

November 7, 2022

The regular meeting of Lehighton Borough Council was held in the municipal building on Monday, November 7, 2022. The meeting was called to order at 7 PM by President Grant Hunsicker. Members in attendance were: Councilors Donnie Rehrig, Lisa Perry, Darryl Arner, Autumn Abelovsky, Ryan Saunders. Absent – Joe Flickinger.

Officials in attendance were: Borough Manager Steve Travers, Borough Secretary Brenda Kreitz, Solicitor James Nanovic, Borough Engineer Bruce Steigerwalt, Police Chief Joe Sparich, Mayor Clark Ritter, Fire Chief Patrick Mriss, L&P Assistant Superintendent Barry Fisher, Public Works Supervisor Kris Kunkle. Absent: Recreation Director Tom Evans.

Pledge of Allegiance

Guest Speakers:

Bambi Elsasser – Lehighton Main Street Manager – Updates on the Lehighton Downtown Partnership – Bambi was unable to attend.

HEARING OF PERSONS PRESENT

Robert March representing 500 South 9th Street spoke against adopting the proposed ordinance. Mr. March said he and his neighbor are the only 2 businesses in the borough zoned industrial and he does not feel it is in their best interest to change the zoning for their properties after being there over 50 years. The change in zoning will take away from his business.

APPROVAL OF MINUTES

Regular Meeting of October 3, 2022

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

UNFINISHED BUSINESS

Continued discussion on Curfew Ordinance

The mayor is mainly concerned with the Grove. He said we have new equipment that hasn't been installed due to the damage to the equipment that is there. He would like to change the ordinance curfew time to 8pm. The mayor said someone put bubbles in the Lower Park fountain causing an issue. The backboard at the basketball court at the Grove was broken. That person has been caught and it is being dealt with and he feels an earlier curfew would keep some of this from happening.

Councilor Saunders is concerned with Booster Club holding football practice at Baer's and having practice going a little past 8pm on occasion. He feels 9pm might be better and then asked how do we police the curfew?

The police chief said upgrading the cameras is being looked at. The manager said he is working on the cameras at the Grove and hopes to have them in place by December. Councilor Abelovsky feels 10pm is too late and in a way feels 8pm is too early. Council finally concluded that 9pm was sufficient as a curfew with the police enforcing the change immediately. Ryan didn't mean the kids need to be cited right away but to make them aware

they should not be in the park after 9pm the following night. Autumn said if 9pm doesn't work we can revisit it.

Councilors Abelovsky/Arner made the motions to change the Park Ordinance to 9pm curfew and to advertise the change and all were in favor with no questions or objections.

NEW BUSINESS

Motion to approve Resolution R31-2022 establishing the current base purchased power cost for the PPAC

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

Motion to approve Resolution R32-2022 implementing Act 57 of 2022

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

Motion to advertise Ordinance 664-2022 Defining & Regulating Connections to Public Water System

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

Motion to adopt the proposed SALDO

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

Motion to advertise Zoning Ordinance and Map

Councilors Arner/Rehrig made the motions to adopt but Councilor Saunders had a question. He asked if the new map changed Mr. March's property and the neighboring property. Solicitor Nanovic said it did. He reminded council that at last month's meeting Attorney Cerillo addressed council and so did Mr. March. Council agreed to give them time to look over the ordinance until this meeting. Attorney Cerillo sent a letter to council saying he has no objection to the adoption of the ordinance as he doesn't feel it will impact his client as previously thought.

Mr. March said he did not agree with the attorney and is asking council to exempt these 2 properties in question from the change to Open Space and instead leave them Industrial. Solicitor Nanovic said that is not possible unless we rewrite the map and start the process all over. The solicitor told Mr. March he is however grandfathered as a non-conforming use and they would be able to expand as a non-conforming use giving them a lot of latitude of what can be done there.

Mr. March is unclear when reading the ordinance if he brought in a new business would that change things. The solicitor said as long as the new business meets the current use it would be allowed but if say Mr. March wanted to open a car dealership on his property that would be a new use and subject to what is allowed at that point in time.

Mr. March said his business in the larger building is not doing well and that is why he is concerned with the changes should the business not be sustainable. How can he repurpose the business under the new ordinance.

Bruce said the new zoning map was developed based upon the most recent FEMA firm mapping effective June 3, 2002–Map Changes. If you look at Chapter 73 of the borough code pertaining to building in floodways and floodplains you can't build there or it is very restricted. In order to build in a floodway, you would need to go to FEMA and request a map amendment and show that the floodway is not in the elevation that the study shows. Chapter 63 of the Building Ordinance says you cannot increase the depth of the water with any construction that takes place in a floodway. You have to elevate any structure 1 ½ feet above the floodplain or completely floodproof it. In a floodway that is difficult to do. So, FEMA basically says you shouldn't be building in a floodway. What is effective now is the FEMA flood map from June 2002 and the new map follows that line of the floodway and it made sense for us to zone that Open Space.

