

Rev. Josue Lopez also spoke in favor of the proposed ordinance.

Mr. Prevoznik moved that exhibits 1-6 be moved into the record, as follows:

- Exhibit 1, proof of publication of notice of proposed ordinance
- Exhibit 2, copy of notice and proposed ordinance
- Exhibit 3, letter of recommendation from Borough Planning Commission on the proposed ordinance
- Exhibit 4, copy of notice to Monroe County Planning Commission and copy of March 14, 2013 comments from Monroe County Planning Commission
- Exhibit 5, copy of notice to Monroe County Law Library
- Exhibit 6, sign-in sheet for public hearing.

Mr. Reese then made a motion, seconded by Mr. Flory, to close the hearing; the motion carried unanimously.

Pocono Community Access Television – Designation of local Cable TV channel

Steve Burgoon of Pocono Community Access Television (PCAT) said the Latino American Alliance of Northeast Pennsylvania (LAANEP) has taken on PCAT as a project, and introduced Pedro Anes. Mr. Anes said their group is asking the Borough to

request that Blue Ridge Cable Co. make available a channel for a local Education/Government channel, as required by FCC regulations. The educational channel would serve and utilize East Stroudsburg University, the area school districts, and Northampton Community College. The governmental channel would provide the ability for local governments to record public hearings, and showcase what is going on in each community. Mr. Anes presented a proposed fundraising plan, and said PCAT is asking for a \$1,000 annual donation from each municipality in the County.

Mr. Reese asked if PCAT has contacted other municipalities? Mr. Anes said they have met with Coolbaugh Township Supervisors, and will be meeting with others such as Stroud Township.

Mrs. Wolbert asked about an operating budget? Mr. Anes said he will send a copy.

Mr. DeLarco asked how many Monroe County municipalities have a franchise agreement with Blue Ridge? Mr. Burgoon said 16 of 20 do have a franchise agreement.

Mr. Flory asked if Blue Ridge would not agree to provide a channel, and if litigation resulted, who would pay for legal costs? Also, Mr. Flory expressed concerns for “controversial contents” being show on the local channel.

Mr. Begley asked, for example, what would prohibit someone from conducting an education program; teaching people to cook in the nude? He said a local channel could open the door to undesirable activities being broadcasted. Mr. Prevoznik commented that this is a very complex issue.

Deanne Romero said there is a unique opportunity here in East Stroudsburg; local and public policy issues could be displayed by Blue Ridge on the local channel.

Mr. Burgoon said the first step is that a municipality with a franchise agreement must exercise its clause to require Blue Ridge to set aside a local channel.

Mr. DeLarco suggested that PCAT and the Latino Alliance approach other municipalities with franchise agreements, to coordinate efforts for a local channel.

#### Award of Contracts for Ridgeway Street Waterline and Sewerline Replacement Projects

Mr. Prevoznik said the contractor, Locust Ridge Contractors, has returned bonds and insurances, but there are several corrections/clarifications that need to be done with the insurance before the contracts can be formally awarded.

#### Schedule Public Hearing for May 21, 2013 on Proposed Ordinance Establishing Rental Housing Licensing and Inspection Program

Mr. Walton said he sent Council the latest, and hopefully final, version of the proposed ordinance, and Mr. Phillips had prepared a revised costs estimate of the program, for determining the annual fee per unit. Mr. Walton said he had also met with local landlord Anthony Maula, but did not receive any specific comments.

Sonya Cole again expressed concern for the “3<sup>rd</sup> strike” provision as it applies to a new tenant. Mr. Walton noted that there is an appeal procedure; this provision is aimed at landlords who constantly have “problem” houses. Mr. Flory made a motion, seconded by Mr. Reese, to schedule a public hearing on the proposed ordinance to establish the program, with an annual license fee of \$55 per unit. The motion carried by a vote of 5-1, with Mr. Begley voting no.

#### Bid Proposals for 2013 Road Paving Program

Mr. Reese made a motion, seconded by Mr. Flory, to authorize advertising for bid proposals for the proposed 2013 Road Paving Program based on the proposed program discussed at the committee meeting; the motion carried unanimously.

#### Resolution No. 8 - 2013 Restating Fair Housing Policy for the Borough

Mr. Phillips read portions of the proposed Resolution restating the Borough Fair Housing Policy, including designating Codes Official Marvin Walton as the Fair Housing Officer. Mrs. Wolbert made a motion, seconded by Mr. Begley, to adopt proposed Resolution No. 8-2013 as submitted; the motion carried unanimously.

#### Resolution No. 9 - 2013 – Appointment to Shade Tree Commission

Mr. Reese made a motion, seconded by Mr. Flory, to adopt proposed Resolution No. 9-2013 reappointing Margaret Sexton-Smith to the Shade Tree Commission for a new five year term expiring April 30, 2013 as submitted; the motion carried unanimously.

#### Ordinance No. 1273 Amending the Code of the Borough of East Stroudsburg, Chapter 157 Entitled Zoning, To Permit By Right Places of Worship In the C-1,C-2, S-1, I-M, I-U, I-UA, and C-1A Zoning Districts

Mr. Begley made a motion, seconded by Mr. Repsher, to adopt proposed Ordinance No. 1273 Amending the Zoning Code regarding Places of Worship as advertised; the motion carried unanimously.

