

The regular monthly meeting of the Borough Council of Lewisburg, Union County, Pennsylvania, was held on **Tuesday, March 15, 2011** in the Council Chambers, 55 South Fifth Street. Present: Council President Bergonia; Councilmembers Baker, Casimir, Cox, Mahon, Molesevich, and Morris; Mayor Wagner; Chief Yost; Manager/Treasurer Smith; Solicitor Lyons; and Secretary Garrison. Absent: Councilmember Strosser. Also present: Joe Deinlein, Tammy Burke, William Baker, Anthony McDonald, John Gray, Char Gray, Lloyd Hettenbach, Craig Ernst, Judy Peeler, Stacy Hinck, Brian Gockley, and Kevin Gardner.

CALL TO ORDER: Council President Bergonia called the meeting to order at 7:00 PM, followed by the pledge of allegiance.

APPROVAL OF MINUTES: Motion was made by Councilmember Baker, seconded by Councilmember Mahon, to approve the minutes of the regular Council meeting held February 15, 2011. Motion was unanimously approved.

PUBLIC PARTICIPATION: Council President Bergonia adjourned the regular order of business to conduct a public hearing on the substantive challenge to the Borough's Zoning Ordinance filed by 535, Inc. He called the public hearing to order at 7:00 PM.

Anthony McDonald, attorney, was present on behalf of Mr. Gardner, President of 535, Inc. Mr. Gardner explained he has owned 720 Market Street for four years and would like to have a two person office on the first floor and a two person apartment on the second floor. Currently that use is not permitted as this property is zoned RT-1, so the request was made for it to be zoned RT-2. The building use, the building traffic, signage, etc. will not change nor will the appearance of the building if this zoning is changed. Photographs were passed around for Council to review: 1) showing the deplorable condition of the property when first purchased; 2) showing the improved condition of the property since it was renovated. Mr. Gardner shared the history of the use of this building: a barber shop for close to thirty years, then a hair salon, then a counseling office, which was the last use before the property sat vacant for approximately a year or two until he bought it. On that block of Market Street there currently is a barber shop, a dentist office, an attorney's office, and another dentist office. He shared an email from Lise Barrick, Coldwell Banker Realtor, which indicates that since 720 Market Street is in the same block as four restaurants, a barber shop, a salon, an attorney's office, an investment firm, a dentist, etc., the best use for the property is a professional office. He reported he spent close to \$90,000 improving this property since he bought it. Mr. McDonald asked what Mr. Gardner will do with this property if the zoning change is not approved. Mr. Gardner said he doesn't know, possibly abandon it. Mr. McDonald indicated if Council is inclined to grant even a smaller zoning change than the one requested in the petition, Mr. Gardner would not object to that provided it included his property as well.

Council President Bergonia asked if there is anyone in the public that wishes to speak.

Char Yurkoski-Gray asked what the building is being used for *now*. Mr. Gardner said an office for two people. Ms. Gray asked if that use is in or out of compliance right now. Mr. Gardner said out of compliance. Ms. Gray asked if when the attorney commented Mr. Gardner would accept a lesser zoning change, does that include a special exception or variance. Solicitor Lyons said you can't do a special exception, and a variance would have to be applied for through the Zoning Hearing Board. Ms. Gray stated since it is out of compliance now, what are the penalties. Solicitor Lyons said it is a violation of the ordinance, which certainly Council could pursue and has indicated intent to pursue in the past, but in the interim the substantive challenge was filed asking for the curative amendment which puts enforcement proceedings in abeyance until Council decides to take action. Manager Smith clarified a zoning violation was issued to Mr. Gardner to cease and desist, and Mr. Gardner complied by removing the sign. The Borough's understanding is the building is unused at present. Ms. Gray commented she just heard it is being used. Mr. Gardner said he has to use it as he has nowhere else to go.

Lloyd Hettenbach of 708 Market Street said he knows that Mr. Gardner applied to the Zoning Hearing Board for a variance to put up a small sign that read, "Brynwood Rentals" at his property on Market Street, and the Zoning Hearing Board turned him down. He commented Mr. Gardner spent a lot of money improving that property, and if allowed, Mr. Gardner would have made the back of two or three houses even better than they look right now. He disagrees with changing the entire district to RT-2, but if the Zoning Board would have allowed Mr. Gardner to do what he wanted to do, we wouldn't be faced with any of this.

