

BIRDSBORO BOROUGH COUNCIL MEETING
May 10, 2010, 7:00 P.M. – BOROUGH HALL

MINUTES

PRESENT: Aaron J. Durso, President
Steve Lusky, Vice President
Tom Kanuck, Member
Kenneth J. Templin, Member
Nancy Kauffman, Member
Neil McCauley, Member
Angelene McKinney, Member
Robert M. Myers, Mayor
Karen T. Willman, Borough Manager
Theodore R. Roth, Chief of Police
Terry D. Weiler, Esq., Solicitor
Thomas J. Yuhas, P.E., Borough Engineer

ALSO PRESENT: Theodore Morse, Chairman, Birdsboro Municipal Authority

CALL TO ORDER: Mr. Durso called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance to the Flag.

PUBLIC COMMENT ON AGENDA ITEMS: None

MINUTES:

- a. May 3, 2010: **Upon motion made** by Ms. Kauffman and seconded by Mr. Templin, the minutes of the 5/3/10 council meeting were unanimously approved.

BILLS LIST

- a. Bills List dated May 10, 2010: **Upon motion made** by Ms. Kauffman and seconded by Mr. Kanuck, bills listed dated 5/10/10 was unanimously approved.

TREASURER'S REPORT

- a. Report for the month of April, 2010: **Upon motion made** by Ms. Kauffman and seconded by Mr. Kanuck, the Treasurer's report for the month of April was unanimously approved.

MAYOR/POLICE REPORTS

- a. Resolution No. 2010-14, encouraging PA General Assembly to Act to Reduce Access to Illegal Guns: Mayor Myers advised council as to the reasoning behind his request that council consider adopting this resolution, as well as passing an ordinance. He also cited various polls and statistics to demonstrate why this is important.

Mr. Durso commented that he sees these laws as an attack against citizens' second amendment rights. Mr. Lusky echoed Mr. Durso's sentiments and questioned why the PA General Assembly didn't pass legislation sooner? He also said that polls do not always reflect true opinion and asked the Mayor if he supported the healthcare bill. Mayor Myers commented that he doesn't see the relevance of one to the other.

Ms. Kauffman motioned to adopt proposed Resolution 2010-14 encouraging the PA General Assembly to Act to Reduce Access to Illegal Guns. **Motion failed due to the lack of a second.**

Chief Roth presented an overview of the police report which is on file at borough hall. Mr. Lusky asked the Chief and the Mayor if a plan had been formulated to combat vandalism in the borough. Mr. Lusky suggested that cameras could be installed in several places. He referred to a past incident where a rather large group of teenagers were gathered in Rustic Park. Chief Roth advised that officers are now patrolling our parks on foot. Ms. Kauffman commented that vandalism is not new to Birdsboro and has been going on for 30 years.

Cindy McGee, Walnut Street, suggested that a booth be set up at the "May Festival" where people could sign up for a neighborhood watch.

A resident from Main Bird Street, who desired to remain anonymous, commented about a recent "confrontation" which occurred near Main Bird Park as she was returning home.

Mr. Lusky commented that he had previously been in favor of the police department obtaining tasers; however, he now has a problem after seeing a teenager, who had run out onto the field during a Phillies game, get tazed. Chief Roth advised that tasers are meant to be deployed before physical contact; you can often de-escalate a situation so that you can eliminate deadly force. He also said that very few injuries occur from the use of a taser; Generally, injuries or deaths are caused by underlying health issues. Mr. Kanuck said he previously distributed articles that said many tasers were recalled and heart attacks were precipitated by their use. Chief Roth said there is a distinct possibility that if someone was shot and the department was asked if there was access to something less than deadly force and our answer is no, there would definitely be liability. Chief Roth requested that council provide him with direction. Mr. Durso asked Chief Roth if he and the Mayor would do an investigation if a taser was discharged; the Chief's answer was yes. He also commented that an SOP is being developed and will be presented to council before the tasers are ordered. Mr. Lusky advised that he wants to be sure that tasers are used only in the most "appropriate" situations.

Ted Morse asked if the "plan" for dealing with kids and vandalism would be presented at a public meeting.

BROWN'S FEED MILL: Mr. Yuhas, the borough engineer, some issues, predominantly policy issues, still must be addressed. Two issues that must be addressed are the installation of the dry hydrant and roadwork to be done on Office Street. Applicant had agreed to install a 10" line which would also feed the hydrant at Office and Mill Streets. Brown's will provide an easement to the fire company to allow them to access the dry hydrant at the rear of their plant. Mr. Kanuck asked if there would be sufficient water supply with a 10" line if something would happen at the mill. Mr. Templin said he can't say for sure because it would depend on the usage during that particular time of day. Thom Ludgate said applicant would allow the installation of the dry hydrant, but not at the owner's expense. Mr. Yuhas said the plans currently show water line trench restoration (6 ft. wide) on Office Street, but recommended that mill and overlay be performed. Thom Ludgate said 6 ½" of asphalt would be used to restore the trench; if a full mill and overlay would reduce the thickness of asphalt and is about the same cost, application would be willing to do that.

