

August 27, 2018

The regular meeting of Lehighon Borough Council was held in the municipal building on Monday, August 27, 2018. The meeting was called to order at 7 PM by Pres. Grant Hunsicker. Members in attendance were: Lisa Perry, Jared McEvoy, Darryl Arner, Joe Flickinger Autumn Abelovsky, Ryan Saunders, Jr. Councilor Addison Howland and Jr. Mayor Marc Macias.

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

Pledge of Allegiance

Moment of silence for Louise Christman requested by Mayor Ritter.

PUBLIC HEARING – Zoning Ordinance Amendment for inclusion of medical marijuana provisions

There were no comments. A reporter from Channel 13 asked if the Red Castle building was in the zoning district as a possible location for a clinic and was told no by the solicitor.

HEARING OF PERSONS PRESENT

Attorney Mike Garfield, representing Joe Bennett, addressed council about petitioning for the vacation of a few streets. Mr. Bennett wishes to build on property that he owns behind the NAPA Auto store on 443. Mr. Bennett owns all of the property back there except for one piece that is owned by Mr. & Mrs. Bissell. He does not wish to infringe on any of that. He presented to council a drawing of Mr. Bennett's proposed project. The area Mr. Bennett wishes to develop is extremely steep with no housing in the area. It runs along the creek. The NAPA store is built into Penn Avenue. Mr. Bennett's property is on Penn Avenue, both sides of Jefferson Street up to Graver Street. He will email Solicitor Nanovic a copy of the plan he presented to council.

Attorney Garfield said that if council agrees to vacate these streets on Mr. Bennett's property part of the street would go to NAPA to square off their property. Their next step is to prepare a petition to vacate and provide to the borough.

APPROVAL OF MINUTES

Regular Meeting of July 23, 2018

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

NEW BUSINESS

Approval of request to hold the Snowflake 5K and 1 Mile Remembrance Walk on December 8, 2019

Councilors Perry/Flickinger made the motions to approve the request provided the fire police were available and all were in favor with no questions or objections.

Motion to approve Resolution R16-2018 authorizing submission and designation of signers for the Fire Department Command Vehicle Local Share Grant Application in the amount of \$52,070

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

Motion to approve Resolution R17-20178 authorizing submission and designation of signers for the Police Department License Plate Reader Local Share Grant Application in the amount of \$18,391

Councilors Saunders/Abelovsky made the motion to approve the resolution and signers and all were in favor with no questions or objections.

Motion to approve Resolution R18-2018 authorizing submission and designation of signers for the Upper Park Local Share Grant Application in the amount of \$599,667

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

Motion to approve Resolution R19-2018 regarding use of PA 1 Call information

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

Motion to advertise Ordinance 646-2018 amending the zoning ordinance for the inclusion of medical marijuana provisions

Solicitor Nanovic said this follows the public hearing. The next step is a motion to advertise for adoption at our next meeting.

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

Consideration on the request from Joseph Bennett to vacate Penn Avenue, Graver Street and Jefferson Street

This was discussed at the beginning of the meeting.

Action/Discussion on the South 8th Street Sewer Extension Project as Recommended by LSA and submitted by Joseph Tibinsky

Councilors Arner/Abelovsky made the motions to approve the project and all were in favor with no questions or objections.

Discussion on abolishing ordinance pertaining to “Dogs Prohibited in Parks and Playgrounds”

Councilor Flickinger said he asked for this to be placed on the agenda. There have been a lot of citizens that have come to him over the past 2 years recommending the abolishment of that ordinance. He said we also have a few event that pertain to animals in the community to which we have to constantly go back and forth. There are more and more, even medical issues that have animals as support whether it's for PTSD or for anything so he would like to amend and make a motion allowing animals in the parks. We pretty much do it anyway.

President Hunsicker asked what we do when our work crew goes to cut grass and there's dog dirt all over the park. He does not think it's a good idea. Councilor McEvoy said he thinks we need signage to clean it up and if we do go forward with that it would be beneficial to have a bag dispenser. He said we want people using our parks. President Hunsicker said he has a problem with dogs in the park where children are playing and there's dog dirt all over.

Councilor Abelovsky said this is her biggest concern too. This is inclusive of all of our parks which includes the Grove that is pretty much designated as a community playground for children. Young children are prone to run up to animals immediately. She

understands it is both the duty of the parent to not let the child do that and the dog owner to keep their dog under control and just opens up the possibility for a very serious injury.

