

BOROUGH OF WEST READING – BOROUGH COUNCIL

June 21, 2011 – 7:00 p.m.

West Reading Borough Council held its regular monthly meeting at Borough Hall on Tuesday, June 21, 2011 with the following persons present: Council President Kevin Conrad; Vice President Philip Wert; Council Members Elizabeth Heckler, Deborah Hutcheson, James Gallen, Amy Good-Ashman; Mayor Shane Keller; Police Chief Edward Fabriziani; Fire Chief Mark Burkholder; Dan Becker, Kozloff Stoudt; Chief Code Enforcement Officer Tracey Levering; Public Works Director Dean Murray; Elm Street Manager Dean Rohrbach; Administrative Assistant Cathy Hoffman; Terry Naugle, Great Valley Consultants. Council Member Nathalie Kulesa, Borough Manager Richard Sichler, and Recreation Coordinator Daphne Klahr were unable to attend.

<u>VISITORS:</u>	Bruce Albrecht	Property Owner
	Ron Schweitzer	Resident
	Maria Leonti	Property Owner
	Tyler Jones	Resident
	Chuck Liedike	Realtor Association
	Tina Shenk	Property Owner
	Ruth Cardell	Temple
	Audrey Schaeffer	Resident
	Kerry Engle	Realtor Association
	Vickie Venegia	Realtor Association
	Diane Longeacre	Realtor Association
	Karen Livingood	Resident
	Jim Livingood	Resident
	Robin Horman	Resident
	Donna Gallen	Property Owner
	Darrin Youcker	Reading Eagle
	Oswald Herbert	Resident

Council President Kevin Conrad called the meeting to order at 7:00 p.m. which was followed by the Pledge of Allegiance and roll call.

CONDITIONAL USE HEARING:

A conditional use hearing was held immediately prior to the Council meeting for the property at 546 Penn Avenue. Based on the discussion from the hearing, Daniel P. Becker, Borough Solicitor provided conditions for the motion.

Moved by Mr. Gallen and seconded by Mr. Wert to approve the conditional use for the property at 546 Penn Avenue subject to the following conditions:

1. hours of operation – 8:00 a.m. – 4:30 p.m.;
 2. maximum of ten students and one instructor, or as otherwise limited by the building code occupancy requirements;
 3. the use will comply with all applicable local ordinances, state and federal laws and regulations for the disposal of medical waste if applicable.
- Motion carried.**

PUBLIC COMMENT:

Kerry Engle (2011 President of the Realtors' Association of Berks County) spoke on behalf of the realtors in Berks County concerning the stringency of the Use and Occupancy ordinance as interpreted by the Borough's Code Enforcement Department. She stated that once the U&O inspection is completed for a property that is being sold,

the owner is given pages of corrections that must be made and often these charges add hundreds or thousands of dollars to the overall cost of the sale. It is their goal to work with the Codes Department to ensure that the health and safety issues are addressed. Ms. Engle stated that realtors understand the enforcement of reasonable U&O criteria, however it is important that these inspections focus solely on health and safety issues. She said that it is her understanding that the residential portion of this ordinance is temporarily not being enforced and it is their hope that in rewriting this ordinance, the Borough will sit down with their Association so that they can provide input to concentrate on health and safety concerns. She asked if those in attendance could sit down with members of Council after the meeting to discuss the issues, or schedule a time at a later date to share what other townships are doing.

Chuck Liedike (Government Affairs Representative for the Reading/Berks Realtors Association) said that recently many realtors have spoken to him regarding the Borough's Use and Occupancy inspection program and that on April 6th he, along with some of those members met with the Mayor and the Chief Code Enforcement Officer. The meeting was used to gain insight into the Borough's goals for the inspection program, and to educate them about the realtors' concerns about how West Reading's Use and Occupancy inspections have negatively impacted the settlement process either by causing deals to fall apart, or by encouraging potential purchasers to look elsewhere. Mr. Liedike said that it is important to understand that this ordinance will unfairly and possibly illegally complicate the transactions of property owners. It is the opinion of many Association members that health and safety items should be upheld but nitpicking and self interpretation of the law is entirely unacceptable and could be illegal. He noted that many other municipalities in the County that have U&O inspections focus specifically on health and safety issues. He also offered to meet with officials to discuss potential changes to the residential inspection portion of the U&O ordinance and noted that this has been done with many other communities in the County.