Mr. Lusky reminded that we need to make sure that the water authority engineer fully understands the situation.

PUBLIC WORKS FACILITY EXPANSION: Mr. Yuhas said this issue was discussed at the May 3, 2010, council meeting and was tabled. Mr. Yuhas said that the base bid of \$47,679 does not include the installation of a concrete floor. Ms. Willman said that the PWD could install the floor, but it would not be done immediately and could only incur in sections. Several council members felt that the lowest bid for this addition is high. A lengthy discussion ensued.

Ms. Kauffman made a motion to award the project to Kistler Buildings in the base bid amount of \$47,679. Motion died due to lack of a second.

One council member asked if it is possible to secure a used building to effect the expansion. Mr. Yuhas cautioned that a used building would still have to be spec'd and bid out and there would be engineering costs to have the building inspected and certified. The cost of the used building and engineering fees could equal or even exceed the lowest base bid.

A question was asked as to how much the engineering cost was. Mr. Yuhas explained that \$5,000 was charged for the design work in the past and \$4,000 was pending and that the total budget request was \$11,000.

Ms. Kauffman motioned to award the PWD facility expansion project to Kistler Buildings in the base bid amount of \$47,679. Seconded by Mr. Templin. After more discussion, Ms. Kauffman and Mr. Templin agreed to rescind the previous motion.

Mr. Lusky commented that he will support awarding the bid, but only if no one comes up with any other suggestions.

SIDEWALKS ON FIRST STREET: Mr. Yuhas explained that this project will include the walks along Vest Pocket Park and only curbing along Water Street across from Mainbird Street. Curbing on Water Street across from Mainbird Street will need special attention to not adversely impact overflow flooding from Hay Creek when it tops its banks and flows into the road. He requested a budget of \$6,600 for engineering services to prepare specifications and assist with the bidding and construction management of this project. After some discussion it was suggested that the construction costs be reduced below \$25,000 to be under the wage rate determination criteria by performing some work in-house. It was also suggested that the engineering budget be drastically reduced. Mr. Yuhas suggested a short form specification be prepared using the Penn Bid system with the assistance of Manager Willman.

CURB AND SIDEWALKS ON 7TH AND 8TH STREET ROAD PROJECT: Mr. Yuhas explained that he has been coordinating with property owners to give them the opportunity to get their defective concrete curb work done prior to the road work. A concern was raised by several residents that the time line was too short and the cost was high for the residents to do all the concrete work for the curb, walk, and drive aprons that were identified in the notice. Mr. Yuhas explained that an additional letter was sent out extending the time line. Regarding the concrete work, it was most critical that the curb work be done prior to the road work so time was of the essence, but that the time to repair sidewalks and aprons was not as critical. It was stated that the Borough does not

want to issue citations against people who have a hardship in completing the work in a timely fashion. Mr. Yugas suggested that the curb work must be done and that there were options for cost effective repairs in the concrete repair guidelines posted on the WEB for the sidewalk and aprons. Mr. Yugas could work with the residents as much as possible on ways to repair sidewalk but the property owner should understand that they are responsible for maintaining a safe sidewalk. Reasonable time extensions could also be granted for the sidewalk and apron work.

FIRE DEPARTMENT: Ken Long was present on behalf of the fire company. He said that the fire company hosed down Jackson Street as requested by council. Ms. Kauffman commented that there is an "ice" like buildup on Jackson Street which is very slippery. Manager Willman will have the PWD look into this situation.

EMERGENCY MANAGEMENT: Ken Imes, Emergency Management Coordinator, was present; he had nothing to report.

MANAGER'S REPORT:

- a. **Public Works Facility Expansion:** Discussed under the engineer's report.
- b. **MS-4 Training Session:** Ms. Willman said she attended the MS-4 training session in Harrisburg on May 5th. The session was hosted by representatives of the EPA and was very informative. Birdsboro, along with approximately 40 other Berks County municipalities, is not in compliance with MS-4 reporting requirements. The amount of time required to bring Birdsboro into compliance with its MS-4 permit will be extensive; however, we must demonstrate that we are moving forward with the requirements.
- c. **Composting:** Ms. Willman said she met with Jane Meeks of Berks County Solid Waste Disposal regarding the required relocation of the lea drop-off and compost piles. These areas are required to be at least 100 ft. from any body of water and 300 ft. from any occupied dwelling. We looked at alternate locations, but none meet the distance requirements. Two alternatives exist: 1) request that Mascaró provide some ground for this purpose; and 2) look into partnering with Exeter Township. Ms. Willman advised that an area approximately 100 ft. by 150 ft. would be required. Another possible drop-off area to be explored is the Gugliamo property just over the Robeson Township line on 724 West.