Judy Peeler of 129 Pine Street explained she is in a residential area called S-2, which means small businesses are allowed if totally inconspicuous, very similar to Market Street. She pointed out every community has pressures: 1) we have overcrowding of students here and there isn't adequate Code Enforcement; 2) we have the poor economy; and 3) we have a declining homeowner percentage, which leads to turn style

ATTENDANCE

CALL TO ORDER

APPROVAL OF MINUTES

PUBLIC PARTICIPATION (PUBLIC HEARING)

SUBSTANTIVE CHALLENGE TO THE BOROUGH'S ZONING ORDINANCE FILED BY 535 INC.

ANTHONY MCDONALD

CHAR YURKOSKI-GRAY

LLOYD HETTENBACH

JUDY PEELER

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homes. People in turn style homes do not help a community, but simply drain a community. There have been good things happening in Lewisburg as Council has done a wonderful job of thinking long term. But with the change in Meridian, which should have a great deal of commercial and residential, we need to think about how it will connect with Lewisburg. Simultaneously we are going to get the big bridge someday and that will change the entire makeup of Route 15. And, let's not forget the high school which could end up another non-profit building. If it seems necessary to break that residential block of Market Street, which is our pretty entrance to Lewisburg, and make it look like it looks on the west side of Route 15 (Dordays and the Video Rental Store area), then we need to say it as a plan. People will need time to think about this change and what they want/need to do. Also remember that every other business on that block could easily be a residence again. Spot zoning is a really awful thing to do.

Stacy Hinck stated she is present on behalf of the Planning Commission where this was discussed at length; the recommendation is against this curative amendment. This challenge to the zoning ordinance suggested the zoning of this property was capricious and arbitrary and that is not true. This property, and the entire area, was intentionally zoned, in keeping with the Lewisburg Comprehensive Plan, RT-1 in an effort to preserve the residential nature of large parts of the Borough. When you introduce commercial uses, they degrade the residential nature. To change the zoning, you will have a strip or an island of RT-1 north of Market Street. This zoning was consistent with the Comprehensive Plan because we wanted to reinforce the historic downtown as Borough's had solid central consolidated commercial districts. The RT-2 sections were carefully selected: 1) South Third Street was chosen because most of the properties there are already in commercial use and it is a connector between downtown and the courthouse; 2) South Sixth Street was chosen because we thought that area was ripe for redevelopment and we wanted to encourage that; 3) Eighth Street to the highway already has commercial uses there and it is across from the high school which we anticipated might be redeveloped and we wanted to encourage that redevelopment. Most homes on Market Street are residential and there are a few commercial, but they are grandfathered; the problem with this particular property is that it was the Zoning Officer's determination it had lost its non-conforming status having been empty for so long. Mr. Gardner appeared before the Zoning Hearing Board and they agreed with the Zoning Officer. At that point Mr. Gardner could have appealed to the Court of Common Pleas and for a single property that is the route Mr. Gardner should have taken. He should not have asked for a rezone of a larger area.

Craig Ernst asked if apartments are considered commercial. Stacy Hinck said no, they are residential. Mr. Ernst said he makes money off his apartments and even his loan says commercial. He pointed out that 720 Market Street has been commercial since he was a kid. Ms. Hinck explained that according to zoning laws, you lose your non-conforming status if it is no longer an accepted use in the district and it has been stopped for a certain period of time. Mr. Ernst stated Mr. Gardner put a ton of money into that property, and he, himself, put a ton of money into his own property, doing what the Borough has asked as far as maintaining the historic nature and then he looks down that block at what other people have been allowed to do that he wasn't. He spent \$600 on each window; others were allowed to put in \$200 windows. Where is the balance and consistency? Council President Bergonia stressed we have to stay on the topic of the public hearing.