Councilor Flickinger said no matter what's involved with a park there's kids running around with needles on the ground after they are done shooting up in the park. What's to say don't run around barefoot when you know they are going to anyway. Autumn said she understands that but still feels we need to give them a safer place to go.

Councilor Perry asked Tom and Kris, who will be impacted the most by this how they feel. Tom said it will be another job for Kris. Kris said he can tell council just how much his department doesn't like cleaning up all the dog dirt 1-2 times a week. Toms said the safety of the kids is important too.

Councilors Flickinger/McEvoy made the motions to abolish and all were not in favor. Roll call vote: yes – Councilors Flickinger, Saunders, McEvoy and Arner; No – Councilors Abelovsky, Perry and Hunsicker. Motion carried. Solicitor Nanovic will advertise the ordinance to abolish the current ordinance.

Discussion/Action on the proposed amendment to the Circus /Carnival Ordinance

Solicitor Nanovic said this came up at the last meeting because the current ordinance is out dated and archaic. This proposed amendment is updating it and allowing by permit carnivals and circuses but making sure they abide by the state laws.

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

Discussion/Action on the Engineering Proposals for the Demolition of the Former Sewer Plant

Nicole said we have received 2 proposals for engineering services. The first being from Entech with 3 phases totaling \$17,800 with no costs on the erosion and sedimentation plan. The other was from Carbon Engineering \$12,000 with an additional \$2,000 for the preparation of the E&E&S Plan.

Councilors Perry/Abelovsky made the motions to go with the proposal from Carbon Engineering and all were in favor with no questions or objections.

Consideration on approval of the lease agreement with William Moyer for the digital sign at the Median on SR209

Solicitor Nanovic asked to have a lease prepared. This one is very similar to the other lease except the length of time. He said Mr. Moyer wanted 20 someone else wanted 10 so it is drafted with 15 years.

Nicole said Mr. Moyer requested a longer term lease on this sign because the longevity of these boards is about 8 years. If the board needs to be replaced he still has the additional term of the lease to cover the estimated span of 2 boards.

Councilor Saunders/McEvoy made the motions to approve a 15 year lease agreement and all were in favor with no questions or objections.

Consideration on the approval of the lease agreement with PathStone Corporation for Room 216 at the PFC Clyde Houser Building – Lehighon Borough Annex

Councilor Abelovsky asked if anything will change with the lock system if PathStone moves to the second floor. Tom said he is going to change it this winter because of the

booster club so no one can get to the second floor. Right now if you are in the gym you can get up to the second floor and do any kind of vandalism.

Councilor Abelovsky asked about Monday thru Friday during the day. Tom said that all depends on Rep. Heffley's lease. It will remain open as long as Mr. Heffley is there but if he leaves it will get locked down too. Autumn questioned the ability to rent out Rep. Heffley's rooms to someone else if PathStone is on the second floor. Tom said it depends on who wants to come in that space. We are changing the lock system for security in the evenings.

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

Consideration on the request from the Lehigh Area School District for an amendment to the Land Development Improvement Agreement and request for the issuance of a Temporary Certification of Occupancy

Nicole said in addition to the letter in your packets the Borough Engineer has a statement to be made.

Bruce said that there were deficiencies observed to exist in the paving of the parking lot in front of the elementary center as well as in areas of the driveway connecting Mahoning Street and Union Street. This will not impact the borough in any way, however, Mr. Steigerwalt cannot in good conscience approve that portion of the work as meeting the specifications and details shown on the plans. He does not want to hear the same thing from the school district that happened with the high school. They said that it was the contractor's fault, inspector's fault the required all the repair work to that school. Bruce wanted to point out that there are deficiencies out there, not in all aspects of the work but in the last few things done weren't done according to the specifications in the plans.

Councilor McEvoy asked Bruce when he made these observations. Bruce said since the beginning of the project. He thinks he has about 150 photos that he will share with council. The report from the core samples. In addition to that there are areas in between the cores where repair work was done and right adjacent to them he has photos that show it should be 8 1/2" of base coarse and modified below that and they didn't do it. There were other areas out there that were marked for repair before the wearing course was installed that were never cut out and repaired. He was told that the contractor made arrangements with the engineer to put in 1 1/2 inches of binding course over the parking lot before wearing course was installed and Bruce asked the contractor how many tons of binding course was used in that particular area and was told none. So in good conscience Bruce cannot approve that work.

