

May 3, 2021

A regular meeting of Lehighton Borough Council was held in the municipal building on Monday, May 3, 2021. The meeting was called to order at 7 PM by President Grant Hunsicker. Members in attendance were: Councilors Lisa Perry, Donnie Rehrig, Ryan Saunders, Autumn Abelovsky, Joe Flickinger and Darryl Arner.

Officials in attendance were: Borough Manager Nicole Beckett, Borough Secretary Brenda Kreitz, Solicitor James Nanovic, Borough Engineer Bruce Steigerwalt, Police Chief Brian Biechy, Mayor Clark Ritter, Light & Power Supervisor Lonny Armbruster, Public Works Supervisor Kris Kunkle and Recreation Director Tom Evans. Absent: Fire Chief Patrick Mriss.

Pledge of Allegiance

HEARING OF PERSONS PRESENT

Mary DaCosta Ziegenfus said she realizes the email she sent was somewhat confusing. She said it clearly states zoning violations and why her neighbor should not have been allowed to erect the fence in question. At first the plot plan was not filled out but was given it later. The plot plan sheet show dashes down the center that even her grandson could have done. Other than one address no other information is on that sheet; no square footage, no approval initials, no date, no permit number...just a rectangle. Ms. Ziegenfus said the fence was erected weaving in and out of the common lot line between the 2 properties. The bottom of the fence slats are 5 inches above the ground making the fence more that 6 foot high. It appears to her that the inspections she requested in Tim Dow's office on December 9, 2019 was never done. Apparently, the borough does not require inspections because she was dismissed as Mr. Dow told her 6 foot is by the grade of the land which Ms. Ziegenfus said is flat and level. If you look at the email photos, she submitted you would see the shabby work that was done. In one-years' time the fence has nails popping, wood splitting and the fence is leaning. In her opinion the fence is unstable, unsafe, a hazard and just as important it blocks her view. Her biggest complaint is the wall part of said fence. Ms. Ziegenfus said it must be removed. The way it is attached to her side of the double house without her consent positively encroaches onto Ms. Ziegenfus' property preventing her from full access to her basement and poses a dangerous hazard. Zoning rules under

Common Fences clearly state that fences may be erected on the common property line with written consent of both owners. This was never done. Why the did Mr. Dow quote Rule #2 – Distances from side lot line under Accessory Structures and Uses Rule?

Ms. Ziegenfus said before the house was sold, she sent an email to Mr. Dow with pictures regarding the wall issue on May 21, 2020. She spoke to Mr. Dow in the hallway of Borough Hall on May 26, 2020 and she did not hear back from Mr. Dow until June 1, 2020. Ms. Ziegenfus said Mr. Dow said he did a drive by and took pictures from the alley on May 28th. Was that considered an inspection? If these issues were addressed properly and timely, she would not be here today.

Ms. Ziegenfus said she was told by some Borough employees that this is now a civil matter. Ms. Ziegenfus said she can understand a civil suit for the trespassing that occurred onto her property when the fence and wall were erected. The fasteners was applied from her side and done without her permission and would have had to of been done when she was not home. The fact that it was allowed to be erected and still exists is the Borough dropping the ball. Knowing that, Ms. Ziegenfus said she is continuing to be told it is a civil matter. She would like one of you to tell her what part of the Borough she should file against. The new owners of the house did not erect the fence or the wall, so why would they be liable? The Zoning office mainly caused this so which department does she file against? The Zoning office, the Borough itself, Code Enforcement or is there a different department she should file against in civil court? Ms. Ziegenfus said perhaps the town needs a new Zoning Officer; someone who isn't arrogant with his feet on the desk, eyes glaring and shouting at the person trying to explain the zoning code issue. We need someone that actually does the job that the people of this town pay him to do which includes her. She must have this issue resolved now. It has gone on long enough. Because of someone else's actions she is unable to use her basement. To top if off the wall was erected after the permit expired May 9, 2020. She has all the dates and many times she brought this issue to the Zoning Officers and many others in the Borough. She will be waiting to hear from council for their responses.

The Solicitor had a question. He said he was told that Mr. Dow was supposed to go out and meet with you but somehow that

meeting was cancelled. Ms. Ziegenfus said the only that she knows of was when she was camping at Hickory Run and Mr. Dow called and said he was coming to the house. It was a very garbled phone call because of spotty reception at Hickory Run but her daughter was at her house while Ms. Ziegenfus was camping and no one showed up. Ms. Ziegenfus said she did call and say "Hey I'm not home" but she is not sure if he got that message or not. There was nothing much she could do about that. She has all the dates in her bag if the Solicitor wanted her to provide that date. He did not at this time.