Anthony McDonald commented the change to RT-2 will allow Class I commercial properties, i.e. eating and drinking establishments, which you have in abundance up and down Market Street; funeral home; horticultural, which he takes to be a flower shop; offices, like the one Mr. Gardner has; personal improvement services, which would be a counseling center. It doesn't allow for retail or rental sales; travel services; equipment sales and services. In other words it doesn't allow for commercial uses that will be a horrible blight. If you walk down there, you would not know there is an office in Mr. Gardner's building. There was no intent to insult the Planning Commission or Council by using the language arbitrary and capricious; if you look in the Statute of the Municipalities Planning Code (MPC) there is certain language that has to be used in a petition like this and that is it. If any intention was there, it was simply to suggest that it was arbitrary and capricious given the history with regard to Mr. Gardner's property, as well as several other properties up and down that area of the block. Certainly the overall Comprehensive Plan the Borough has is solid. If you look at the map that went out with the letter dated January 29th, you will see the suggested change actually attaches to an RT-2 district right in the southwest corner, which means it is not spot zoning. This district flows naturally along with Market Street and is no larger than the other RT-2 districts you already have in the Borough. Someone cannot come into that area and put in a video shop or tattoo parlor, as they would not be a permitted use; they might be a special exception use, but that would be for the Zoning Hearing Board to decide, and if a Class III, it is a conditional use and Council would have to decide. This will not open the flood gates and destroy this area of the block.

STACY HINCK

CRAIG ERNST

ANTHONY
MCDONALD

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Stacy Hinck commented the words arbitrary and capricious are used in the MPC because you are saying there is something wrong with the zoning ordinance as is; that is not the case because the zoning of that block, as well as the adjacent blocks, was carefully chosen to preserve the residential nature of that area. There is no argument that Mr. Gardner improved that property. If you rezone, you must look at the implications of that and what that will do to the neighborhood. Most of the properties in those blocks are residential, well preserved, and people are proud to live there. This change could seriously degrade the value of those homes.

STACY HINCK

Anthony McDonald said if an indication of degradation is the photographs of Mr. Gardner's property before he fixed it, he would agree. But certainly what Mr. Gardner has done to that property doesn't degrade that community and makes the properties around his that much more valuable.

ANTHONY
MCDONALD

Brian Gockley of 715 Market Street said he would like to make a point about the timing of when the money was spent by Mr. Gardner on this property vs. when the Zoning Hearing Board denied his request. At the time of denial Mr. Gardner had bought the building, but had not made any improvements to the property; that is a fact. It is one thing to say about all the money Mr. Gardner put into the building, but it was done knowing he was denied by the Zoning Hearing Board and probably with hopes of this problem for him changing. In terms of uses as a result of this zoning change, he really doesn't notice what Mr. Gardner is doing over there now, but there is nothing to prohibit Mr. Gardner from selling that property to someone else and then there could be something that would concern him over there. This opens the area to a completely different use and no one knows how long Mr. Gardner will be there. Mr. Gardner commented he could sell it to the guy next door and this Borough could have another drug house.

BRIAN GOCKLEY

Manager Smith asked if eating and drinking is a Class I. William Baker, the Borough's Zoning Officer, said it is a Class II, which would be a conditional use. There could be a membership club and that is Class I. He reminded everyone that you need to comply with the rest of the ordinance, i.e. off street parking, impervious coverage, etc.

Lloyd Hettenbach commented that parking has not been enforced for some of these residential homes that have apartments in them.

LLOYD
HETTENBACH

Someone questioned HARB's role in this. Manager Smith said it is part of the Historic District, so HARB would review.

Stacy Hinck said if Council is considering rezoning, she suggests this be with an overall view of the Borough. The Borough recently approved the Comprehensive Plan for Union County that included a plan for the eastern part of Union County; perhaps Council should look at its zoning maps in the context of that plan.

STACY HINCK

Char Yurkoski-Gray summarized that Mr. Gardner stated he is using that building out of compliance because there is no place else to go; it seems there are probably business spaces available in other parts of town. Mr. Gardner said that is correct; he could have bought a retail place downtown, i.e. the Donehower Building and then displaced the retail merchants. Ms. Yukoski-Gray commented she just moved back to Lewisburg a couple of years ago after being gone for 33 years; she loves Lewisburg and is sad to see what has happened to some of the other towns around here, i.e. Milton, etc. as they have not been kept up. She wants to make sure the balance in Lewisburg remains, and this rezoning would make it out of balance.

CHAR YUKOSKI-
GRAY

Council President Bergonia asked for Council comments. Councilmember Baker stated he is interested in Judy Peeler's remark about Code Enforcement not being able to keep up; since he is involved with the Central Keystone COG he would like more details. Judy Peeler said she can't say specifically because she is a census worker and she is forbid to share any information she has gathered in that capacity. However, she had to record how many people lived in each dwelling, which she did.

