

ATTENDANCE

Council Members: Angela Ashbrook
Alma Akinjiola
Barry Bloch (arrived at 8:00 p.m.)
Ryan Hanosek
Todd Rutledge
Roseann Schleicher, Vice-President
John Yerman, President

Mayor: Ronald Conrad

Interim Borough Manager: Chris L. Boehm

Solicitor: Patrick Armstrong

Engineers: Stan Wojciechowski (7:30 p.m. to 8:11 p.m.)

Administrative Assistant: Selma Ritter (7:30 p.m. to 9:46 p.m.)

CALL TO ORDER - President Yerman called the regular Borough Council meeting to order at 7:30 p.m.

ENGINEER'S MONTHLY REPORT (the "Report") – BARRY ISETT & ASSOCIATES ("BIA"). Engineer Stan Wojciechowski discussed some of the items listed in his March 01, 2021 report:

i. Mountain Creek Survey Between E. Main Street and Hickory Street. BIA's cost for the survey would not exceed \$4,000.00. The boundary line survey would determine the extent of the walls on each property and the property lines. Solicitor Armstrong stated the title search and Deed Description that were done did not show the walls.

ii. Hickory Street Bridge. The center piers of the bridge were damaged by the August 2020 storms. Since that time, the bridge has been closed to vehicular traffic. He estimated cost to replace the bridge is ± \$300,000.00. A Dirt, Gravel, and Low Volume Roads (DGLVR) Program Grant is available. BIA requested Council consider authorizing them to contact Lehigh County Conservation District (LCCD) to determine if the location of the bridge would qualify for the DGLVR Grant. The grant would not cover 100% of the expenses for the bridge replacement. After the grant was discussed further, there was a unanimous consensus of Council to allow BIA to move forward with contacting LCCD; BIA will then report back to Council with LCCD's answer.

iii. PP&L Utility Pole Work (Osmose Construction). Engineer Wojciechowski informed Council PP&L has contracted Osmose to perform trussing work at 15 utility pole locations in the Borough and four of the poles are within completed sections of the Main Street Streetscapes project; the work will include disturbance of the new bricks. BIA will take photographs of the completed streetscapes work, prior to Osmose conducting the PP&L work, so the condition of the area is documented to ensure Osmose restores the area to its original condition.

iv. South Church Street Water Lateral Replacement Project (the "Project"). Engineer Wojciechowski provided an update on the Project. The Borough Authority has been awarded a

Local Share Account (LSA) Grant, in the amount of \$155,341.63, for the Project. Four bids were received for the Project. At their February 11, 2021 meeting, the Borough Authority awarded the contract to Anrich, Inc., who was the apparent lowest bidder at \$108,693.00. Construction on the Project is expected to begin in April 2021 and would last approximately 45-days.

v. Main Street Commons (MSC), Phase II, Car Wash. MSC submitted plans and supporting documents to the Borough for the Borough Planning Commission's review at the March 16, 2021 meeting.

vi. 202 E. Main Street Minor Subdivision (formerly the location of the Bear Swamp Diner). The property owner submitted a subdivision application to the Borough for the Planning Commission's review at their March 16, 2021 meeting, to adjust a few lot lines.

vii. Estates at Brookside. Council briefly discussed the developer's offer for a cash contribution in lieu of the 18-month maintenance period, which would trigger the Borough accepting the road and sewer dedications. One of the conditions for Council to consider the offer was the developer had to send letters to the property owners regarding the restrictions on their property; however, to date, the developer has not drafted the letter or legal documents for the Borough's approval. At the February 01, 2021 Council meeting, a motion was made to approve Engineer Wojciechowski and Solicitor Armstrong working together on drafting a letter to the property owners, then bill the developer for their work. The draft letter was then discussed, which President Yerman will sign and the Borough will mail to the property owners.

President Yerman made a motion to send the BIA draft letter to all of the property owners in the Estates at Brookside, second by Council Member Schleicher. Motion carried: 6 ayes. (Council Member Bloch was absent from the vote).

viii. Grant Update for Macungie Institute Boiler. The LSA Grant Application that was previously submitted by the former Borough Manager requires additional information, including engineering fees in the amount of \$15,000.00. This evening, Interim Manager Boehm requested Council approve and sign the BIA proposal for the project's engineering costs of \$15,000.00 extra, which would then cause Resolution 2020-05 to be amended (to show the additional \$15,000.00 for engineering fees), making the revised grant application total \$126,325.00. She noted Resolution 2020-05 also authorized the former Borough Manager to be the signatory on the grant; therefore, the Resolution would need to be revised (now known as Resolution 2021-05). The signatories on Resolution 2021-05 would be President Yerman and Administrative Assistant Ritter because a new Borough Manager has not been hired yet. President Yerman summarized the grant application update as including all the necessary expenses on the project to properly execute the grant funding.