President Hunsicker asked the Solicitor for his thoughts. The Solicitor said he saw what Ms. Ziegenfus had submitted and the photos again today and he would not like the fence either. The Solicitor said he looked at the permit application; it's a drawing poorly done but shows the applicant putting the fence on their property; not on Ms. Ziegenfus' property. The application says it will be a 6-foot-high fence, which does meet the requirements of the Zoning Ordinance. There was nothing wrong with issuing the permit. Then the question is now the fence is erected and the Solicitor's understanding was that Tim wanted to go out there and look at it and then there was a mix up or she cancelled the meeting but the Solicitor could be wrong but the Solicitor thought Tim would go out and look at it and he isn't sure if Tim has done that or not. The question then is, and the Solicitor looked at the ordinance, if the Zoning Officer goes out and it is incorrect, he can revoke a permit if the work being done on the premises differs materially from that called for in the permit application. Tim would have to make that determination if what is there differs materially from the application. The Solicitor said that is the only way the permit would be revoked and if that happens the fence must be torn down. If Tim goes out and says nothing differs materially then nothing happens on our end and it's a private matter. The issue with where it is placed to the Solicitor is a private matter between Ms. Ziegenfus and her neighbor. The Solicitor realizes Ms. Ziegenfus doesn't feel it the neighbor's problem because they didn't put the fence there but they own the property. If there is a fence Ms. Ziegenfus believes is encroaching on her property that is a private matter between her and her neighbor. The Solicitor can not accept just Ms. Ziegenfus' word just as he

could not accept just the neighbor's word as to where the boundary line is located.

Ms. Ziegenfus asked to respond to the Solicitor and was given permission. Ms. Ziegenfus said if you look at the Zoning Permit there is nothing on it that says materially. The Solicitor said he was looking at the Zoning Ordinance. Ms. Ziegenfus asked when she signed the zoning thing for the common line that both parties are supposed to agree on? The Solicitor said that is if it is to be erected on the common line. Her application does not say that. Ms. Ziegenfus said it does not say that but you can clearly see it is in the pictures. The Solicitor again said that in her application it is saying it is not on the line it is on her property. You are saying it is on property lines but we can't make that determination. That is a private matter between you and your neighbor. Ms. Ziegenfus asked who decides the common line and the Solicitor said a surveyor might.

The Solicitor asked Ms. Ziegenfus if she spoke to her neighbor and he was told the neighbor does not own the house. The Solicitor suggested that Ms. Ziegenfus talk to the property owner. She asked the Solicitor if he feels nothing was done wrong there and the Solicitor replied he is going by the Zoning application and he does not think anything was wrong with that and he is also going by the Zoning Ordinance. He did think Tim was to go out there and is not sure if that happened or not. The Solicitor did suggest to Ms. Ziegenfus that she should contact Tim nicely, based on her disparaging remarks previously, to have a look at the fence and see if it materially disagrees with the application.

Pablo Aguero, 108 Iron Street was next to speak. He has comments; many comments. He is having an issue with trucks in the alley hitting his building all the time. He repairs the building each time and each time the trucks destroy it. He finds out a way to fix it. He has a side unit that goes into the alley and asked Tim Dow for a permit to cut the building back 10-15 feet in order to allow the trucks to pass by and give him a parking space because he also has a problem with parking that he would like to address.

Pablo would like to put a laundromat in his building. If he cuts his building back 10-15 feet, he can solve many problems. He can solve the parking problem he has on Iron Street, put in a laundromat, and a few gambling machines for people to play while

they are doing their laundry. He is not sure if it is a good/bad idea but he would like council's thoughts and help guide him.

His next problem is the beauty salon on South 1st Street. They park in front of his building and blocks his garbage toters making it hard for the garbage company. Another girl he has asked to move her car 3 times and this person called the police on him. The police came and saw what the problem and told Pablo part of the problem was his garage was not marked. Pablo is requesting a parking space in front of his garage. He does not want to carry drywall and lumber further than necessary but he has been because of the cars parking in front of his building. He would like his garage to be marked so he can have a parking space. He has had nothing but problems since he bought the building. He is trying to make things work but it has not been easy. Pablo said, all I want is to be able to park in front of my building.

The wine tasting room is the only part of his wine business he can have in his building and that is not what he wanted to do with the building but it is the only thing he can do so ok; he asked himself what else can be done and thought a laundromat but that needs parking which he don't have.

Councilor Saunders said about a year or so ago Pablo was before council and was granted hours to use his loading dock. Pablo said yes, every Wednesday from 9am to noon.