#### Modification of Debt Obligation for PennVEST Loan #83101 for Waterline Improvements; Revised Principal Amount of Loan \$899,947.12

Mr. Phillips said the total costs of the waterline replacement project funded via a PennVEST loan came in under the original estimated cost/loan amount, so PennVEST has prepared a modification agreement to adjust the principal and interest repayment schedule based on the final costs of \$899,947.12. Mr. Repsher made a motion, seconded by Mr. Flory, to approve the modification agreement with PennVEST as submitted; the motion carried unanimously.

#### Remediation of former IBW property

Mr. DeLarco said he, Mrs. Wolbert, Mr. Phillips, Mr. Prevoznik and Mr. D'Alessandro had met with Tony Dellaria of MEA, Inc. to review the status of remediation work at the IBW site. Mr. D'Alessandro said an additional monitoring well is required to be installed, to better determine whether TCE-contaminated groundwater may be going off-site. Mr. Prevoznik said there are contractual issues with the MEA proposal to do the additional monitoring well, and it is not clear from the PA DEP "frequently asked questions" whether the Act 2 relief of liability will require a covenant on the property deed or not.

After further discussion, Mr. Flory made a motion, seconded by Mr. Repsher, to authorize the Solicitor to resolve issues with insurance and indemnification on the MEA proposal for contracting for installation of the additional monitoring well at the IBW property, as required by the PA Department of Environmental Protection (DEP). The motion carried unanimously.

#### Resolution No. 10 - 2013 – Reallocation of CDBG Funds

Karen Parish had noted earlier in the meeting, that the ADA ramp project had come in under budget, and the Borough still needs to reallocate CDBG funds in order to use up FY 2009 monies in a timely manner, and to reserve additional funds for the waterline project to be undertaken on Ridgeway Street. Mr. Begley made a motion, seconded by Mrs. Wolbert, to adopt proposed Resolution No. 10-2013 reallocating FY 2009, 2010, and 2011 CDBG funds as proposed by Mullin & Lonergan; the motion carried unanimously.

### Sale of Used Parking Meters

Mr. Phillips said the Borough has about 120 old mechanical parking meters and related parts that it no longer utilizes. Mr. Reese made a motion, seconded by Mr. Begley, to authorize notice for sale of the used parking meters and parts in accordance with Borough policy; the motion carried unanimously.

### Request by Manager James Phillips to attend APMM (Pennsylvania Municipal Managers) Conference at State College PA May 22-23, 2013

Mr. Flory made a motion, seconded by Mr. Begley, to authorize Manager James Phillips to attend the PA Managers Conference at State College, with reimbursement of travel expenses in accordance with Borough policy; the motion carried unanimously.

### Public Comments – New Business

None.

### Correspondence:

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

- i. Housing Authority of Monroe County – Request for Discounted Swim Pool Passes for HAMC residents for 2013 season. Mr. Reese made a motion, seconded by Mr. Flory, to authorize sale of up to 30 season swim passes to HAMC residents at 50% of the regular season pass rate; the motion carried unanimously.
- ii. Monroe County Youth Field Day – Request for donations for Event to be held Saturday September 7, 2013
- iii. CDM Smith – Verification of Utilities for I-80 Exit 308 Reconstruction Project
- iv. Delaware River Basin Commission (DRBC) – Proposed Docket by Pocono Manor Investors PTI, LP for Wastewater Treatment Plant Service Area Modifications
- v. First Baptist Church – Request to close Harris Street by church for special service on May 26, 2013 and during Vacation Bible School at church July 22-26, 2013. Mr. Begley made a motion, seconded by Mr. Repsher, to authorize the church to close Harris St. on the requested dates; the motion carried unanimously.
- vi. Pennsylvania Department of Environmental Protection (DEP) – Inspection Report for East Stroudsburg Borough Water Well No. 1 Repairs, April 24-25, 2013

### Reports

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

Mayor Martinelli noted that the Borough had received “Tree City USA” designation for 2012 – for the eighth year in a row.

Mr. Begley noted that a representative of Cargill, Inc. had presented information on Clear Lane salt at the recent Pocono Mountains Council of Governments meeting; and Cog meetings will now be held at the Public Safety Building instead of rotating among municipalities.

Mrs. Wolbert noted she attended the recent Economic Summit at East Stroudsburg University; the main speaker was former Mayor Tom Murphy of Pittsburgh.

Mr. DeLarco noted that the Regional Police Dept. recently received a study on the enforcement of vehicle noise. Mr. DeLarco asked Mr. Walton for a timetable on using the new Codes software; Mr. Walton indicated by the end of May. Mr. DeLarco said the Borough should require a separate water meter and service to be installed for any residential conversions.

Mr. DeLarco asked about the Ordinance for increasing Sewer Rates, and the Johnson Controls agreement? Mr. Prevoznik indicated he was working on those matters. Mr. DeLarco asked about the Sidewalk Code revisions? Mr. Phillips said RKR Hess had just sent over a new draft this afternoon.

List of Bills Payable – May 7, 2013

Mr. Begley made a motion, seconded by Mr. Flory, to approve the List of Bills Payable as submitted; the motion carried unanimously.

Executive Session for Discussion of Litigation and Real Estate Matters

None.

Special Council Meeting May 28, 2013 at 7:30 p.m.

Mrs. Wolbert made a motion, seconded by Mr. Begley, to authorize advertising of a special meeting and Committee meeting of Council on May 28, 2013, with the regular Committee meeting date of May 30, 2013 not to be held; the motion carried unanimously.

Adjournment

With no further business, Mr. Reese made a motion, seconded by Mrs. Wolbert, to adjourn the meeting at 10:05 p.m.; the motion carried unanimously.

James S. Phillips, Secretary