The LSA Grant application will be revised and the accompanying documents will be provided to LSA by the March 05, 2021 deadline. Tonight's motion would include adding \$15,000.00 to the grant application for the necessary engineering fees. If awarded, the LSA Grant funds would be used to fund the replacement of the heating system at the Macungie Institute.

Motion #1: President Yerman made a motion to approve BIA's cost proposal, dated March 01, 2021, for the Macungie Institute HVAC project, second by Council Member Rutledge. Motion carried: 7 ayes. (Council Member Bloch was present).

Motion #2: Council Member Rutledge made a motion to adopt Resolution 2021-05, to amend the grant application to include the additional expenses and change the signatories, second by Council Member Schleicher. Motion carried: 7 ayes.

MASER CONSULTING, RE: BROOKSIDE COUNTRY CLUB LAND DEVELOPMENT -

C. Richard Roseberry, P.E., from Colliers Engineering & Design, Rick Koze, from Kay Brookside, LLC, and Attorney James Preston, from Broughal & DeVito, LLP, were in attendance this evening to speak on behalf of the Brookside Country Club (“BCC”) Development. The project was previously discussed at the Borough Planning Commission.

Engineer Roseberry discussed the proposed project, including the emergency access through the Ridings Development, walking trail and stormwater retention basin. An Application was submitted to the Borough Zoning Hearing Board for a Special Exception use from Zoning Ordinance §345-15.C (8), as the said development is not a permitted use by right on a golf course in the R-10 zoning district. BCC is currently proposing to construct 80-Units in the development, which would consist of twin and single-family homes (no townhomes).

The possibility of a walking path, connecting BCC to Route 100 in the Borough, was discussed. Engineer Roseberry stated BCC is willing to install the walking path.

Council Member Rutledge reported some residents, in the Lindfield Drive section of the Riding Development, expressed concern for invasion of their privacy with a walking path being proposed so close to their property. Concern was also expressed for uncontrolled golf balls hitting people walking on the walking path, residents in their backyard or homes. Installation of fences and/or buffers were discussed to elevate the concerns.

The Zoning Hearing for the BCC Development is scheduled for March 10, 2021 at 7:30 p.m. at the Macungie Institute.

PUBLIC COMMENT

a. Prior Public Comments to Council.

i. Carl Sell, re: snowplowing schedule, order of snow removal streets. Interim Manager Boehm spoke with the Borough’s Public Works Supervisor, Tracy Smith, and requested he draft a snow removal schedule for future use.

b. Comments from the Audience on non-agenda items - None.

COUNCIL COMPLIMENTS, COMPLAINTS, PETITIONS AND APPEALS

a. President Yerman. A resident questioned why more traffic control enforcement is not being done at the pedestrian crosswalks along Main Street/Route 100. The resident has young children who play in Macungie Memorial Park and he is concerned for their safety when crossing the street. Sgt. Kocher stated he was unaware of an issue, but he will conduct a traffic study. He requested

residents contact the Macungie Police Department with such issues instead of contacting a Council Member.

b. Council Member Rutledge complimented the Public Works Department (“PWD”) for their diligence and hard work with removing snow in the Borough from the past storms. There was a brief discussion on the possibility of the Borough hiring a temporary part-time PWD winter worker to assist with snow removal.

c. Council Member Bloch questioned the status of the crosswalk lights at Main and Poplar Streets (at Salvatore’s Pizza) being fixed. Interim Manager Boehm reported Telco is still waiting for the lights to be delivered to them. After Telco receives the lights, they will provide Council with a quote for installation.

APPROVAL OF MINUTES

a. February 16, 2021. Council Member Schleicher made a motion to approve the February 16, 2021 minutes, as written, second by Council Member Akinjiola. Motion carried: 7 ayes.

CONSENT AGENDA

a. Treasurer’s Report of February 25, 2021. The Report was briefly discussed.

Council Member Rutledge made a motion to approve the February 25, 2021 Treasurer’s Report, as presented, second by Council Member Schleicher. Motion carried: 7 ayes.

b. Approval of invoices for payment. Some of the invoices listed on the Consent Agenda were briefly discussed.

Council Member Schleicher made a motion to approve paying the invoices listed on the Bills for Payment, as of March 02, 2021, in the amount of \$92,857.22, as presented, second by Council Member Yerman. Motion carried: 7 ayes.

CORRESPONDENCE

a. Cactus Blue, re: Food Truck Permit Request. Adam Gangewere, owner of the Cactus Blue Mexican Restaurant, requested the Borough implement a food truck permit and/or ordinance in the Borough. He reported for the past year, he has been operating a food truck on the private property of Bear Swamp Beverage approximately once a week, which requires a permit. He stated the Borough currently does not have a food truck permit, so he has been obtaining a Transient Retail Permit, which is more for door-to-door solicitations and firework tents. He alleged the Transient Retail Permit cost totaled approximately \$200.00 per month during 2020, after the proper background checks were done for each of his employees, the permit fee and a per employee fees was paid. He commented the cost is high because of the type of permit he has been required to get, but in a neighboring municipality he pays approximately \$50.00 annually for their food truck permit.