Councilor Abelovsky asked Nicole if the garage was a usable garage that was formerly not used and parking spots were put there and now it's a usable garage with a driveway. Councilor Saunders asked if a curb cut should be there and Pablo said yes.

Council was somewhat confused by the location of the garage. Council said they need to look at the building and Councilor Flickinger said the winery wasn't in before it was only a warehouse. That would need to be re-permitted for what you are proposing now because it is a change of use which might require upgrading the building for retail purposes.

Councilor Abelovsky told Pablo to talk to Tim and Pablo said he was told by Tim to come to council. Council was confused as to why Tim would say that when this needs to go through the Zoning Office.

Nicole said no matter what the change of use is or change in plan is; it must be submitted through permitting.

Tracy Kocis of 366 North 1st Street wanted to request 2 spots in front of her store turned into a loading/unloading zone.

Councilor Flickinger said while he understands where Ms. Kocis is coming from, if every store in the business district is allocated parking spots, there would be no parking for any customers to support any businesses in the business district. Parking is at a premium to begin with. Ms. Kocis suggested basing parking on what the business is selling or at least 15-minute parking spots due to residents living on 1st Street and taking parking away from the businesses because they don't move their cars for days sometimes. Councilor Flickinger said a few years ago we had parking meters. The businesses came and asked us to remove them because our customers don't have the time/ability to keep going out to feed the meter. They were taken out causing the people who live above the businesses to start parking on the street and not moving their vehicles which in turn took away parking from businesses for their customers. Those same businesses then came back asking council to do something because cars are not moving and the vicious cycle continues.

Councilor Saunders didn't think taking premium spaces from in front of Ms. Kocis's store and turning them into 15-minute spots for shopping in her store. He didn't feel customers would like to be on a time limit to shop.

Council wanted more time to think about a solution.

APPROVAL OF MINUTES

Regular Meeting of April 5, 2021

Councilors Perry/Rehrig made the motions to approve and all were in favor with no questions or objections.

NEW BUSINESS

Review of the request placed by Mary Ziegenfus regarding issue with neighboring fence

Discussed under Hearing of Person's Present.

Motion to accept the resignation of Brian Rubin from the Lehigh Water Authority Board effective June 1st

Councilors Flickinger/Saunders made the motions to accept the resignation and all were in favor with no questions or objections. Consideration on recommendation of the Lehigh Water Authority Board to appoint Larry Markley and Russell Schoenberger to fill the board vacancies effective June 1, 2021

Councilors Abelovsky/Saunders made the motion to appoint and all were in favor with no questions or objections.
Motion to approve the 2021 seasonal employee list for Baer Memorial Pool

Councilors Abelovsky/Arner made the motions to approve the list and all were in favor with no questions or objections.
Consideration on the request from the Recreation Director to limit daily pool memberships to Carbon County Residents only due to COVID Restrictions

Councilor Perry asked if this is what was done last year. Tom said at first it was only Lehighton Area residents then it was later opened to Summit Hill, Jim Thorpe and Nesquehoning.

Councilors Saunders/Abelovsky made the motions to approve the request and all were in favor with no questions or objections.
Consideration on the LASD Commencement 2021 request for Security and Parking

Councilors Flickinger/Rehrig made the motions to approve the request if Fire police were available and all were in favor with no questions or objections.

Consideration on the LASD Commencement Motorcade request

Councilors Saunders/Flickinger made the motions to approve the parade and all were in favor with no questions or objections.
Motion to approve Payment Application #9 & #10 for the completion of the Lehighton Memorial Library Building Addition

Councilors Arner/Rehrig made the motions to approve the payments and all were in favor with no questions or objections.
Consideration on the request from St. Luke's Hospice to host 10th Annual Hospice Bike Ride Event at the Lehighton Trail Head

Nicole said this is an annual event. Previously she would approve the event but it has grown to over 250 riders so it is now brought to council for approval. Councilor Flickinger said they are not specific as to what they are requesting.

Councilors Flickinger/Saunders made the motions to approve the event and request for Fire Police assistance if they are available and all were in favor with no questions or objections.
Motion to advertise for bids on Diesel and Gasoline contracts

Councilors Rehrig/Saunders made the motions to advertise and all were in favor with no questions or objections.

Discussion and Action on the Waterfront Pedestrian Safety and Traffic Calming Improvements DCED Multimodal Grant Award and modifications to the scope of work.

