

**MOUNT JOY BOROUGH COUNCIL**  
**June 6, 2016 Minutes**

The Mount Joy Borough Council held its regular meeting on June 6, 2016, at the Mount Joy Borough Office.

President Glessner called the meeting to order at 7:00 pm.

Roll Call- Present were Councilors Deering, Ginder, Glessner, Millar, Murray, Reese, Seidel, Smeltz, Youngerman, and Mayor Bradley. Also present were Borough Manager, Scott Hershey; Public Works Director, Dennis Nissley; Police Sergeant Scott E. Drexel; Codes and Zoning Officer, Stacie Gibbs; Administrative Assistant, Andrea Zell.

Mayor Bradley gave the invocation, and the Pledge of Allegiance followed.

Glessner announced there would be an executive session to discuss litigation matters following the meeting and a decision may follow.

On a **MOTION** by Ginder, and second by Seidel, approval was given to accept the agenda for the June 6, 2016, Council meeting.

*Motion carries unanimously.*

**Public Input Period**

Ned Sterling, 13 W. Main Street, stated he is in favor of the Council Meeting Packet Public Distribution Policy. Sterling asked for an explanation of disorderly conduct in reference to item 10.B on the agenda, a motion to authorize the Borough Solicitor to draft and advertise an ordinance establishing requirements for disruptive conduct for residential rental units and requiring the owner/manager to ensure that occupants comply with applicable codes and regulations. Gibbs said disruptive conduct does not include code violations. She said it would involve police action for things under the law such as noise and public drunkenness. Reese added that this ordinance would require landlords to take action after 3 offenses when tenants are in violation of disruptive conduct. He reiterated that the ordinance is designed to protect the general public.

Sterling asked if the Borough is getting a new engineer. Hershey said there will be a discussion regarding request for proposals during this meeting and whether or not Council would like to move forward on them.

Justin Linderman, 126 E. Main Street, asked if the draft ordinance for disruptive conduct will be available to view before Council approves the ordinance. Reese said yes.

Emmanuel Hoffer, 82 E. Main Street, asked if the ordinance would cost the landlords money. Reese said no. Hoffer asked how many disturbances were reported last year. Mayor Bradley said that data is not before us but advised Hoffer to request that information from the Police. He said the Police Department has received many complaints from Borough residents on multiple occasions and there has been no way to ensure that action was being taken by landlords to remedy the problem. This ordinance will require landlords to take action when tenants are in violation of public disturbances three times. Gibbs said that over the last year Council has taken action to amend the Borough ordinance so that if property owners live outside of the county, they are required to have a property manager that is local. She explained that in the past, some landlords did not know that a disturbance had taken place at their rental property. This ordinance facilitates communication with the property owner as well as showing tenants that they need to maintain their home and their behavior on the property. Mayor Bradley said there will be additional conversations and engagement with landlords at the Public Safety meetings. Reese said there have been several discussions at the Public Safety meetings regarding this matter. He reminded all in attendance that the Public Safety meetings are the ideal place to bring their concerns and welcomed input.

**Report of Mayor**

Mayor Bradley provided and reviewed a written monthly report for May. Mayor Bradley thanked the Memorial Day Parade Committee for another great parade. He said they have set the standard within the County for parades and have helped to maintain the long standing tradition of honoring those who gave their lives in defense of our Nation. Bradley said he heard numerous praises from citizens and attendees.

Bradley announced that by working with Senator Pat Toomey, honors have been bestowed upon Harold Billow for his role in service to our Nation, as well as his effort to preserve the memory of those lost during the Malmedy Massacre. On May 26, 2016 remarks were given in the United State Senate in recognition of Billow specifically and those who lost their lives at Malmedy. There will be a formal event locally where Billow will be presented with those comments.

Bradley reported that another initiative he has started is to ride along with each police officer and expects to have this completed in June.

**Report of the Chief of Police**

Scott E. Drexel, Police Sergeant, provided and reviewed a written monthly report for April 15, 2016, through May 14, 2016. The report showed 39 traffic arrests and 18 criminal arrests for the month. There were 66 UCR reportable incidents and 458 CAD incidents for the month, with a total of 1894 incidents year to date. Monies collected by the Police Department for the month for tickets, permits, reports, and services totaled \$2,162.15.