Councilor McEvoy asked if Bruce's only issue is with the parking lot and not the school itself. The school is safe? Bruce said he did not do the inspections of the retaining walls. That was all done by Barry Isett. They are under the UCC for that code.

Nicole said Karl Kauffman from the school district's construction management firm was in attendance to answer any questions about the letter that was submitted. Nicole said in our land development improvement agreement the borough put two conditions in it. They are that all the easements must be recorded and the highway occupancy permits must be received we cannot move forward with authorizing a temporary CO for the project because of the agreement. We need an addendum to the agreement because of the paperwork.

The hold up with the PennDOT stuff is on PennDOT for the easement at the corner of 9th & Bridge Streets. PennDOT has had the paperwork since March. Nicole had verified the outstanding items on the UCC inspections with Tim during the meeting.

The issue with the gym floor is on Barry Isett to do the UCC inspection. Tim will be going back up there tomorrow. Everything on the building side of things is moving forward.

Councilor Flickinger said he will be honest. He had concerns with trying to go through with a temporary CO there is no fencing around the playground with a significant drop. If an individual drops more than 2 ½ times their height it is a trauma assessment. Mr. Kauffman said the only fencing at the playground left to do is around 2 planters; the rest is done. Councilor Abelovsky said the intermediate playground has no fencing around it. She drove past it before coming here. She showed him a picture on her phone. Mr. Kauffman said that has to be completed prior to the temporary occupancy permit being issued by the borough's code enforcement officer. Mr. Kauffman went on to say that BIA has signed off on all life safety issues within the building and they have been tested. Other concerns regarding the silt socks, drainage, bus parking stripping, etc. were addressed.

Councilor Flickinger said he does not feel comfortable agreeing to the temporary occupancy due to the fact that the school district hasn't done anything they said they were supposed to do.

Councilors Flickinger/Perry made the motions to deny the request and all were not in favor. Roll call vote: no – Councilors Abelovsky, Saunders, Hunsicker, Arner and McEvoy; yes – Councilors Perry and Flickinger. Motion carried.

Councilors McEvoy/Arner made the motions to grant the amendment to the land development agreement and all were not in favor. Roll call vote yes -- Councilors Abelovsky, Saunders, McEvoy, Arner and Hunsicker; no – Councilor Perry and Flickinger. Motion carried.

Consideration on Phase II Main Street Specialist Services for the Smart Growth Grant and commitment of matching funds (\$2,500)

Nicole said she received notification of award for Phase II of the Main Street Specialist Services study from the National Realtors Association. In return we have received a revised scope of work consisting of a 2 day on sight visit by the specialist in late October. The grant would be \$3,000 and the match would be \$2,500.

Councilor McEvoy asked what the difference is between this study and the other 2 that were already done. Nicole said Phase I was from 2013 of where we were then. Lehigh Downtown Initiative was a lot different then. The downtown itself was a lot different. Phase II will look at what we have accomplished and then look at what we need to focus on and a lot will be on the organization; whether it be LDI or another group in order to meet what the Main Street guidelines are. The goal is to adopt the philosophy of the Main Street approach and implement it in the community. Phase II should help us a lot because this is the part we are lacking.

Councilor McEvoy asked if Phase I was fully completed. Nicole said we did not meet all the recommendations. Nicole said Phase II will help to complete Phase I and what the Main Street 4 point approach recommends.

Councilor McEvoy asked what LDI's part in this is. What will they be asked to do? Funding it? Nicole said yes part of it and we would be looking for other community

volunteers. It would be to come in and promote LDI to get more community interest in that and to meet those guidelines. Jared said that is a project LDI would like; however, our funding doesn't allow us to throw \$2,500 at it. If there would be opportunities to get funding throughout the community somehow they would be able to spearhead that project and help with it. Nicole put this on the agenda more so for the borough than for LDI.

Councilor Saunders said they did discuss this at their last LDI meeting and some questions and concerns came up of what we are already doing sort of following Phase I of Main Street and of course most of us in LDI have dove into the Trail Town commitment on the borough's behalf getting that 100% accomplished. Councilor Flickinger believes one point in Phase I was to come up with a building restoration type things. He feels this will build on how to incorporate these concepts. Ryan said we are on board and after 2-3 years into the process we are finally making progress.

Nicole said this is by no means meant to say LDI is not doing what they are supposed to be doing. The group is doing a phenomenal job with following recommendations. This is more to bring in the implementation Main Street approach and to get us a philosophy and guidelines that work. Hopefully we will then find people that are interested in preservation and marketing to enhance all of that and hopefully have a Main Street manager at some point in time. We thought this was a great idea to do because no one from here was involved in 2013.