Mr. Lusky asked Ms. Willman which department would be charged for Sandra Feick's sick time payment; she advised that it would be charged to the police department.

SOLICITOR'S REPORT

- a. **Mutual Aid Agreement with Robeson Township:** Mr. Weiler advised that the ordinance for police department mutual aid with Robeson Township was advertised and is ready to be considered for adoption.

Upon motion made by Ms. Kauffman and seconded by Mr. McCauley, Ordinance 420, authorizing Birdsboro to enter into a mutual aid agreement for police services, was unanimously adopted.

- b. Zoning Ordinance: Mr. Weiler advised that he spoke with Glen Neus of Spotts Stevens McCoy who said he will put together a new draft of the Zoning Ordinance for council's review.
- c. Armorcast: Mr. Weiler advised that an appeal was filed by Armorcast in response to the fines levied against him by District Justice Glass last month.
- d. Proposed Fee Schedule: Mr. Weiler requested council comments on the proposed fee schedule which was distributed several weeks ago by the borough manager. Comments are due by the June meeting which is scheduled for June 14th.

MUNICIPAL SERVICES / DEPARTMENT REPORTS

Water Department

The usual monthly sampling and charting was done, along with routine maintenance work. Spring clean-up was started. Sticks were picked up and stones raked out of the grass around borough grounds. The pump house garage was painted. PA one calls were marked. The parking lot was cleared at Texas Field. The weeds were sprayed around the water plant and around the tank. Mowing and weed eating were done around the plant. Three dead standing trees were cut down and cleared from behind the S. Bird pump station. Dirt and seed were spread on the plant grounds. A tree was pulled out of the Hay Creek behind pavilion #4 and cut up. All department equipment was thoroughly cleaned inside and outside. Spring flushing of the fire hydrants was completed.

Wastewater Treatment Plant

See attached report.

Streets Department

Normal maintenance, street sweeping and pothole repairs were done this month. The mechanic continued working on the crime scene unit for the Police Department as well as performing normal vehicle maintenance. Mowing at the parks and borough hall was done several times. PA One calls were marked. Keith toured Rustic Picnic with council member Nancy Kauffman to determine the disposition of playground equipment. PWD personnel attended an on-site meeting at the old canal with the borough manager, borough engineer, soils engineer and a representative of the EPA to discuss plans for remediation. The area around the E. First Street bridge was cleared of debris left after bridge reconstruction.

COUNCIL/COMMITTEE REPORTS

Mr. Lusky commented on the payment of accrued sick time paid to Sandra Feick who retired. He asked Mr. McCauley how the final payment amount was derived. Mr. McCauley said that payment determination was based on the Teamster's contract since the personnel manual was silent on the issue. Mr. Lusky said he is disappointed that council members did not listen to legal counsel, either inside or outside, on this issue. There was no reason to pay a non-union employee sick pay when it is not legally required.

Mr. McCauley said that council considered this a compromise because it was paid to everyone else in the past. Mr. Lusky said he has no problem with paying vacation, which is earned; however, personal time and sick time is not an entitlement unless it is specifically spelled out in the employee handbook. He said he feels this is a very big mistake since we are responsible to the public and cannot just throw money away.

Ms. McKinney said she attended the Daniel Boone Economic Committee meeting last week. This will be a quarterly meeting in an effort to boost the tax base for the school district. A show of support for the industrial complex plan is requested on May 27th at 2:00 p.m. in the County Commissioners' Office. It would be a good idea to attend and support this plan; we may need the support of other municipalities in the future.

Mr. McCauley said a resident at Carriage Drive and Washington Street advised him that a storm water inlet in front of their property needs to be repaired. Also, there are two inlets on the "mansion" property which need to be repaired; perhaps the owner should be notified. Mr. McCauley said the Berks County Comprehensive Plan committee met on 5/4/10; Ms. Kauffman is now the chair. All municipalities are to update their equipment list.

BIRDSBORO MUNICIPAL AUTHORITY: The next meeting is scheduled for May 17TH.

PLANNING COMMISSION: The next meeting is scheduled for May 25th.

PUBLIC COMMENT: Carol Shafer, borough resident, commented that the picnic tables at Main Bird Park should be fixed and repainted.

ADJOURNMENT: **Upon motion made** by Mr. Kanuck and seconded by Ms. McKinney, the meeting was unanimously adjourned at 10:00 p.m.

Respectfully submitted,

Karen T. Willman
Borough Manager

PENDING BUSINESS

Armorcast Property
Codification
Rental Inspection Registrations
Maple Springs Repaving Project
Public Works Facility Expansion
Sidewalk/Curb Project
Zoning Ordinance
Employee Manual
Ordinance & Resolution (Mayors against Illegal Guns)