Murray noted that there was a discrepancy in the DUI numbers. Drexel said he would have the Chief check the report. Murray inquired about a charge paid for DUI tests from the bill list. Smeltz said we are responsible to make those payments and we collect payment after the criminal prosecution is complete.

**Report of Fire Department Mount Joy (FDMJ)**

Philip Colvin, Fire Chief, FDMJ, provided and reviewed a written monthly report for April.

Colvin reported that a Fire Police Officer became dehydrated at the Memorial Day Parade. The officer spent 2 days in the hospital and has been released and is back in service. Colvin said the proposals for the truck replacement have been received and are being reviewed. The contractor for the building project finished his proposal and it came in under budget.

#### **Report of Main Street Mount Joy (MSMJ)**

Kim Brewer, MSMJ Manager, provided and reviewed a written monthly report for May.

Reese asked if Crafter Hours is staying in the Borough. Brewer said yes due to a space issue they are moving to another location in the Main Street corridor. Deering asked if MSMJ could provide an updated budget. Brewer said yes. Millar asked if the music instruments for the Music Is Art project are donated. Brewer said yes.

#### **Report of the Milanof-Schock Library (MSL)**

Barbara Basile, Executive Director of Milanof-Schock Library, provided and reviewed a report for April.

Seidel asked if the Notary and Passports are revenue generating. Basile said yes.

#### **Report of Codes and Zoning Officer**

Stacie Gibbs, Codes and Zoning Officer, provided and reviewed a written monthly report for April.

Gibbs reported that the office building structure at 240 West Main Street was demolished. Glessner asked if the Historical Society saved anything from the building. Sterling said pictures were taken of the building from across the street but nothing was removed from the building. Reese asked why the permit fees were substantially under budget at this time. Gibbs explained that it is difficult to budget for that line item. She reminded Council that last year at this time, the same situation was occurring and they exceeded the budget by the end of the year.

Seidel asked for Gibbs' thoughts on the environmental impact regarding the transcontinental pipe line. Gibbs said her involvement has been minimal and that most municipalities have deferred their reviews to the conservation district. The Pennsylvania Department of Environmental Protection (DEP) did not have any issues. Gibbs said only .2 miles of the Atlantic Sunrise pipeline project is located in of the Borough. She said there is a public meeting scheduled that Council can attend. Hershey said he sent information to Council regarding this matter.

#### **Report of Stormwater Officer**

Ken Barto, Stormwater Enforcement Officer, provided a written monthly report for May.

Seidel asked for an update on the Florin Hill violation. Gibbs said she would have an update at the next Council meeting. Hershey said there was an inspection done at The Orchards and that he spoke with a board member from The Orchard Home Owner's Association regarding the inspection. The board member was very complimentary of the staff and their help in addressing the problems. Hershey publically thanked Ken Barto, Stacie Gibbs and Dennis Nissley for their work on the project.

#### **Report of the Borough Authority Manager**

John Leaman, Authority Manager, provided a written monthly report for May.

#### **Report of the Borough Manager**

Scott Hershey, Borough Manager, provided and reviewed a written monthly report for May.

Deering asked how discussions are going with beginning the online bill pay. Gibbs said previously there were issues with the Authority's pages and log on. Those issues have been resolved and the website has been working well. Hershey said that the Borough's accounting software requires a backup. West Lampeter Township was the emergency back up to our system but they have changed their accounting software. The Borough will need to find a backup or change our software system. Once that is done the Borough will be able to pursue online bill pay. Hershey said that if the current software needs to be replaced, it will need to be budgeted in 2017, which will delay implementing online bill payment until next year.

Deering asked if the rail enhancement is on the 2017 Transportation Improvement Program. Hershey said the funding is in place for the rail enhancement project.

#### **Approval of the Minutes of the Previous Meeting**

Glessner requested a motion to approve the minutes from the regular Borough Council Meeting held on May 2, 2016, and the Joint Council/Borough Authority Board Meeting held on May 25, 2016. Youngerman requested that the approval be split into two separate motions. Glessner agreed.

On a **MOTION** by Youngerman, and second by Murray, approval was given for the regular Borough Council Meeting held on May 2, 2016. Seidel asked for a correction to be made because his name was misspelled on the last page. *Motion carries unanimously.*

On a **MOTION** by Youngerman, and a second by Murray, approval was given for the joint Council/Borough Authority Board Meeting held on May 25, 2016. *Motion carries unanimously. Seidel abstaining.*

#### **Administration and Finance Committee**

On a **MOTION** by Youngerman, and second by Murray, approval was given for a request by the Lancaster County Career and Technology Center (LCCTC) for Plan Deferral to Mount Joy Township for a Final Minor Subdivision Plan to subdivide and construct 3 single family residential lots located along Old Market Street in Mount Joy Township. Approval is conditioned upon the substitution of a new Exhibit A attached to the existing Sublease Agreement to eliminate the area marked "future area to be leased for parking."