Councilors Flickinger/Saunders made the motions to proceed and all were in favor with no questions or objections. Clarification was made that the Borough will contribute the grant match.

Motion to terminate the Heart and Lung Benefits for Matthew Bender effective August 13, 2018

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

Consideration on participating in the AMP R.I.C.E. Behind the Meter Peaking Project

Nicole said we have the letter from AMP and also Utility Engineers for the R.I.C.E. program. We can look at being an installation site or just have the benefits through our power sales contract. Utility Engineers did provide figures on how this would benefit us within our contract.

Lonny said that we have a few operations in town that help shave peak right now. Blue Ridge Pressure Casting is one. The hospital used to be. When you do this you have requirements to meet and if you don't meet the requirements you pay severe penalties if we were an installation site. There isn't enough consumption to make it worth our time. Any time you can shave peak is a plus. Lonny is in favor of the contract side of things.

Nicole said if we are just looking to move forward with the power sales contract we would need a motion to approve proceeding. Then there would be an ordinance to follow along with an amendment to our power sales contract.

Councilors Saunders/McEvoy made the motions to participate on the contract side and all were in favor with no questions or objections.

Unfinished Business

Continued discussion on sidewalk ordinance

Councilor Abelovsky said Tim Dow provided a short letter. She spoke to him about his experience with sidewalk ordinances. He provided a sample from Red Hill which he played a big part in writing. She asked him aside from people calling and complaining about sidewalks in town how would we go about deciding when to fix them. Tim's last sentence in his note says the inspections could be performed upon the sale of a property like she has been suggesting. In past meeting she has provided council with samples of other community's exterior home inspections, ordinances, and now we have our zoning officer's feelings on this being the way to go to maintain our sidewalks here in town. She has presented everything she possibly can on this and would like council to look all of it over again. Councilor Saunders said his biggest concern is Tim's last sentence. Why aren't they done on a regular basis? Why do I have to wait until I sell my house to be told they need to be repaired or replaced?

Autumn said because there has been so much discourse over this so upon the sale of a home either the homeowner could improve the sidewalks upon the inspection choose to increase the value of their home and fix the sidewalks or have the buyer do it and roll the cost into their mortgage. Councilor Arner said it could affect real estate sales by putting off potential buyers.

Councilor Saunders again asked why not just have the code enforcement officer do it regardless. Autumn said because we have sat here and listened to everyone say we don't do anything until someone calls and complains. The alternate is to have Tim walk up/down every single street and cite every house which will probably be half this town.

Council discussed this item and agreed that is there were a set of standards for sidewalks they would be in favor of enforcing them. Nicole will have Tim put something together and bring it back to council next month.

Consideration on Cedar Street "No Parking"

Nothing. Remove from agenda

Follow up discussion on Utility Account Security Deposits

Nicole said we had received a request two months ago. The ordinance states we are to keep the security deposit until service is terminated. Our practice does not match our policy. The utility office staff is questioning what to do with these deposits. Nicole does not feel we should keep a security deposit till the termination of service. We can tell if someone has a good payment history in a year or two. She provided a recommended language from the PMEA Good Standards and also a memo based on discussion with the utility office.

If we are to change our current practice which is to return the deposit after 13 months of good credit what are we looking to change it too. We also do not want to do it retroactively on all past security deposits because residents were already told the deposit would be returned after 13 months. The full electric ordinance would need to be revised.

Nicole asked if council is in favor of revising the electric ordinance and was told yes. As far as our existing security deposits we are no longer returning them after 13 months of good credit as per our current practice. Councilor Perry would like the ordinance to match what we are currently doing. Nicole asked what we are going to do from this point forward. Lisa said we need to follow what we already told the customers. Nicole said ok but how

do we handle our new customers. Council thinks we should continue what we are doing until the ordinance is amended.

Follow up from Bruce on site plan and land development review of Jim Thorpe Neighborhood Bank handicap parking space

Bruce said there is a handicap parking space on the plan. It is at the rear of their parking lot. Bruce does not think it's advisable to put one in front of the bank.

Officials Reports

Borough Manager

Nicole said the Stedman Avenue project has started. She has been dealing with some of the neighbors in the area. It should be completed in about a month.

Nicole is in the final process of obtaining all of the required signatures for the vacation of Lentz Avenue. We still need 2 signatures. She also provided sample ordinances on feral cats.