There was a discussion on other food trucks operating in the Borough, out of Macungie Memorial Park during events and Macungie Farmer's Market (all on private property), without requiring a permit; and why they would be different from Cactus Blue's food truck. Interim Manager Boehm stated the Macungie Farmer's Market was once a Borough function, but after they became an entity apart from the Borough an ordinance was not adopted. After further discussion, there was a unanimous consensus among Council to allow food trucks to operate out of the Borough and an ordinance to be drafted, which Solicitor Armstrong will draft and distribute to Council for their review and consideration.

If a food truck ordinance is adopted, all food trucks operating out of the Macungie Farmers Market and Macungie Memorial Park, including the Das Awkscht Fescht, Wheels of Time and other park events, would be required to follow the ordinance so all vendors operating out of the Borough are treated in the same manner.

- b. Municipal Retirement Trust, re: January 2021 Monthly Trust Reports. No comments.
- c. Emmaus Public Library ("EPL"), re: February 2021 Board Meeting Condensed Report. The services listed on the EPL condensed report were noted. Currently, there are 1,254 card holders in the Borough.
- d. Dustin Kapustiak, re: Sewer Lateral Inspections in Borough. Mr. Kapustiak requested Council grant his company, CDA Inspection Services ("CDA"), permission to perform sewer lateral video inspections within the Borough, although they are not licensed master plumbers, which is currently required by Borough Ordinance 2018-02. He alleged other nearby municipalities allow his business to perform lateral inspections because the Pennsylvania Septage Management Association (PSMA) through the University of Pennsylvania has certified CDA to perform on lot wastewater treatment system inspections. He commented CDA's equipment is higher technology than what most master plumbers carry.

Mr. Kapustiak then discussed the various services CDA performs for homeowners. He requested a waiver from the Ordinance and/or an amendment to the current Ordinance.

Mr. Kapustiak also suggested Ordinance 2018-02, Section 234:71.A be amended because it states roots in the lateral can be removed (grinded). He commented if roots penetrate laterals and are removed, there is potential for stormwater to enter because the roots had to enter through a crack or hole, therefore, the pipe should be repaired instead of allowing for root grinding.

There was a consensus by Council to approve Solicitor Armstrong to draft a change to the definition of "Licensed Master Plumber" in Ordinance 2018-02, to include approved inspector, approved plumber, PSMA and/or other associations deemed appropriate to the Borough. Mr. Kapustiak suggested if "Certified" agencies would be allowed, Council stipulate that any work that may be needed on the lateral line must be performed by a Licensed Master Plumber and the certified agency/individual can only perform the inspection.

REPORTS

a. Mayor Conrad reminded everyone this is an election year for local government. He noted the Mayor position and four Council seats have expiring terms at the end of 2021. The deadline to get the required signatures on a petition is Tuesday, March 10, 2021. The election Primary is May 18, 2021.

b. Solicitor.

i. Ownership of Walls on Mountain Creek at Route 100.
- BIA Proposal To Perform Creek Survey. This matter has been deferred to Spring 2021.

ii. Estates at Brookside Request to Forgo the Maintenance Period Requirement. To date, the developer has not provided the required documents.

iii. Race Street Storm Drain (schedule mtg. w/Public Works Supervisor). No discussion.

(1) Temporary Construction Easement.

(2) Curb Replacement.

c. Borough Manager.

i. Borough Manager Search. This matter will be discussed in Executive Session later this evening.

ii. Temporary Signs at Local Businesses – Status. As requested by Council at their last meeting, the Zoning Officer, Joseph Peterson, provided an enforcement schedule for Council's review. If sign violators do not comply by the respective due date, further action will be taken.

iii. Unregistered Residential Rental Properties – Status. As requested by Council, Zoning Officer Peterson provided an enforcement schedule for Council's review. President Yerman requested a workable violation notice be sent to the property owners, which should include the Ordinance sections they are violating. He also requested Zoning Officer Peterson provide Council with a schedule showing when the violation letters would go out, along with a draft copy of the letter and schedule for enforcement.

iv. Authorization to bid Sewer Capital Project Phase 2 and 3. Interim Manager Boehm reported Phases 1a and 1b were completed in 2017 and 2018. Phases 2 and 3 would be the next phases, which include cleanout and linings of the laterals.

Council Member Schleicher made a motion to authorize Interim Manager Boehm to start the bid process for Phases 2 and 3, second by President Yerman. Motion carried: 7 ayes.