Youngerman said he is concerned about losing parking and increased traffic at the intersection of Manheim Street and Old Market Street. Murray asked where the Borough is losing parking. Deering said that these questions were discussed at the Planning Commission Meeting. He explained that the area designated for future lease parking at Rotary Park is not currently used for parking or even graded for parking. He said there were also discussions in regards to traffic once the homes are built. The options discussed

were to possibly construct a road that connects Old Market Street to Birchland Avenue or improving the intersection of Old Market Street and Manheim Street. Gibbs said the subdivision, buildings and parking are in Mount Joy Township. Gibbs noted that the homes and stormwater facilities are all in Mount Joy Township and the LCCTC was not required to provide the plans, or request a deferment. Gibbs advised they did this as a courtesy. Gibbs advised that she emailed the Rotary Board for feedback on the leased area for future parking. Gibbs advised that the Rotary Board did not see it being a detriment to lose this area for future parking because there is available parking on Fairview Street. Mayor Bradley thanked the Lancaster County Career and Technology Center as well as D.C. Gohn for allowing the Borough to review the plans and provide comments. Gibbs said this location to construct the first three homes was selected because there are already existing public water and sewer facilities on Old Market Street, which will make it easier for the LCCTC to start building in this area. Youngerman asked if the area designated for parking was part of the 25 year lease regarding the Rotary Park. Gibbs said yes. *Motion carries. Youngerman voting no.*

On a **MOTION** by Youngerman, and second by Murray, approval was given to Open Public Hearing for Ordinance #3-16, revising floodplain regulations.

Note as stated on agenda: This action comes as a result of the Department of Community and Economic and Development (DCED) informing the Borough on January 29, 2016, that the Borough's proposed floodplain regulations met all requirements and then on April 5, 2016, after the Borough enacted the proposed regulations per DCED's guidance, the Borough being informed by the Federal Emergency Management Agency (FEMA) through DCED, that the regulations as enacted, were not in compliance with FEMA's requirements.

Ned Sterling, 13 W. Main Street, asked if the note is the reason for the revision. Hershey said yes. *Motion carries unanimously.*

On a **MOTION** by Reese, and a second by Seidel, approval was given to close the public hearing. *Motion carries unanimously.*

On a **MOTION** by Youngerman, and a second by Murray, approval was given to enact Ordinance #3-16, Amending Chapter 270, Borough Zoning Ordinance, Floodplain Regulations, definition of new construction, revising the date that Borough's first flood plain regulations were established from January 9, 1984, to October 15, 1981. *Motion carries unanimously.*

On a **MOTION** by Youngerman, and a second by Murray, approval was given for the Council Meeting Packet Public Distribution Policy with one revision to remove the section entitled "Reports provided by non- Borough organizations- subject to availability."

Ginder asked for the reason to remove the section from the policy. Murray said our objective for this policy is to be transparent. He said the organizations that provide reports are not subject to the Sunshine Act and Right to Know Law. He also said the reports are not always submitted when the packets are distributed. Ginder asked that if the reports are provided in a timely manner, would they be added to the packet. Murray said yes. Mayor Bradley said he believes it would be beneficial for the reports to be published on the Borough website to make it easier for residents to have one place to go to find the reports. He also said there needs to be a deadline for reports to be submitted and if the reports are not submitted by that time then they would not be posted on the website. Seidel agreed with the Mayor but believes by removing that line it removes the burden from the Borough. Reese said if we disseminate a report to the public that is incorrect, there will be consequences and the Borough will be held accountable. Hershey said he would like written guidance for the staff. He requested that the line be added back into the policy. Youngerman said his objective was to streamline the process so that staff is not required to make decisions on what goes in and what does not. Smeltz reiterated that the Borough is in compliance with the law and this policy is being put into place to help guide the staff in doing more than what the law requires. Smeltz said our goal is to do as much as we can to help the people of the Borough understand what is happening. Reese said we are reacting to Lancaster News Paper and not our residents. Mayor Bradley said we have heard from residents such as Ned Sterling who made mention of being supportive of this policy during public input. He also said in general the public is in favor of more transparency.