Nicole said we have 2 grants for this project totaling \$480,000 with no match required. This was originally a \$1 million dollar project but we needed to reduce the scope of work to come in around the grant amount. BIA had provided the scope of work and drawing. In Phase #1 shown in red is what would be done. If we are interested in pursuing things further, we would have to apply for Phase #2. Nicole said she has spoken to them about the bump outs knowing there has been opposition to them and this is what BIA suggested to improve pedestrian travel and slow the speed. We will need to go through all the PennDOT processes. There is more information to follow but for now council needs to approve moving forward with the projects. We will bid with alternates to stay within the numbers. Engineering costs of \$48,000 could also come through these grants.

Councilor Perry asked if we needed to put shrubs and things in the bump outs. Nicole said she doesn't think they need to be landscaped it is more so to beautify things down there. Lisa was concerned that driving down to the bypass from 1st Street is already difficult enough to see cars coming and having shrubs and things in the bump outs would potentially make that worse. Councilor Rehrig said he is not in favor of the bump out on North Main Lane coming down from 1st Street. He said the sight distance is difficult and would suggest an acceleration lane be put in there for those pulling out on to the bypass. Nicole will talk to them about that.

Councilors Rehrig and Abelovsky are more concerned with making a left-hand turn while on the bypass to North Main Lane to go up to 1st Street. They feel that will be almost impossible to do.

Councilors Flickinger/Perry made the motions to proceed with Phase 1 and Engineering and all were in favor with no questions or objections.

Request from Traci Kocis for Loading Zone parking at 366 North 1st Street

This item was tabled until the June meeting.

Request to close Borough offices December 23 & 30 for holidays

Councilors Abelovsky/Perry made the motions to close the offices using personal/vacation time and all were in favor with no questions or objections.

Request to hold Baccalaureate for Class of 2021 in the Amphitheatre

Councilors Perry/Saunders made the motions to approve and all were in favor with no questions or objections.

Unfinished Business

Follow up discussion on Annex Cooling Tower Project

Tom said we are at 25% since the new unit was installed. After different things with the engineers, we can't increase the flow. If we go to 30% it overflows into the parking lot. They are saying it is the same spec as the old one but Tom doesn't believe that's true.

Councilors Flickinger/Rehrig made the motions to have Solicitor Nanovic proceed with looking into have this issue rectified and all were in favor with no questions or objections.

Follow up discussion on the Bankway/Sgt. Stanley Hoffman

Boulevard Crosswalks

Nicole said she has been going back and forth with PennDOT on this since March. PennDOT has determined it to be a mid-block crossing and to have a cross walk put there we would need to prove 80 pedestrians cross there an hour. At this point we have 2 or 3 options. One is to have Tri State Data conduct the pedestrian counts at a cost of \$500 if council feels this is warranted. Two would be to discuss the need to enhance the pedestrian crossing at Bridge Street and Bankway which is the original request that council was not in favor of. There are ramps in place and the signage and line painting could be improved and this is the recommendation of the engineers. The third option is to do nothing.

Councilor Flickinger felt Public Works should just repaint the lines that are already here and if that is what the state determined to put in when they installed the ramps and the crosswalks then the state should have had to follow their own recommendations and put the signs up themselves.

Councilors Flickinger/Saunders made the motions to just repaint the existing white lines and all were not in favor. Roll call: no- Councilors Rehrig, Abelovksy, Hunsicker; yes- Councilors Flickinger, Perry, Saunders, Arner. Motion carried. Councilors who voted no

wanted it noted they voted that way due to signage not being part of the motions.

Nicole said the rationale behind PennDOT considering the crosswalk as a mid-block crossing is that the roads perform like two one-way portions of the same road where they are splitting; not two routes intersecting or two routes joining at right angles or coming in conflict with each other.

Addendum

Request from Timothy Ream, Bethany E.C. Church to use Amphitheatre and Upper Park for National Day of Prayer, May 6 & an outdoor movie June 12, 2021 (both events from 4-9pm)

Councilors Flickinger/Rehrig made the motions to approve the request and all were in favor with no questions or objections.

Consideration on the Gehringer Corporation quotation for maintenance inspection program for multiple buildings

Nicole said this stems from the request while she was off regarding the roof at Lehigh Fire Company #1. It was looked at and repaired but in discussions we know we need a lot of review of our roofs and a maintenance plan. She has been working with Tom who has a relationship with the Gehringer Corporation and authorized the roof inspections which were budgeted for. They have not been done yet. This maintenance agreement is for 5 buildings, Borough Hall, Police Station, Rec Center, Engine Company #1 and the Annex. At a cost of \$4,700.

Councilors Flickinger/Rehrig made the motions to table this item until next month and all were in favor with no questions or objections.

Officials Reports

Borough Manager

Nicole said our new website launched April 30 and is up and operating. She was also contacted by a North 2nd Street resident with some recommendations or suggestions for council regarding residential properties and parking which were included in her report.

