

**Mercersburg Borough Council & Shade Tree Hearing
Borough Hall, Mercersburg, PA
October 3, 2016
MINUTES**

Attending: President Tom Suddeth, Vice-President Jeff Main, Mayor Roger Defibaugh, Treasurer Catalin Bonciu, Amy Burkot, Lisa McCoy, Jonathan Kittredge, Donald Stoner, Borough Manager Dawn Scheller, Assistant Borough Manager Derek Stoy, Solicitor Steve Coccorese, and Engineer Lance Kegerreis

Absent: None

Press: Rachel Nichols, Mercersburg Journal

Guest(s): See sign-in sheet

President Suddeth called the meeting to order at 7:00 pm with Mayor Defibaugh leading the Pledge of Allegiance and then opened the floor for Public Comment. No Public Comments were made at this time.

MOTION: to approve the September 6, 2016 Meeting Minutes as presented was made by Jonathan Kittredge, second by Jeff Main, all ayes, motion carried.

Mayor Defibaugh reviewed his Mayor's Report where he thanked the Lion's Club for the \$400 donation and he asked that Council approve to deposit the check into the cruiser replacement fund.

MOTION: to approve the deposit of \$400 from the Lions Club Donation into the Police Cruiser Replacement Fund was made by Jonathan Kittredge, second by Donald Stoner, all ayes, motion carried.

Mayor noted that the Kaisiesville Church had sent over goodies to the Mercersburg Police Department since they were not able to attend the appreciation breakfast that they had. He informed Council Members that he attended the Cumberland Franklin County Boroughs Association Meeting and requested the Mercersburg host an upcoming meeting. He reviewed that the next meeting would be held in February in Waynesboro. Mayor and Chief Zechman have an upcoming appointment to visit the 911 Center on the 24th and would update Council at the following meeting. Mayor reported that they did not have any incidents during Townfest and informed Council that the new officer would be starting soon.

President Suddeth moved on to the New Business Items listed on the Agenda as many people were present to discuss the removal of Shade Trees.

Susan Simar, 35 South Main Street, spoke about receiving both a curb and sidewalk notice and a tree removal notice. She stated that the tree well was not made big enough when it was first installed. She stated that Gingkoes can live 3,000 years and are on the Philadelphia approved list of street trees. She said that it is not the trees fault that the sidewalk is buckling, and she does not argue that the sidewalk needs to be fixed, but she said that Bartlett's Tree Service believes the work can be done carefully without the removal of the tree. Susan added that she is not happy with the power company when they trim trees. She wished the power company would send letters to the property owners asking the property owners take care of the trimming as opposed to their staff.

Mark Gibson, 47 North Main Street, when first arriving to town here as Post Master noticed the beauty of the town. He is concerned with removing trees how that will change the town's beauty. He reviewed that he has one of the oldest homes of people in attendance and one of the oldest brick walkways. He agreed that if there is a safety issue concerning a brick walkway it should be taken care of, however if it is not a safety issue, it should be left be. Another concern that

Mark expressed was the amount of cost for such a project, brick vs. concrete. He isn't sure that relaying brick would be cost effective, and he would do what he is needed to do.

Connie Goodwin, 125 South Main Street, noted that she recently purchased the home and she believes that removing two trees would lessen the value of her property and repairing her sidewalk would not add any value either.

Phil Rader, 25 North Main Street, spoke about his efforts approximately 25 years ago where he worked with the Academy Headmaster to obtain trees to anyone who wanted one and they were paid for by the Academy. He noted that over the years some of those trees were removed and he would hate to see that continue.

Michael DeSilvester, 43 South Main Street, noted that the trees provide wonderful shade in the summer. The trees are beautiful mature trees, and he agrees that they should be properly maintained, however he too wishes the power company would communicate with the property owners prior to trimming trees.

Jeff Main asked that Steve Coccorese clarify the liability issues with falling on a sidewalk if liability would fall on the Borough or the property owner.