Councilmember Casimir said this is ironic and has gone in circles. Mr. Gardner has probably given more money to the Kiwanis and Green Dragon Association than anybody else in this room, but we aren't making this decision on whether Mr. Gardner is a good or bad guy. This decision is to be based on what is best for this community and our ordinances. Talking about planning or the lack thereof, when this was first brought to us it was to complete the corridor on Market Street as a commercial district throughout its length and for it to be RT-2 on both the north and south side of Market Street. Given that the high school is already RT-2, there is a funeral home on that side, with Susquehanna Life on the other block, this made sense to him. This would take into account the County Comprehensive Plan, maintain the historic character, while aligning the opportunity for business. Since the original topic, it came back first as Highway Commercial, and now just the north side of Market Street. He is voting against this tonight and would urge Mr. Gardner to come back with both the north and the south sides of the street thereby

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completing the corridor. This would address the spot zoning accusation and give people on the south side of the street the same opportunity to sell to a lawyer, if they would decide to sell. He certainly doesn't see this depressing property values.

Councilmember Molesevich stated we are reviewing the zoning ordinance, so that could still be done. This issue has come up before and is not new. With regard to the residential issue, half the building is going to remain residential as there is an apartment on the second floor. Unfortunately or fortunately, we live and operate in a free market; this building was vacant, on the market, and not purchased for a residential use. Mr. Gardner purchased it and there were ups and downs with it which is why we are here, but had he not purchased it, it may still be vacant. He doesn't like to see any vacant properties in our community as they will degrade properties more than a commercial property or a student rental. He will be voting for this, and we certainly can revisit the other issue regarding the south side before we adopt our zoning ordinance.

Councilmember Morris stressed her understanding is that there will still be control over those properties. First, because this property is in HARB and the way RT-2 is written, those buildings cannot be dramatically changed. Solicitor Lyons said correct; there are other ordinances that would have to be complied with. Councilmember Morris said the signs that "theoretically" could go up along Market Street could not look like they do in East Buffalo Township. Solicitor Lyons said they can only look as allowed by the zoning ordinance. Councilmember Morris stressed our tax structure in Lewisburg is a continuing issue and problem. Realizing that opening businesses as Mr. Gardner is doing may not bring in much "tax" money, but that means we may have to look at a different type of tax structure in Lewisburg. Opening that to RT-2 might allow something that we don't have right now. Solicitor Lyons said that is certainly a possibility. She respects the comments made by Stacy Hinck about that area being all residential in terms of the north and south sides of Market Street and to change one side we would be breaking up two residential areas. She commented she is still weighing her options on how she will vote.

Council President Bergonia indicated the Borough has received numerous written communications regarding this issue: Nada Gray, 721 Market Street; Paul Romano, 728 Market Street; Claudia Ebeling, 47 South Seventh Street; and Margaret Spielman, 735 Market Street.

Council President Bergonia declared the public hearing closed at 7:50 PM. He reconvened to the regular order of business and continued with the meeting.

Solicitor Lyons clarified Council is either accepting or rejecting the requested curative amendment with or without change. If you accept less than what has been proposed, you can proceed with authorizing the enactment of an amendment to the ordinance which would have to be prepared. If you increase the request, then you would have to schedule another public hearing and go through this process.

Councilmember Molesevich made a motion, seconded by Councilmember Baker, to accept what has been proposed, changing the zoning from RT-1 to RT-2 from Sixth Street to Route 15 on the north side of Market Street. ON THE QUESTION: Councilmember Morris said Eighth Street to Route 15 is already RT-2. Solicitor Lyons said in the proposed ordinance that is correct, but not in our current ordinance which is the one we are being asked to amend. Mr. Baker clarified that R-2 is along Market Street from Route 15 to one property before Eighth Street on the north side. Solicitor Lyons said we would be including that one property on that block, plus Sixth and Seventh Street on the north side. Mr. Baker said Sixth Street has downtown commercial already. Solicitor Lyons said we can only change what is now being zoned RT-1, and will not be changing RT-2 if already RT-2. Solicitor Lyons said if you are voting to accept this proposal, you are actually voting to accept part of it, as part of it is already zoned RT-2. Mr. Gardner said we are talking Sixth Street to Route 15 on the north side. Solicitor Lyons said yes. Motion was approved with one dissenting vote, Councilmember Casimir voted no.

Solicitor Lyons indicated there is a second part to this. Council must now authorize the preparation and advertisement of the ordinance amending the zoning ordinance to change that portion of the zoning district to RT-2.