Tyler Jones informed Council that he has been attending Western Berks Water Authority meetings for the last nine months as an advocate of ending water fluoridation. The Authority has agreed to form a committee to organize a fluoride symposium which will be held locally and will be an open format meeting. Mr. Jones distributed information to Council and noted that residents will be receiving information as well concerning the meeting. He also noted that he would be petitioning to obtain signatures of those who also oppose water fluoridation and asked if a permit would be required to do so. Mrs. Levering stated that a permit would not be required. Mr. Conrad asked Mr. Jones to give his information to Mr. Wert, who is the Council representative to the Environmental Advisory Council so that the EAC can review the information and become part of the discussions.

Bruce Albrecht (licensed plumber and property owner) stated that it is common practice in every nearby borough not to pull a permit for the replacement of a water closet or faucet, however in West Reading when a customer is told that a permit fee will have to be paid, the customer states that they will do it themselves or find someone else who will do it without a permit. He also noted that the Borough regulations state that the plumber must be there for the inspection, which also adds to the cost for the homeowner.

Donna Gallen (owner of 304 Sycamore Road) voiced her concern about having to pay a yearly inspection fee for her rental property. She also said that the list of repairs that she must do yearly is excessive and contains items that most homeowners would not consider as items needing repair.

Maria Leonti (owner of 400 Cherry Street) said she has owned the property for 15 years but the inspection this year was very upsetting. She asked what the inspector's qualifications and background were because at the inspection he spoke about moving beams in the building which she said makes no sense. She said that she has had enough and is ready to take legal action.

Tina Shenk (owner of 400 Penn Avenue) said she does appreciate the Codes Department, however she thinks that sometimes it is unreasonable, that there are a lot of trades people who will not work in the Borough and that there is a lot of negativity towards the Codes Department. She said she hopes that Codes and Council will sit down with the realtors to try to get it a little more even with other boroughs because West Reading has a tough reputation.

She added that tougher doesn't mean that it's better and that the Borough is going down the wrong track. She hoped that both sides can come to an agreement to make it easier for everyone.

Resident Chris Earnst stated that he burns wood in winter to heat his house, and that he is being told how to stack the wood on his property, that it must be 12" off the ground because of rodents. He said that in order to comply, he will have to custom build something because nothing exists that meets the regulations. He said that he has checked with surrounding boroughs and they do not have any code concerning firewood. He added that no matter how far the wood is kept off the ground, rodents will get to it anyway, and he noted that there are four other homes near his that have wood stacked on the ground but those residents have not been cited or spoken with about it. He said he received a letter that states he must comply by July 7th or incur a fine of up to \$1000 per day. He asked to have until the first of the year to comply because he will have burned most of the wood by then which will make it easier to comply.

Mrs. Levering said that it is the nuisance ordinance that states that wood must be kept 12" off the ground because of insects and rodents. Mr. Conrad stated that Mrs. Levering is doing her job by enforcing the ordinances that Council has put in place. If there are ordinances that don't make sense, then Council will have to look at it. Mr. Earnst asked where the ordinances could be viewed because they are not on the Borough's website.

Mr. Gallen stated that he has concerns, based on the information provided by the visitors in attendance. After some discussion, Mr. Conrad asked that a committee be formed to review the ordinances. He again stated that it is Mrs. Levering's job to enforce the ordinances but it is Council's job to ensure that the ordinances are pertinent. Mr. Becker added that there are two people in the Codes Department who cite infractions, but they must see them in order to cite them. If the ordinance doesn't make sense today because it was relevant 20 years ago, then Council should take a look at it. Mr. Gallen agreed and stated as an example that there are wood stackers that keep wood 6" off the ground, which would probably be sufficient, rather than insisting that a stacker be constructed to keep it 12" off the ground.

Resident Ron Schweitzer asked how international building codes got adopted in the Borough when parts of it pertain to Spain, Russia, etc. Mr. Becker explained that in 1999, the state legislature imposed on all municipalities in the state a document called the Uniform Construction Code. The International Construction Codes are federal building codes which the Borough is also required to enforce.

There was some discussion regarding the review of the ordinances and it was suggested that once a committee is established and the review has begun, that realtors be invited to participate during discussions that are pertinent to them, and when rental properties are discussed, that landlords are able to participate, etc. Mr. Gallen, Mrs. Heckler and Mr. Conrad then volunteered to participate in the ordinance review.

Mr. Earnst asked if he could have an extension until the end of the year and Mayor Keller granted the extension. Mr. Earnst also asked who is responsible when sidewalks have lifted and Mr. Conrad said he would have Mr. Sichler contact him when he returns to discuss the issue.