Steve Coccorese review that the Borough is generally protected from liability by State Law except when the Borough is aware of a specific dangerous condition that would be reasonable to repair. An argument could be made if a specific portion of a sidewalk that is within the Borough's ROW that is in such bad condition a risk to the public. If someone did trip and fall, ultimately it could be on the homeowner and the Borough, it would have to be a pretty bad section of sidewalk for it to trigger liability for the Borough.

Jay Thompson, 52 North Main Street, he noted that Penn DOT will be removing a tree and that places him in a holding pattern until they do it. Ordinance says that they have 60 days from the date of notification which was given 30 days ago. He has concerns with the amount of time the Ordinance allows, not knowing which trees were being removed by Penn DOT, and he believed that the letter he received wasn't very clear. Dawn Scheller explained that the tree letter he received was inviting him to the meeting to participate in the discussion, but the notice to remove tree(s) would be sent depending on Council's decision tonight. Derek reviewed the trees that Penn DOT would remove. Mr. Thompson asked that the information be put in writing. Derek Stoy assured Mr. Thompson that if homeowners have multiple trees in front of their property, that it will be clear which trees need to be removed, depending on the decision made by Council.

Another discussion item was regarding the installation of curb and the disturbance to the street. Derek Stoy responded that the contractors when installing curb must cut into the street and the homeowners will be responsible for the expense of replacing it with base paving until Penn DOT comes to complete the project next spring per their specs which are available online. Mr. Thompson feels that it is unreasonable to ask the property owners to pay for that when it will be taken out when they come to pave.

Derek Stoy informed Council that there are two special scenarios and both properties have trees that are to be removed by Penn DOT and we are at their mercy when they will remove those trees.

Tim Rockwell spoke that Penn DOT obviously has completed paving projects in the historic districts and he noted that Derek had mentioned about giving allowances. Mr. Rockwell asked that Council consider the ambiance of the historic district and make allowances when possible.

Mr. Steiger suggested that people who have been requested to complete curb and sidewalk work that they visit Chambersburg and look at recent paving work Penn DOT has completed there and compare it to what they have been asked to do.

President Suddeth asked if the curbs are being required to be repaired by Penn DOT? Derek Stoy answered and in the instances of properties 52 and 36 both are being required to have work which Penn DOT is paying for. All other

curb/sidewalk notices that were sent was based on the inspections completed just like it has been done for other street projects. President Suddeth reviewed that at last month's meeting it was a 3 to 3 vote with Mayor breaking the tie.

A general observation was made that this is an insurmountable amount of work and she does not know how this will all be coordinated on Main Street. Concerns of traffic flow and the large amount of monetary resources that will be put into this project during this hard-economic time.

President Suddeth noted that tonight's meeting is to discuss Shade Trees. He added the meeting on October 17th Council will hear the Curb and Sidewalk Appeals. Dawn Scheller noted that the Curb/Sidewalk Appeals forms must be returned to the office no later than October 14th to be heard at the October 17th meeting.

Member Amy Burkot asked that if Council acts to remove certain Shade Trees, between Council decision to remove the trees and the Shade Tree Appeal Meeting, a property owner finds a way to save the tree, they can present their Shade Tree Appeal for Council to hear individually. Dawn Scheller confirmed the process of Council decide, detailed letters notifying the owners to remove certain Shade Trees, and then the property owners will have 30 days from the date of the letter to submit a Shade Tree Appeal, that Council will hear them individually.

Vice-President Main noted that Council has done this with other street projects and feels that Council should continue to enforce this process as they have done for other streets like Linden Avenue.

Bonnie Lockard, 115 South Main Street, reviewed that she has a very old beautiful tree and that she knows that her sidewalk does need to be replaced, but she feels that it will take a lot of beauty away from the town. She noted that property owners on Linden Ave. who were told to remove trees are now being encouraged to plant trees at the expense of the Borough. Amy Burkot responded that she has been the person encouraging the planting of trees and asked that if property owners are being asked to remove trees that they leave a space open for a future tree as she can secure grant funding to plant future trees.