Councilmember Molesevich made a motion, seconded by Councilmember Baker, to authorize the Solicitor to prepare and advertise an ordinance amending the zoning ordinance to change the north side of Market Street, from Sixth Street to Route 15, to RT-2. Motion was approved with one dissenting vote, Councilmember Casimir voted no.

Council President Bergonia called for a ten minute recess at 7:55 PM. Council returned at 8:05 PM.

**WRITTEN
COMMNETS
RECEIVED**

**(PUBLIC HEARING
CLOSED)**

**CURATIVE
AMENDMENT
APPROVED/
ZONING CHANGE
FROM RT-1 TO
RT2 FROM SIXTH
ST TO ROUTE 15
ON MARKET
STREET**

**SOLICITOR
DIRECTED TO
ADVERTISE
ZONING CHANGE**

(RECESS)

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Council President Bergonia commented with regard to the violations of Mr. Gardner's building at 720 Market Street, Code Enforcement, through the Central Keystone COG, notified Mr. Gardner the sign he had put up was in violation of the ordinance, and Mr. Gardner removed the sign. There has also been a question raised with regard to penalties as a result of the property being used in violation of the zoning ordinance. Solicitor Lyons asked the violation prior to the filing of the curative amendment. Mr. Baker said Mr. Gardner was using the building as an office and also had put up a sign. The sign was removed and Mr. Gardner indicated he was out of the building. Ms. Yurkoski-Gray stated Mr. Gardner just said tonight he was still using his office out of compliance, so who will be assessing the penalties. Solicitor Lyons said Council or the CK-COG could pursue a violation of the ordinance and send it up to the District Judge to establish penalties and/or fines. This is a Council decision. Councilmember Molesevich explained that once Mr. Gardner decided to pursue the curative amendment, Council took that as an indication Mr. Gardner wanted to work through the process. Why would Council come down on Mr. Gardner when he was attempting to work this out? Council continuously works with groups and/or individuals; another example of this would be the Union County Courthouse situation whereby the County Commissioners violated the HARB regulations. There must be a little give and take on these types of things. Council President Bergonia referred this matter to the Planning Committee for further consideration and discussion.

Steven Beattie indicated he is representing Diakon Lutheran Village, the nursing home on Fairground Road. He distributed a sketch showing two paper (undeveloped) streets, Terrace Drive and Breeze Drive, that run through the northern portion of their property within the Borough. In order for Diakon to clean-up their property from a deed perspective and possible future development, they are requesting the Borough vacate these rights of way. Mr. Beattie reviewed the sketch that was distributed. There was **much** discussion. Solicitor Lyons explained this is a complicated matter. The Borough Code limits the Borough from opening these streets. After 10 years, 50% of the adjoining landowners can petition to not open a laid out street. And, if not used or open for 21 years, it cannot thereafter be opened until Council holds a public hearing and has the consent of greater than 50% of the adjoining landowners. So, Council couldn't really open it now. Because the Borough accepted the original development, these streets are Borough streets even though they are undeveloped. The Borough can treat this as part of the Borough's plan, holding a public hearing and enacting an ordinance to not open the street in the future. Or, Council can consider this a vacation and proceed to hold a public hearing and enact an ordinance to vacate the streets. Or, Council, by motion, can vacate the streets, but then the Borough would have to give notice to everyone in the recorded plan, which is an expense to the Borough and would be the least favorable alternative. The easiest way to accomplish this would be to vacate the streets, but we would still have to have a public hearing.

Councilmember Molesevich made a motion, seconded by Councilmember Baker, to direct the Solicitor to start the process to vacate the two unopened/undeveloped streets, Terrace Drive and Breeze Drive, per the request of Diakon Lutheran Village, to advertise the required public hearing, and any costs incurred are to be borne by Diakon Lutheran Village. Motion was approved with one dissenting vote, Councilmember Casimir voted no.

Councilmember Molesevich questioned the reason for the no vote. Councilmember Casimir said this is a large chunk of the grid we are giving up out there only for their convenience. Solicitor Lyons clarified we couldn't use it as a street anyway; we would have to get the consent of 50% of the adjoining landowners, which is Diakon Lutheran Village and they will not consent to opening this as a public street, putting this in a legal nightmare area. Mr. Beattie said Diakon would simply have to purchase a home on St. Paul Street, then they would have greater than 50%, which they have done before to eliminate covenants out there.