APPROVAL OF COUNCIL MINUTES:

Moved by Mrs. Heckler and seconded by Ms. Hutcheson to approve the minutes of May 18th, 2011. **Motion carried.**

UNFINISHED BUSINESS:

Belovich Development – Mr. Becker stated that there is a local developer in the preliminary stages of looking at purchasing the remaining lots in the Belovich Development.

CONSULTANTS' REPORTS:

Solicitor's Report – Mr. Becker stated that the Borough's cable franchise is up for renewal and a consortium has been formed. The Cohen Telecommunications Law Group in Pittsburgh has provided a proposal to negotiate the contract. He recommended that the Borough proceed by executing the contract.

Mr. Conrad stated that the cost to the Borough to enter into the agreement is \$5,056. He added that there are several municipalities locally that have entered into the agreement as well. **Moved** by Ms. Hutcheson and seconded by Mr. Wert to authorize the engagement of the Cohen Telecommunications Law Group to provide the Borough with franchise renewal services per the May 17, 2011 proposal, for a fee of \$5,056.

Mr. Gallen asked why the Borough has to pay almost \$5100 to get \$62,000 per year. Mr. Becker explained that the Cohen group will probably negotiate the best agreement possible, not only for funding but also for quality of service, availability of service in schools, etc.

Voting yes - Ms. Hutcheson, Mr. Conrad, Mr. Wert, Mrs. Heckler, Ms. Good-Ashman. Voting no – Mr. Gallen.
Motion carried.

Mr. Becker brought forward the proposed changes regarding the rubbish ordinance that had been distributed to Council, and noted that there was one paragraph to be added concerning composting – that it should be done in a closed container. Council decided not to advertise the ordinance given that this particular ordinance is the one that includes the stacking of firewood.

Mr. Becker updated Council concerning the Dominion Power situation by stating that they have elected to terminate the contract. He said it is not clear if they will proceed with litigation, however it doesn't look like it. He noted that the letter is ambiguous but the same letter has been sent to several other municipalities.

Moved by Ms. Hutcheson and seconded by Mr. Wert to approve the Solicitor's Report. **Motion carried.**

Engineer's Report – Mr. Naugle stated that they have prepared the construction and bidding documents for the sidewalk project and requested permission to put the project out for bid. **Moved** by Mr. Wert and seconded by Ms. Hutcheson to approve authorization for sending out an invitation to bidders for project 'A' which includes sidewalks on both sides of South Third Avenue between Chestnut and Kline Streets, the west side of South Third Avenue between Kline and Spruce Streets and the southeast corner of South Third Avenue and Franklin Street.

Motion carried.

Mr. Naugle also reported that there is \$4000 in retainage from the Sunset Road reconstruction project and in talking with Mr. Sichler it has been determined that issues have been resolved and the retainage can be released. **Moved** by Mrs. Heckler and seconded by Ms. Hutcheson to approve the release of the remaining \$4000 from the Sunset Road project to Windsor Services. **Motion carried.**

The Borough has requested costs for two proposals – both for traffic studies to look at the feasibility of making alleys one way only. Mr. Naugle stated that those costs were \$750 for Court Street and \$750 for Cherry Street. Council requested that this information be presented to the Traffic Committee for a recommendation, which can be decided at the July Council meeting.

Moved by Ms. Hutcheson and seconded by Mrs. Heckler to approve the Engineer's report. **Motion carried.**

BOROUGH MANAGER'S REPORT:

Community Development Block Grant – Mr. Conrad stated that the Borough has received a \$50,000 federal grant for the installation of ADA curb ramps. He said that the grant covers the installation, however the engineering costs would have to be paid by the Borough. Those costs, per the proposal from Great Valley Consultants, would be just under \$9000.

Moved by Mr. Gallen and seconded by Ms. Good-Ashman to complete the agreement with Berks County for the grant. **Motion carried.**

Motion by Mr. Gallen and seconded by Ms. Good-Ashman to approve Great Valley Consultants to proceed with the engineering work per their June 8, 2011 proposal. **Motion carried.**

Moved by Mrs. Heckler and seconded by Mr. Wert to accept the Borough Manager's report. **Motion carried.**

MAYOR'S REPORT AND MAIN STREET REPORT:

Mayor Keller said that he had been copied on a letter from Kevin Barnhardt, Chair of the Berks County Prison Board to the senior highway maintenance manager for PennDOT, stating that the use of inmate labor to cut the grass at the West Reading cloverleaf will cease. He said he then received a letter from PennDOT stating that they have been advised that the inmates will no longer cut the grass and offered a few options: if the Borough wishes to cut the grass, PennDOT is willing to enter into an agreement, however there isn't much funding available to pay the Borough; PennDOT is willing to have a volunteer group adopt it; otherwise they will revert to their policy which is 3 to 4 mowings per year. Mayor Keller added that the cloverleaf is currently in violation of the Borough ordinance, that complaints have been received about visibility from lower vehicles, and that he is preparing to send a letter to PennDOT notifying them that the cloverleaf is in violation.