Councilor Saunders said he thinks the issue at hand is not the new construction of a building but the buildings that have been there for 50 years. Bruce said the existing buildings are grandfathered in as existing non-conforming uses of record. If he is in a flood way or floodplain and sells the property FEMA will look at it and when they try to borrow money they will pay exorbitant amounts of money for flood insurance. This is not something the borough has created by drawing the zoning lines the way they are. That was created with the FEMA maps. The bank will look at the FEMA maps and require flood insurance based on the FEMA maps not the borough map.

Mr. March said as near as he can tell on his property with no survey done there is only about a 10 x 20' section in a tiny corner of his property out of 41/2 acres that would be affected by this. He doesn't feel he is truly affected by this. Councilor Saunders agreed with Mr. March's argument.

Bruce said he see on the map what FEMA says is the floodway. You have to look at the Federal Government's study related to his property and the FEMA map. There is an actual document with the profiles of this area documented to determine if his property is located in the floodway. Mr. March can do a study and submit it to FEMA and ask for a map amendment. Councilor Abelovsky asked what the ramifications are if it is not adopted. Bruce said we continue using the 1997 Zoning Ordinance.

All were not in favor. Roll call: Yes – Councilors Arner, Rehrig voted yes because a lot of money was spent on updating this ordinance and Councilor Rehrig understands Mr. March's concerns, but the solicitor said it shouldn't be a concern so he feels there is no reason to not adopt it; No – Councilors Perry, Saunders, Abelovsky, Hunsicker. Motion defeated.

Motion to approve Cost of Living Increase for eligible retired police officers

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

Consideration on Request from Lehighton Ambulance Association for yearly Donation (\$2,500 given in 2021)

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

Consideration on request from Bethany Church to hold Christmas Candlelight Concert/Service on December 11th in Amphitheatre

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

Motion to approve 2021 Write-Offs

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

Consideration on proposal from Hutchinson, Gillahan & Freeh for the 2022 Audit

Councilors Abelovsky/Saunders made the motions to accept the proposal and all were in favor with no questions or objections.

Motion to hire Remington & Vernik as Borough Engineering firm

The borough manager said his choice came down to 2 firms pretty much the same in price. He interviewed both firms and has worked with both in the past. Both would bring a lot to the table. Councilor Saunders asked what made the manager choose Remington. The manager replied it was the culture between the two companies.

Councilors Saunders/Rehrig made the motions to hire Remington & Vernik and all were in favor with no questions or objections.

Officials Reports

President of Council

Nothing.

Borough Manager

Steve provided his report. He thanked council for approving the engineer tonight as there are grants that need to be submitted. The ARPA funds for the sanitary sewers are the most important to save the borough money and repairing the failing infrastructure. This will also reduce our costs to CCMA.

Borough Engineer

Bruce asked the manager if he is to hand over everything to the new engineer. Steve said it will coincide with Bruce's retirement date. Bruce will complete what projects he has going. Bruce said his equipment is failing and can't be repaired so he plans to finish out the year.

Mr. Todd Mason and his wife Jane who is developing their project on 443 were in attendance. They thought they would have all their plans together for approval tonight but that did not happen. They are very close to having things completed.

Mr. Mason said they were issued a building permit for a retaining wall as part of the project about a month ago. Two weeks ago, they started the wall and inside of a week the zoning officer stopped at the project and told Mr. Mason the wall couldn't be installed because the land development wasn't completed. Mr. Mason was told to call Bruce who told Mr. Mason the land development plan should really be done first even though the building permit was issued. Mr. Mason was told to discuss this with Attorney Nanovic who said the building permit should not have been issued. Mr. Mason, not wanting to get off on the wrong foot with the borough stabilized what was already done and shut the project down for two weeks. The

problem is the wall is started and open. He would like to get back to working on the project before the bad weather starts. They are very close to having everything in place to comply with Bruce's conditions. If council would consider allowing him to finish the wall, he would appreciate it. Mr. Mason will not do anything further until all the conditions are satisfied.

Councilor Saunders felt that if a permit was issued Mr. Mason should be allowed to continue working. Bruce felt that it has been past practice to always have final plan approval, a signed developer's agreement and a letter of credit for the improvements. Bruce said he finally received the estimate last Tuesday from the engineer and reviewed it and still had questions which were answered but Bruce has not seen the revised plans to date. The draft developer's agreement was received Friday. Bruce wrote a review letter dated September 28th for the stormwater and it took a month or more for the necessary testing to be completed. Revised plans were received dated August 31st and he wrote a review letter but has heard nothing back since then from the engineer addressing the comments. Conditional approval was granted at last month's meeting. It is council's decision as to what they want to do.

The solicitor commented that approval of the stormwater plan was requested last month. He asked Bruce if that required council's approval or could Bruce approve and sign it. Bruce felt after reading what is in the ordinance it would fall on himself to review and sign off on it. The solicitor felt council should authorize the engineer to have the authority to review and sign off on the stormwater as he felt it was unclearly worded in the ordinance.

Council unanimously agreed to allow Mr. Mason to complete the wall.

Councilors Saunders/Perry made the motions to authorize the Borough Engineer as the municipal official or designee under the stormwater management plan and all were in favor with no questions or objections.

Councilors Perry/Abelovsky made the motions to approve the land development agreement in substantially the form prepared by the municipal solicitor subject to approval of the borough engineer and all were in favor with no questions or objections.