PLANNING COMMITTEE: Councilmember Casimir made a motion, seconded by Councilmember Morris, to approve the HARB applications a through d, as submitted and recommended by HARB. Motion was unanimously approved.

Howard Woodring. 139 South Fourth Street. Skylight. An application was submitted to and reviewed by HARB for a skylight. A motion was made by Elaine Wintjen, seconded by Steve Snook, to approve the application as shown on the project description section of the application, with the understanding the skylight will be a deck mount. Motion was unanimously approved.

Conor Quinlan. 20 Brown Street. Screen Porch Enclosure. An application was submitted to and reviewed by HARB for a screen porch enclosure. A motion was made by Phoebe Faden, seconded by Robert Cook, to recommend approval of the screen porch enclosure as described in the project description and project materials section of the HARB application, and as shown on the drawings attached, with the following exceptions: the sill boards should not bisect the columns, but allow the columns to stand free; the windows on the street side of the screen porch should mirror the triptych of the downstairs of the house. Motion was approved with one abstention; Ted Strosser abstained.

PENALTIES FOR MR. GARDNER BEING IN VIOLATION OF ZONING ORDINANCE REFERRED TO PLANNING COMMITTEE

STEVEN BEATTIE

SOLICITOR TO START PROCESS TO VACATE TWO UNOPENED STREETS / TERRACE DRIVE AND BREEZE DRIVE

PLANNING COMMITTEE HARB

H WOODRING

C QUINLAN

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Connie Harter. 424-426 Market Street. Signage. An application was submitted to and reviewed by HARB for signage. A motion was made by Ted Strosser, seconded by Phoebe Faden, to recommend approval of the signs as shown on the diagram attached to the HARB application, provided the signs are flush mounted with the granite, and with the understanding the sign will be self-contained with back lit letters. Motion was unanimously approved. (It is the opinion of HARB that this is a very elegant solution and is keeping with both the style and use of the building, as well as the building's location in town.)

Bucknell University. 632 St. George Street. Signage/Storm Door. An application was submitted to and reviewed by HARB for signage/storm door. A motion was made by Kim Walter, seconded by Elaine Wintjen, to recommend approval of the signage/storm door as described in the project description of the HARB application, and as shown in the paperwork attached. Motion was unanimously approved.

Councilmember Casimir indicated there were some minor corrections to be made to the restaurant liquor license transfer resolution for the property of 328 Market Street.

Councilmember Casimir made a motion, seconded by Councilmember Baker, to adopt Resolution No. 11-02, amending prior Resolution No. 10-15 that approved the transfer of restaurant liquor license No. R-20095 into the Borough of Lewisburg from the Borough of Mifflinburg. Motion was approved with one dissenting vote, Councilmember Mahon voted no.

Councilmember Casimir reported the Planning Committee recommended the Shade Tree Commission appoint a treasurer to interact with the Borough Treasurer relative to shade tree projects and the use of the shade tree budget.

Councilmember Casimir reported he, along with Councilmember Molesevich, met with representatives of Bucknell University to discuss the SAE house party. It was a cordial meeting and the outcome was for the Chief to close down St. George Street from South Fourth Street to the parking lot for vehicular traffic. Mayor Wagner asked who will open and close that block, and who will police that. Councilmember Casimir said the Borough workers will, so there will be some expense and nuisance. Mayor Wagner asked if there will be reimbursement from the University for the overtime incurred by Borough workers. Manager Smith stated Bucknell University has indicated they are comfortable moving the party to the front, provided the Borough is willing to close that portion of St. George Street. However, there are complications with the closure of that street, which the Chief should comment on. Mayor Wagner stated it sounds like a block party. Chief Yost said he is concerned we are setting a precedent by closing a section of street for one of these parties. Most important is by closing the street you are limiting the Police ability for control. In order to get from Fourth Street to the underpass, you will have to go all the way around. If this party is to be contained within the perimeters of SAE's property, then they should be able to walk on the sidewalk just like everyone else. There was **much** discussion. Chief Yost said the back of the property is easier containment, but if they want to hold the party out front, it would still have to be within the perimeters of that property. They cannot be out on the sidewalk or in the street. He pointed out that in the last two years there have been no noise complaints about the SAE house for that two hour block of time, except for those complaints from Councilmember Molesevich. He strongly feels that from an emergency services standpoint and police services standpoint that streets should not be closed. Again there was **much** discussion. Councilmember Molesevich reported house party weekend is in two weeks, so he asked the Chief to relay to Bucknell University they can have the party out front, but the party must be confined to their premises.