On a **MOTION** by Ginder, and second by Seidel, approval was given to amend the original motion to include the reports provided by non- Borough organizations – subject to availability, and remove the language "except the Code Officer's report" in the policy. *Motion carries. Murray voting no.*

Glessner requested a vote on the original **MOTION** as amended for the Council Meeting Packet Public Distribution Policy. *Motion carries. Reese voting no.*

#### **Report of the Public Safety Committee**

On a **MOTION** by Reese, and second by Smeltz, approval was given for a request by the Mount Joy Cyclones Football Team for an exemption to the Borough Noise Ordinance at the Lakes Park for playoff games on June 11 and June 18, from 1:00 PM to 6:00 PM. *Motion carries. Deering abstaining.*

On a **MOTION** by Reese, and second by Deering, approval was given to authorize the Borough Solicitor to draft and advertise an ordinance establishing requirements for disruptive conduct for residential rental units and requiring the owner/manager to insure that occupants comply with applicable codes and regulations.

Seidel asked if the ordinance would be advertised so the public will have the opportunity to view changes. Hershey said the first step would be for the solicitor to review it and make changes if needed and then it would be advertised. Hershey said the public will be able to view the final draft of the ordinance. Deering encouraged residents to attend the next Public Safety meeting on June 22, 2016, 6:30PM, to see revisions. Murray asked Gibbs if she drafted this ordinance. Gibbs said the Public Safety Committee requested that she draft the Ordinance and that she reviewed multiple ordinances from other municipalities which assisted her in drafting the Ordinance. Youngerman is concerned how this passes a 14<sup>th</sup> amendment due process constitutional review. He feels that we are putting our police in the position of being the jury, the fact finder and judge. Drexel said the police would have to observe the disturbance in order for a violation to be issued. Smeltz said the Code Enforcement officer is the appeals officer. Youngerman said

there is no explanation of the appeals process. Gibbs explained that the appeals process is included in the property maintenance ordinance.

Mayor Bradley pointed out that the motion used the word insure but believes the intent was to use the word ensure and suggested that the motion be amended to make that change.

On a **MOTION** by Reese, and a second by Deering, approval was given to amend the original motion to change the word "insure" to "ensure." *Motion carries unanimously.*

#### **Report of the Public Works Committee**

Dennis Nissley, Public Works Director, provided and reviewed the monthly written report for May.

Nissley said DEP completed an audit on May 12, 2016. He said the Borough received a good report and DEP provided a list of areas that need improvement. He said the inlet numbering system needs changed to connect the Borough's outfall number to the inlet numbers. DEP indicated that employee training documentation should be more specific. Nissley said that an MS4 topic must be discussed at one publicly advertised meeting per year. The discussion should be noted in the meeting minutes. Nissley said DEP suggested installation of a containment system and a roof at the equipment fueling location at the Public Works facility. Youngerman asked when the next DEP inspection is scheduled to take place. Nissley said they occur every 5 years.

Deering asked if there were plans to move the pavilions at Borough Park. Nissley said yes but there are other projects that need to be completed first.

On a **MOTION** by Seidel, and a second by Ginder, approval was given for a request by the Mount Joy Cyclones Football Team to use the Lakes Park for playoff games on June 11 and June 18, from 1:00 PM to 6:00 PM. *Motion carries. Deering abstaining.*

On a **MOTION** by Seidel, and a second by Millar, approval was given to award a bid for the Bridge Boulevard and West Henry Street Improvement Projects in the amount of \$295,977.50 to Kinsley Construction.

Seidel stated that the bid came in over the budgeted proposal by 2%. *Motion carries unanimously.*

On a **MOTION** by Seidel, and a second by Ginder, approval was given to waive sidewalk and curb inspection fees for properties involved in the Bridge Boulevard Improvements Project.

Deering asked what will be happening with parking on Bridge Blvd. Nissley said this issue will be discussed at the next Public Works meeting. *Motion carries unanimously.*

On a **MOTION** by Seidel, and a second by Millar, approval was given to authorize Borough Staff to apply for Local Technical Assistance Grant funding for AMTRAK plan review for the Jacob Street Bridge Removal Project. *Motion carries unanimously.*

Seidel opened discussion of Requests for Proposals (RFP's) for Borough Engineer.