Bruce said this is the first time it has come up under the new stormwater ordinance. There are separate fees and applications where there may be times that only a stormwater permit is required and not be part of land development. We have to mesh the SALDO requirements with the stormwater instead of having development agreements under two separate items.

Bruce's final comment was that he was disappointed the Zoning Ordinance was not adopted. He does not feel the gentleman here tonight will be impacted. His existing buildings are not in the floodway. The solicitor said right now it doesn't matter. It is a dead issue. Bruce was very disappointed as a lot of thought, time and money were put into drafting the new ordinance.

Solicitor

Bids to sell the Summit Avenue Property were done months ago but closing has not taken place. The reason for this is there is an open mortgage on the property. The solicitor said Mrs. Niehoff held the mortgage on the property and she was not notified. When the title search was done it was found they were not notified so it is still there. The solicitor contacted

the heirs of Mrs. Niehoff and a Ms. Connors of Bethlehem was sent the documents that need to be completed. Ms. Connors is still upset over what happened 20 years ago. She said she had to have her attorney look things over. Jim has contacted her 3 times but to no avail and she has not gotten back to him. At next month's meeting Jim may recommend bringing quiet title action to get rid of the mortgage to the property. He is hoping that is not the case but wanted council to be aware of what is going on.

Treasurer

Approval of additional bills totaling \$202,226.13 plus remaining \$500,000 transfer as needed from L&P Fund to General Fund

Councilors Perry/Saunders made the motions to approve additional bills and remaining transfer. All were in favor with no questions or objections.

Mayor

Thank you to Police/Fire Police for help with Halloween Parade traffic control

He also had one item for executive session.

Police

Chief Sparich said over 900 kids came through on Trick-or-Treat night. It was very busy. Officer Hummel was Spiderman and the kids had a great time.

Operation Give a Gobbler which supports the Valor Clinic Foundation is in progress. From now until November 16th his department is accepting nonperishable items at the police department. They have challenged the Jim Thorpe and Palmerton police departments to see who can collect the most food – so please help them win the challenge.

Fire Chief

Nothing.

Light & Power Superintendent

Barry was present as Lonny was on vacation. Barry asked if the curfew is changed to please let his department know so the lights can be adjusted.

Public Works Supervisor

Nothing.

Recreation Director

Absent.

Committee Reports –

Finance and Administration – Lisa Perry, Chair; Joe Flickinger, Co-Chair – Lisa said they met with Steve to discuss the budget for next year. She is sure there will be more budget meetings as the year goes on.

Economic Development, Buildings and Codes – Autumn Abelovsky, Chair; Darryl Arner, Co-Chair – Autumn said there was a zoom meeting last month regarding the Jim Thorpe traffic and how it is affecting our downtown businesses. She knows from that meeting our borough manager requested additional information and it would be her hope that we continue to advocate for our businesses and don't let this fall to the wayside.

The borough manager said he filed a right-to-know request and Jim Thorpe claimed they weren't changing their HOP for the County parking lot but that Jim Thorpe was relying on

it being an emergency need to stop traffic from making a left onto 209 to Lehigh. Steve asked if PennDOT gave them approval to do this and he was told they were doing it as if there were accident and police or fire were blocking the road and hanging their hat on that. Steve then filed a right-to-know request for the last 2 years of police reports to see how many accidents occurred to justify what they are doing. There were 22 accidents. Two were at the intersection involving a truck making the turn and hitting a car. The other ones really didn't apply but none involved pulling out of the lot. Steve will have a discussion next with the Jim Thorpe manager about that. The next step would be to go to PennDOT and say that what they are doing does not apply and have the data to back it up.

Police, Fire and Safety – Donnie Rehrig, Chair; Lisa Perry, Co-Chair – Nothing.

Light & Power Committee – Joe Flickinger, Chair; Ryan Saunders, Co-Chair – Joe was absent; Ryan had nothing. Lisa thanked L&P for hanging up all the Hometown hero banners again.

Sewer Committee – Darryl Arner, Chair; Autumn Abelovsky, Co-Chair – nothing.

Streets, Public Works & Recreation – Ryan Saunders, Chair; Donnie Rehrig, Co-Chair – nothing.

Library Board – Joe – absent.

Parks & Recreation Board – Autumn – Christmas in the Park is in the works. Sunday, December 4th will be the lighting of 170 trees at 6pm. Constitution Avenue will be closed off for vendors this year.

Canal Commission – Ryan said they are done meeting until next Spring.

Acceptance of Officials Reports

Councilors Saunders/Abelovsky 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

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

Motion to go into Executive Session for Personnel

Councilors Arner/Saunders made the motions to go into executive session at 8:25pm and all were in favor with no questions or objections.

Motion to go back into Regular Session

Councilors Saunders/Rehrig made the motions to go back into regular session at 8:33pm and all were in favor with no questions or objections.

Motion to Adjourn the Meeting

Councilors Saunders/Rehrig made the motions to adjourn the meeting at 8:33pm and all were in favor with no questions or objections. Meeting adjourned.

Brenda L. Kreitz
Borough Secretary