Member Jonathan Kittredge spoke that he believes all the trees on the list except for the property of 105 South Main Street and only one tree at 118 South Main Street should be required to be removed.

Member Donald Stoner spoke that everyone must follow the Ordinance fairly and all treated the same. He noted that any Shade Tree Appeals will be heard individually. He also noted that as the State continues to repave roads, Council will need to address curbs/sidewalks as they come forward. Donald Stoner said that when Park Avenue is completed he will have work to do at his property.

Tim Rockwell spoke that Council needs to be fair and consistent but also consider the Historic District in the decision.

MOTION: to approve that all trees presented on the list be removed was made by Jeff Main, second by Jonathan Kittredge, more discussion on the change of ambiance with approving the removal of trees, discussion about some properties having some of the oldest sidewalks and stone curb and the desire to not require those to be disturbed by the removal of sidewalk, Tom Suddeth opposed, remaining ayes, motion carried.

Police Report was included in the packet for review. It was noted that the Chief included an email of the amount of time the department spends on parking.

Dawn Scheller reviewed her report which included the updated amount of Sidewalk Loan money available to residents to borrow for projects of \$68,848.63. Dawn noted that West Penn Power denied the trail ROW Agreement. This would require the trail to be redesigned. MACWell has asked that the Borough pay for the cost of the redesign at an expense of \$2500. Dawn Scheller reviewed that Council has pledged a total of \$21,352.92 in kind to the project. This year the Borough has paid a total of \$3,105.41 towards the project.

MOTION: to deny the request to pay for the trail redesign at a cost of \$2500 was made by Jonathan Kittredge, second by Amy Burkot, Catalin Bonciu asked about splitting the expense in half, more discussion occurred that MACWell should have secured this ROW in the first place, Bob Whitmore spoke and said he thought he had received approval, a vote was taken all ayes, motion carried.

MOTION: to let MACWell to coordinate the redesign work and let them choose option A on the design or Option B as they would incur the costs was made by Jeff main, second by Catalin Bonciu, all ayes, motion carried.

Dawn Scheller also noted that the Special Event Insurance cost is a total of \$357.50 for the Parade Float. Amy Burkot expressed concern with this cost and did not wish to spend those funds for insurance, she felt it was too high.

MOTION: to cancel the Summer Parade Float due to the cost of insurance was made by Jonathan Kittredge, second by Donald Stoner, Mayor Defibaugh asked them to withdraw the motion as he offered to pay for the cost of insurance, motion was withdrawn.

The audience members still present clapped and Amy Burkot thanked the Mayor.

Trick-or-Treat was the next item discussed.

MOTION: to schedule Trick-or-Treat to Saturday, October 29th from 5-7 pm was made by Jeff Main, second by Jonathan Kittredge, Catalin Bonciu and Donald Stoner opposed, remaining ayes, motion carried.

Derek Stoy presented his report and requested two items be purchased using the Joint Equipment Fund. First item was a tree pruner for \$439.00 and the second item was a ladder at the cost of \$150. He would obtain approval from the Authorities prior to the purchase. Derek reviewed that he issued two Land Use Permits during the month of September.

President Suddeth moved on to the Committee Reports.

Catalin Bonciu presented the information from the Finance Committee Meeting. It was noted that each mill is equal to \$13,037.55 and the Fire Department has asked for a .4 mill increase, and Finance Committee is proposing a 2.0 mills for Police Salaries. Catalin reviewed that Council has asked for options, so a second budget was also prepared with a .4 mill increase to the Fire Department, and a 1 mill increase for Police Salaried. A discussion occurred regarding the Borough Cleaning Contract, Borough Council wished that the money remains in the Budget for cleaning services and asked that the office seek multiple cleaning estimates for 2017.