Chief Fabrizio reminded everyone that when they dealt with this issue a couple of years ago, Representative Caltagirone's office was instrumental in dealing with PennDOT, and said he was willing to contact them again. Mr. Conrad asked that he do that and bring Mr. Sichler up to speed when he returns from vacation.

Mayor Keller concluded his report by referring to the Main Street Foundation and Authority minutes that were in the Council packet, and by reporting that Art on the Avenue was very well attended. He thanked everyone who was involved.

Moved by Mr. Gallen and seconded by Mr. Wert to accept the Mayor's report. **Motion carried.**

DEPARTMENT REPORTS:

Code Enforcement – Chief Code Enforcement Officer Tracey Levering presented her written report for consideration and also asked for Council's approval to establish a commercial Certificate of Occupancy fee and an additional re-inspection fee for plumbing inspections. She further explained that when a new business opens up, Mr. Naugle does an inspection and approves the issuing of a Certificate of Occupancy, however a fee for this inspection has not been established. She noted that this inspection is required by the State. It was decided by Council that taxpayers should not have to pay for the engineer for this inspection and that it should be passed on to the business owner. **Moved** by Ms. Good-Ashman and seconded by Mrs. Heckler to enact the fee of \$150 to reimburse the Borough for the engineering costs for the commercial Certificate of Occupancy inspection or re-inspections, acknowledging that these inspections are required by the State. **Motion carried.**

Regarding the plumbing fee for re-inspections, Mrs. Levering explained that the plumbing inspector had recommended the fee because there have been many instances where he has had to re-inspect a property 4 or 5 times until the contractor has completed the work satisfactorily. It was noted that this is a state required inspection as well and that if the work is done properly the first time, no additional fees would be required. **Moved** by Ms. Good-Ashman and seconded by Mrs. Heckler to approve the fee of \$50 for commercial and residential plumbing additional inspection fees as they are needed. **Motion carried.**

Moved by Ms. Good-Ashman and seconded by Ms. Hutcheson to accept the Chief Code Enforcement Officer's report. **Motion carried.**

Police Department – Chief Fabrizio stated that the statistics report for the current month will be presented at the July meeting. He then spoke about the proposed policy that would place the Fire Police Division under the organizational chart of the Mayor and Police Department. He added that this is a practice of many municipalities in Pennsylvania because the Fire Department does not have the authority to act under the Motor Vehicle Code. Having the Fire Police under the Police department will meet the requirements under State Title 35. He added that they have been working on this for about a year and have received input from the Mayor, Fire Chief, and all Fire Police Officers. It was noted that funding for equipment and training would still be under the Fire Department.

Mr. Conrad said that because the document is an internal policy, Council may not have to approve it. After further review, Mr. Becker said that only the Mayor's approval is required, which has been done. Mr. Conrad asked that one change be made, that proof of valid vehicle insurance be added under section 2(D).

Chief Fabrizio commented on the Art on the Avenue event and noted that it went very well. He did however feel that a time needs to be set where everything is moved off of the Avenue so that the street can be reopened. He noted that although PennDOT had approved the closure until 6:00 p.m., some of the vendors were there until 7:00 or 7:30 p.m. Chief Fabrizio thanked the crew for getting things done so quickly.

Chief Fabrizio then spoke about the County's radio requirements and noted that he and Chief Burkholder had met with a representative from Motorola to determine what is required and the costs involved. He added that the County has now agreed to pay 20% of the equipment costs for each municipality. Of the remaining 80%, the Borough will be able to rent or lease the equipment with the payoff being up to 7 years. He felt that 7 years is too long and that 5 years is more realistic. It was also noted that the lease will be at 0% interest. He added that they will continue to review all available options.

Chief Fabrizio said that he had budgeted for replacement of ballistic vests and after reviewing the various types and pricing, it will cost \$13,000 for the program. \$12,500 was budgeted, however a 50% matching grant is available from the Department of Justice for which they have applied, and will know if it has been awarded within about two weeks.