Borough Engineer

Nothing.

Police

Chief Biechy said they have been doing their best to get out and enforce parking. The new officer, Derrick Koch, has started with the department and has a full week in.

Mayor

He read a Proclamation in support of the 2nd Amendment.

Fire Chief

Absent.

Light & Power Superintendent

Nothing.

Public Works Supervisor

Nothing.

Recreation Director

Nothing.

President of Council

Nothing.

Solicitor

Nothing.

Treasurer

Additional bills totaling \$6,460.85.

Committee Reports

Finance and Administration – Lisa Perry, Chair; Joe Flickinger, Co-Chair – Meeting notes were provided in council packets. Lisa said they will meet in a week to discuss more items.

Economic Development, Buildings and Codes – Joe Flickinger, Chair; Donnie Rehrig, Co-Chair – Joe said he spoke to Kathy Henderson from the Chamber and she asked him to remind council that the Wine & More ribbon cutting is May 20th from 4-5pm and everyone is welcome to attend. He also thanked LDI for their great Wine on the River event this past Saturday. It was a great event.

Police, Fire and Safety – Ryan Saunders, Chair; Autumn Abelovsky, Co-Chair – nothing. Autumn thanked all emergency response service in the area for helping with her husband's accident.

Light & Power Committee – Autumn Abelovsky, Chair; Lisa Perry, Co-Chair – nothing.

Sewer Committee – Donnie Rehrig, Chair; Darryl Arner, Co-Chair – Donnie said the Sewer Authority is continuing to work on the drainage issue on North 3rd Street near the Pyramid Gym and will be providing a scope of work soon.

Streets, Public Works & Recreation – Darryl Arner, Chair; Ryan Saunders, Co-Chair – Darryl said Public Works is doing a good job cleaning up our properties after the winter. New curb cuts are going

in at various locations. The bank between the old tennis courts and the recreation center have had the sumac and weeds removed but now there are big bare spots. We should look at doing some landscaping there and redo the bank to make it look nicer. There should probably be a survey or something done at the rec center because the floor is cracking in the meeting room and gym. It is over 30 years old and maybe we could budget to have it repaired.

Library Board – nothing.

Parks & Recreation Board – Autumn thanked Public Works for grading the new Baer Memorial baseball field. The Parks & Rec Board is partnering with the Franklin Township Athletic Association to finalize the baseball diamond. Through the grant, they have been working with us one of the things Franklin Township offered to do was purchase the backstop. They have had a large hardship this year. The entire concession stand needs to be replaced due to water damage. We don't want to see this project halted or need to ask for another extension. Our Parks & Recreation Board met and are asking for council's permission to pay for the backstop up front and have the solicitor draw up a contract with the Township stating they will repay is for the backstop by June of 2022. Councilor Flickinger asked if the cost was known and Autumn said Tom has been working with us because he can get it quicker. Tom said it is \$3,000 and Autumn said the contract would state it not to exceed \$3,000 which is Franklin Townships maximum. The money will come from the Parks & Recreation Fund.

Councilors Saunders/Flickinger made the motions to have the solicitor draw up the contract with Franklin Township for the repayment of the backstop not to exceed \$3,000 and be repaid by June 2022 and all were in favor with no questions or objections.

School Board – Autumn said she attended the last school board meeting. She addressed the board and explained that the Elementary Center project has yet to be closed out and informed them of the outstanding portions that need to be submitted yet. She gave them a stern recommendation that it all be submitted by June 30, 2021. She believes Nicole has received some follow up from Superintendent Cleaver that he contacted E. I. Associates and they will be getting us the information.

Canal Commission – nothing.

Acceptance of Officials Reports

Councilors Saunders/Flickinger made the motions to accept the official's reports as presented and all were in favor with no questions or objections.

Acceptance of Accounts Payable

Plus, additional bills.

Councilors Saunders/Perry made the motions to approve the accounts payable, and additional bills and all were in favor with no questions or objections.

Motion to go into Executive Session for Personnel

Councilors Saunders/Flickinger made the motions to go into executive session at 8:20pm and all were in favor with no questions or objections.

Motion to go back into Regular Session

Councilors Saunders/Rehrig made the motion to go back in at 8:35pm and all were in favor with no questions or objections.

Action on Items from Executive Session

Council discussed security issues with the amphitheater doors being open during the meeting. They will be closed during the meetings.

Motion to Adjourn the Meeting

Councilors Saunders/Rehrig made the motions to adjourn the meeting at 8:40pm and all were in favor with no questions or objections. Meeting adjourned.

Brenda L. Kreitz
Borough Secretary