MOTION: to approve to advertise a draft 2017 Borough Operating Budget with a proposed 2.4 mill increase was made by Lisa McCoy, second by Catalin Bonciu, Lisa began the discussion with the notation that everything continues to increase, salaried, insurances, electric, and that Council should think about increasing a little at a time rather than having to raise taxes by a large amount at once, Jonathan Kittredge doesn't agree with the Fire Department increase should be approved he feels that since they are now a 5013C they should be looking for other ways to raise money, Jeff Main spoke about the meeting the Fire Department had reviewing the 3/5/10 year plans and very few members of the public attended, a discussion began on the Police Department millage increase, a remark was made that the Police Department is equivalent to 45% of the Borough's overall budget and the amount of coverage/services provided is not reflective of that, a vote was taken, Jonathan Kittredge and Tom Suddeth opposed, remaining ayes, motion carried.

Vice-President Main presented the MMP & W Fire Board Report which included a letter explaining the millage increase request and the month's activity. This letter was also sent to all Townships.

Streets Committee report was reviewed and the following recommendations were made to Council who made the following motions.

MOTION: to enforce that property of 306 North Main Street replace the sidewalk and come into compliance with the Borough Ordinance 7-11 was made by Donald Stoner, second by Jonathan Kittredge, all ayes, motion carried.

MOTION: to authorize Derek Stoy to complete and file all HOP for the Penn DOT Project and obtain Engineering assistance if necessary was made by Donald Stoner, second by Jeff Main, all ayes, motion carried.

Council President asked Josh Meyers to present the HARB information. Josh Meyers presented the meeting information from the HARB Meeting held on September 14, 2016 and September 20, 2016. Copies of the HARB Meeting packet were provided to all Council Members for review.

To Deny COA-16-09-01 and recommend to the property owner to revisit the previously approved application COA-15-05-02 and furthermore provide the applicant with the consultant's report and HARB meeting minutes from May 2015 was made by Jeff Main, second by Donald Stoner, Catalin Bonciu spoke and asked Council to allow this work as this property needs to be fixed up, Jonathan Kittredge abstained, Catalin Bonciu opposed, remaining ayes, motion carried.

Josh Meyers reviewed the discussion which occurred at the 9/14/16 meeting. Derek Stoy confirmed that all Council Members reviewed a copy of the design guides. Josh Meyers asked that Council review them and make suggestion on it to meet again with the HARB Board in the future. Discussion occurred with whether energy saving material or products could be included, it was also reviewed that HARB is a recommending body only, and that Council has the final decision. Two additional points were made that it is up to Council to enforce and preserve the Historic District and what it will cost the property owners. Council asked that HARB consider providing the property owners with alternatives before coming to Council with a denial recommendation. A heated discussion occurred and Catalin Bonciu left the meeting at 9:18 pm. More discussion occurred on the design guides and how often are they reviewed, the importance of each application be reviewed individually, and some Council Members felt that cost should be a factor when deciding. President Suddeth asked that everyone review the information and come back with ideas.

Council moved onto the other items listed on the Agenda.

MOTION: to approve the purchases of a Stihl HT 101 Pole Pruner for a cost of \$439.00 and a 17' Aluminum Ladder that is adjustable like a Little Giant Ladder for the cost of \$150.00 paid out of the Joint Equipment Fund was made by Donald Stoner, second by Catalin Bonciu, all ayes, motion carried.

MOTION: to authorize the Treasurer to complete and sign the Volunteer Fire Relief document and authorize a check in the amount of \$9,258.15 be paid to MMP & W was made by Donald Stoner, second by Jonathan Kittredge, all ayes, motion carried.

Calendar and Correspondence items were reviewed.

MOTION: to adjourn at 9:30 pm was made by Jonathan Kittredge, second by Donald Stoner, all ayes, motion carried.

These meeting minutes have been transcribed and respectfully submitted for approval by Dawn Scheller with the use of her meeting notes and audio recording.

Date approved: _____ Motion made by: _____ Second by: _____