Chief Fabrizio also spoke about a shooting that occurred about four years ago that they recently received a tip about from Berks County Crime Alert. He said that the person in question is in the Erie County Prison and a detective will be interviewing the individual with hopes that they will finally be able to close the case.

Moved by Mrs. Heckler and seconded by Ms. Hutcheson to accept the Police Chief's Report. **Motion carried.**

Public Works – Public Works Director Dean Murray presented his written report. **Moved** by Mr. Gallen and seconded by Mrs. Heckler to accept the Public Works Director's report. **Motion carried.**

Fire Department – Chief Burkholder referred to his written report. He also handed out documents concerning the purchase of the ladder truck and noted that as he had predicted, the grant application was not approved. The

handout provided information concerning funding the entire cost of the ladder truck. He noted that they had bid the truck, which Council approved, the bids all expired, and after much consideration went back to the low bidder because they will build the truck that the Fire Department needs. He added that they were significantly lower than anyone else and rather than bid it again, Chief Burkholder approached them for Co-Stars pricing which actually came in lower than the bid. The quote that he has presented is good until the end of July. They require 330 days to build it and nothing needs to be paid until the truck is delivered and accepted, therefore no funds would be paid out until next summer. He also noted that at the end of December the current ladder truck will be out of service because it won't pass inspection. It would cost a minimum of \$5,000 to \$10,000 to repair the items that he is aware of, and he doesn't believe that the Borough will get more than \$5,000 to \$10,000 when it's sold. He said he will be asking for a decision at the July meeting.

After some discussion regarding financing, funds that have been set aside, and the possibility of funding from the hospital, Mr. Conrad asked that members of the Hospital Committee meet with Chief Burkholder and Mr. Sichler to determine the next steps to be taken.

Moved by Ms. Good-Ashman and seconded by Ms. Hutcheson to accept the Fire Chief's report. **Motion carried.**

Elm Street – Mr. Rohrbach referred to his written report and noted the housing sales in the Ten Points and Center Point neighborhoods over the last two years. **Moved by** Ms. Good-Ashman and seconded by Ms. Hutcheson to approve the Elm Street Manager's report. **Motion carried.**

COMMITTEE/COMMISSION REPORTS:

Safety Committee – **Moved by** Mr. Gallen and seconded by Ms. Good-Ashman to accept the Safety Committee report. **Motion carried.**

Recreation Commission – Mrs. Heckler presented the Recreation report. Mr. Conrad noted that there will be fireworks on the 4th at 9:30 p.m. Mr. Wert noted that in the Recreation report under Additional Comments, the replacement cost for pool membership cards should be \$5 not \$56.

Moved by Ms. Hutcheson and seconded by Mr. Wert to approve the Recreation Commission report, as amended. **Motion carried.**

Planning Commission – Mr. Wert stated that the Commission worked on the FEMA map and various zoning issues, particularly signs. **Moved by** Ms. Hutcheson and seconded by Mr. Wert to accept the Planning Commission Report. **Motion carried.**

Environmental Advisory Council – Mr. Wert said that the Environmental Advisory Council has had their second meeting and that they are working on having a speaker series at the Farmers' Market on Sundays. They are coordinating speakers for the remainder of the season that will speak on issues concerning gardening, composting, rain barrels etc. **Moved by** Ms. Good-Ashman and seconded by Mrs. Heckler to approve the Environmental Advisory Council report. **Motion carried.**

TREASURER'S REPORT:

Moved by Mr. Gallen and seconded by Mr. Wert to approve the revenue report for the five months ending May 31, 2011. **Motion carried.**

Moved by Mr. Gallen and seconded by Ms. Good-Ashman to approve the Payment Approval Report for 5/13/11 to 6/17/11. **Motion carried.**

NEW BUSINESS: Ms. Good-Ashman asked if an update on the status of the school project could be provided, either at the next Council meeting or at an interim meeting informally. Mr. Conrad said he would ask Mr. Sichler to arrange it. Mr. Naugle added that from the inspections he has been doing they are on track but it will be very close to the deadline when finished.

Mrs. Heckler asked about handicapped spaces when the individual is not longer living at that location and Chief Fabrizio stated that every year letters are sent to those who have handicapped spaces to determine if they still have a need for the space. There are currently a few that need to be removed which will be ready for the next Council meeting.

EXECUTIVE SESSION:

Council recessed to Executive Session at 8:37p.m. to discuss two legal matters. When the meeting reconvened, it was adjourned with no action being taken.

Respectfully submitted,

Cathy Hoffman
Administrative Assistant