Borough Engineer

Bruce said he was over on Stedman today and weather permitting they will be putting the wearing course down next Tuesday. They are moving ahead quickly.

Bruce also commented that he is waiting for the school district to put 458 shrub plants that was on their land development for the stadium so that project can be closed out.

Mayor

The Mayor presented the Fire Chief, Patrick Mriss with a commendation for the river rescue the previous week. He also presented Marcus Macias with a certificate for being Junior Mayor.

Police

Chief Biechy said Officer Bender is back on active duty and Sgt. Prebosnyak should be back tomorrow on limited duty. KME said the cruiser should be delivered late October. The grants he has applied for are still pending.

Fire Chief

Chief Mriss thanked the mayor for the commendation but wanted everyone to know that there were a lot of other agencies involved and he wanted to thank them all for their part in the rescue.

Light & Power Superintendent

They have been installing the Hometown Hero banners this week. Councilor Perry thanked the department for hanging all 299 banners. She said it is a lot of work and she is very appreciative of them helping with the project. The rest of council agreed.

Public Works Supervisor

They are trying to get some paving done now that the weather broke.

Recreation Director

Nothing.

President of Council

Nothing.

Solicitor

He had one item for executive session.

Treasurer

Nicole said she and Cathy had met with Jim Thorpe Neighborhood Bank as far as some new options. One option being Remote Capture. Cathy is requesting to do electronic transfers online instead of having to do transfer slips back and forth. In order to do that Cathy would need the transfer limit increased to \$150,000 from General Fund, Light & Power, Sewer and Utility Settlement accounts. Then we would still have internal controls in place with signatures being required to do the online transfers.

Councilors Saunders/Flickinger made the motions to approve the increase in transfer amount to \$150,000 and all were in favor with no questions or objections.

Committee Reports

Finance and Administration – Darryl Arner, Chair; Lisa Perry, Co-Chair – Darryl had nothing. Councilor Perry requested having a possible assistant borough manager for Nicole be put on next month's agenda.

Economic Development, Buildings and Codes – Joe Flickinger, Chair; Autumn Abelovsky, Co-Chair – Joe thanked everyone for passing the Phase II Main Street project so we can continue to make progress in that area.

Police, Fire and Safety – Ryan Saunders, Chair; Jared McEvoy, Co-Chair – Ryan wanted to again commend Chief Mriss for his outstanding efforts involving the water rescue.

Light & Power Committee – Lisa Perry, Chair; Joe Flickinger, Co-Chair – Nothing.

Sewer Committee – Autumn Abelovsky, Chair; Darryl Arner, Co-Chair – Autumn said LSA discussed separate rate classes for boarding houses. In looking at the ordinance boarding houses seemed to fit in the Commercial 1 rate. She would like clarification on if that is true. Nicole said she will need to follow up with the billing office on how they bill but believes that is true.

Autumn was also asked by LSA to take note in their minutes to Item #6.

Street, Public Works & Recreation – Jared McEvoy, Chair; Ryan Saunders – Jared he thanked all the new department heads for being at the meeting, for jobs well done and to keep everyone on the same page so as a council we can do what is needed most for your departments.

Acceptance of Officials Reports

Councilors Perry/Saunders 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 Flickinger/Perry made the motions to accept the accounts payable plus additional bills totaling \$29,594.98 and all were in favor with no questions or objections.

Motion to go into Executive Session for Personnel, Litigation & Real Estate

Councilors McEvoy/Saunders made the motions to go into executive session at 9:05 and all were in favor with no questions or objections.

Motion to go back into Regular Session

Councilors Saunders/McEvoy made the motion to go back in at 8:52 and all were in favor with no questions or objections.

Action on Items from Executive Session

Councilors Perry/Flickinger made the motions to approve the settlement agreement with Anthony Lockwood and all were in favor with no questions or objections

Councilors Saunders/McEvoy made the motions to advertise for the position of Maintenance Operator and all were in favor with no questions or objections.

Councilors McEvoy/Flickinger made the motions to adopt the amended job descriptions for the Public Works Superintendent, Light & Power Superintendent and Recreation Director and all were in favor with no questions or objections

Councilor Flickinger wanted to wish Nicole a happy birthday.

Motion to Adjourn the Meeting

Councilors Saunders/McEvoy made the motions to adjourn the meeting at 9:18 PM and all were in favor. Meeting adjourned.

Brenda L. Kreitz
Borough Secretary