Interim Manager Boehm will ask Engineer Harry Garman, from BIA, to start the bid process and prepare a project schedule.

d. Committees. None.

UNFINISHED BUSINESS

- a. Public Works Department, re: Monthly Report on Upcoming Projects; Due at 2nd Council Meeting of month. President Yerman requested the items on the list show future planning of projects, not what has been done.
- b. Public Works Department Equipment Replacement Plan. No discussion.
- c. Emmaus Public Library 2021 Agreement. The Agreement was in the annual amount of \$20,416.00 (or four quarterly payments of \$5,104.00 each). As requested by Council at a previous meeting, language was added to the Agreement to provide for non-payment in emergency or other exigent and unforeseeable circumstances that would materially reduce the Borough's finances.

President Yerman made a motion to approve the Agreement between Emmaus Public Library and the Borough of Macungie in the annual amount of \$20,416.00 (or four quarterly payments of \$5,104.00 each), second by Council Member Rutledge. Motion carried: 5 ayes and 2 nays (Council Members Ashbrook and Bloch opposed).

- d. Board/Commission Appointments.
- i. Daniel Lenig, Civil Service Commission, 6-yr. term expiring 3/31/2027.
 - ii. Greg Hutchison, MI Board of Trustees, 3-yr. term expiring 3/31/2024.
 - iii. John Yerman, Planning Commission, 4-yr. term expiring 3/31/2025.
 - iv. Carl Sell, Zoning Hearing Board, 5-yr. term expiring 3/31/2026.

Appointment action will be taken at Council's April 05, 2021 meeting, which is after the terms expire. It was noted three out of the four persons with expiring terms provided a letter of interest requesting re-appointment on their respective boards.

- e. Lower Milford Township, re: Zoning Ordinance Amendment. Council Member Schleicher provided a recap of the South Western Lehigh County meeting's discussion on the Lower Milford Township's Zoning Ordinance Amendment. She reported no other municipalities had an issue or comments regarding the Amendments, which were clarifications to an already adopted ordinance. No action is necessary by Borough Council.

- f. Greater Lehigh Valley Chamber Membership, in the amount of \$400.00. The funds for Membership will be taken from the Special Event Decorations line item of the 2021 Budget, because wreaths will not be needed in 2021.

President Yerman made a motion to approve the budget transfer and pay the Lehigh County Chamber \$400.00 for Membership, second by Council Member Schleicher. Motion carried: 7 ayes.

- g. Corey Zeisloft Request to Vacate Oak Street. At the last Council meeting, Mr. Zeisloft requested the Borough vacate the paper road, known as Oak Street, which is located between both of his properties. He would like to consolidate the parcels for tax purposes.

Interim Manager Boehm reported there is an 8” sewer pipe that runs under the property. Mr. Zeisloft has been notified of the finding. If desired, Mr. Zeisloft could still acquire Oak Street, but nothing could ever be built on the property (shed, pool, deck, etc.), it could not be blocked in any way and an easement would need to be signed to allow the Borough to access the property if necessary.

There was a discussion on the cost for Mr. Zeisloft to proceed with the vacation, which Solicitor Armstrong estimated to be under \$800.00. Mr. Zeisloft would need to hire an engineer or surveyor to prepare a drawing of the property to attach to the easement. He would need to confirm his desire to move forward before the Solicitor begins work at Mr. Zeisloft’s expense.

NEW BUSINESS

a. Adoption of Resolution 2021-04, Berkheimer Liaison. The previous Berkheimer Liaisons were listed in the names of employees that are no longer working at the Borough. Resolution 2021-04 would list Liaisons by work title position (Borough Manager and Borough Clerk/Assistant Treasurer) and not by employee names.

President Yerman made a motion to adopt Resolution 2021-04 to authorize Berkheimer to re-title the Liaisons to work titles, second by Council Member Schleicher. Motion carried: 7 ayes.

b. Budget Transfer, re: Greater Lehigh Valley Chamber Membership. This Budget Transfer was approved under *Unfinished Business*, section f, above.

ITEMS NOT ON AGENDA (Mayor and Council members only).

a. Council Member Ashbrook reported there is another depression on Main Street, by Lumber Street, which was most likely caused by work UGI did in the area. She commented drivers are going around the depression to avoid hitting it.

EXECUTIVE SESSION, IF NECESSARY – President Yerman called for an Executive Session at 9:45 p.m. to discuss personnel and real estate. The regular Council meeting reconvened at 10:55 p.m. with no action taken.

ADJOURNMENT

Council Member Rutledge made a motion to adjourn the meeting at 10:56 p.m., second by Council Member Bloch. Motion carried: 7 ayes.

Respectfully submitted,

/s/ *Selma Ritter*

Selma Ritter
Administrative Assistant