Hershey noted that in 2015, ARRO Consulting was reappointed as Borough Engineer for one year rather than two years because of issues with the Union School Road Project. Hershey stated that Council's direction was to monitor ARRO's performance and possibly seek RFP from other firms if ARRO's performance was not acceptable. Hershey asked Gibbs and Nissley if they experienced any issues with ARRO in 2016 and both indicated that they had not. Hershey explained the value of having a consultant with the institutional knowledge of the Borough. He also explained that with the current projects in progress, making a change would have a substantial impact on operations and staff in getting a new consultant acclimated to Borough operations. In addition, with the retirement of the Borough's Stormwater Officer at the end of 2016, and transitioning to a new Stormwater Officer, now may not be the best time to change consultants. Following discussion, Council indicated that ARRO should continue as the Borough's engineering consultant for another year (2017), but that the Borough should consider RFP's for engineering services following that additional year.

#### **Public Input Period**

Ned Sterling, 13 W Main St., asked if the packet information will be available at the next meeting. Hershey said yes. Sterling asked if tenant will be given warnings by the Police. Mayor Bradley said there is language in the ordinance that allows for the Police to use discretion. Sterling asked what legal issue the Borough is involved in. Hershey said a suit was filed due to Tropical Storm Lee which involved property damage. He explained that once Council takes action the information will be public.

Bruce Haigh, 504 Rose Petal Lane, apologized to the Glessner for interrupting discussion during the meeting. Haigh said he has advocated for more transparency with public documents for 3 years. Haigh also referenced an article in the Lancaster paper that said there were seven rape kits that were not tested from the Borough. He said he sent the Mayor an email over the weekend and suggested that he comment on the article and feels it needs to be done. Mayor Bradley said he did not see an email from Haigh but will check his email. The Mayor stated that the Mount Joy Borough Police department has been in communication with the Lancaster County District Attorney's office and is currently operating in compliance with protocols set by the District Attorney's office. Mayor Bradley also pointed out that a number of municipalities did not provide information for the article in reference and that Mount Joy Borough did, which is why the public was able to read about it. The Chief has been forthright in providing this information. We will continue to communicate to victims concerning investigations as directed and as the Police Chief feels is necessary. Haigh said there has been no public comment for the citizens to know about this issue. Reese, speaking for the Public Safety Committee, said that the Committee feels comfortable with how the Chief and Mayor have handled the matter to this point.

Emanuel Hoffer, 82 E. Main St., asked where he can find the public violation report. Gibbs said it will be on the website with the packet.

#### **Any other matter proper to come before Council**

No other matter to come before Council.

**Authorization to Pay Bills**

On a **MOTION** by Youngerman, and a second by Murray, the Council approved paying the bills as presented.

GENERAL FUND	\$	350,003.43
REFUSE/RECYCLING	\$	43,505.87
CAPITAL IMPROVEMENTS FUND	\$	-
HIGHWAY AID FUND	\$	13,339.51
TAX ACCOUNT	\$	751,652.04
ESCROW FUND	\$	1,974.00
JOY LAND ACCOUNT	\$	-
GRAND TOTAL EXPENDITURES	\$	1,160,474.85

Deering inquired about the Garden State Highway Products purchase. Nissley said it is for a large order of signs to replace signs identified as needing replaced in a recent sign survey. Deering inquired about the M&M Masonry charge. Nissley said it was for a building repair. Deering asked for details on the tipping fees. Hershey said the tipping fees are a monthly charge for our refuse disposal. He explained the cost varies each month on the weight of the trash.

Murray noted that of the \$350,000.00 going out of the general fund, \$250,000.00 of it is paying off debt.

*Motion carries unanimously.*

**Meetings and dates of importance**

See the yellow calendar for the month of June 2016.

Council went into Executive Session to discuss litigation at 9:50 PM and came out of Executive Session at 10:06 PM.

On a **MOTION** by Smeltz and second by Reese, Council approved a release and settlement agreement between Kevin L. and Jane E. LeMay and the Borough of Mount Joy. *Motion carries with Seidel voting no.*

Deering presented information on the Pennsylvania State Association of Boroughs Conference.

**Adjournment**

On a **MOTION** by Reese and second by Seidel, Council approved adjourning the meeting at 10:08. *Motion carries unanimously.*

Respectfully Submitted,



Scott Hershey  
Borough Manager/Secretary