Councilmember Casimir noted the two cable franchise agreements (Windstream and CATV) are due to expire October 2011. The Manager will be contacting the CATV Advisory Committee requesting review of both agreements, with recommendations being made for Council consideration. Councilmember Casimir volunteered to serve on this committee. Council President Bergonia appointed Trey Casimir to fill the vacancy on the CATV Advisory Committee; term expiration 12/31/15. Mayor Wagner asked that we expand the parameters of that Committee to explore the services of Windstream to our residents. Councilmember Casimir pointed out this is a different day than when we last drew up a franchise agreement; we should look at this as creatively as possible.

POLICE COMMITTEE: Councilmember Mahon made a motion, seconded by Councilmember Baker, to award a three year lease for two (2) 2011 Police cruisers to BZ Motors, the lowest most responsible bidder, in the amount of \$60,867 (\$20,289/year). Motion was unanimously approved.

PUBLIC WORKS COMMITTEE: No meeting.

FINANCE COMMITTEE: Councilmember Morris made a motion, seconded by Councilmember Casimir, to approve payment of the bills from 02/12/11 through 03/11/11 in the amount of \$336,114.70. Motion was unanimously approved.

C HARTER

BUCKNELL
UNIVERSITY

CORRECTIONS
TO PREVIOUS
RESOLUTION/
TRANSFER OF
LIQUOR LICENSE
FOR 328 MARKET
STREET
(RESOLUTION NO.
11-02)

SHADE TREE
COMMISSION TO
APPOINT
TREASURER

DISCUSSIONS OF
HOUSE PARTY
WEEKEND

CABLE
FRANCHISE
AGREEMENTS
DUE TO EXPIRE
OCTOBER 2011

TREY CASIMIR
APPOINTED BY
PRESIDENT TO
SERVE ON CATV
ADVISORY
COMMITTEE

POLICE
COMMITTEE
3 YEAR LEASE/ 2
POLICE
CRUISERS
AWARDED TO BZ
MOTORS/\$60,867
PUBLIC WORKS
COMMITTEE

FINANCE
COMMITTEE
PAYMENT OF
BILLS

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MAYOR: Mayor Wagner said congratulations to Nate Brown, State Champ in wrestling, and to the Bucknell Bison, Patriot League Champs. She, along with Councilmembers Morris and Mahon, will be attending one day, Tuesday April 12th, of the PSAB Conference in Hershey. The Chief also has a Conference coming up in April that she may be attending.

POLICE CHIEF: No report.

COUNCIL PRESIDENT: No report.

SOLICITOR: Solicitor Lyons commented back to the vacating of the two streets in Diakon Lutheran Village; there are two options regarding the necessary ordinance. If Council wants to consider the ordinance immediately after the hearing next month, he needs authority to prepare and advertise that ordinance. However, Council could wait until the public hearing and at that time authorize the preparation and advertisement of the ordinance. Councilmember Molesevich asked Mr. Beattie if there are time constraints. Mr. Beattie said no.

Solicitor Lyons reported before Council is Ordinance No. 1002, which authorizes the Borough to enter into an Intergovernmental Cooperation Agreement (IGA) with East Buffalo Township concerning Regional Police. This ordinance has been duly advertised and is ready for Council action. Item b on the agenda refers to execution of the IGA between the Borough and East Buffalo Township and is not necessary.

Councilmember Mahon made a motion, seconded by Councilmember Baker, to adopt Ordinance No 1002, authorizing Intergovernmental Cooperation by Agreement between the Borough and the Township of East Buffalo, for the purpose of creating a Regional Police Department to provide Police services to said municipalities. Motion to adopt Ordinance No. 1002 was unanimously approved.

Councilmember Mahon reported East Buffalo Township voted last night, *unanimously*, to approve this also.

Solicitor Lyons indicated Service Electric Cablevision has purchased the stock of CATV and there is a provision in our franchise agreement that requires Council approve a transfer of control. As a result he prepared a resolution for Council consideration.

Councilmember Casimir made a motion, seconded by Councilmember Baker, to adopt Resolution No. 11-03, approving the transfer of control of the CATV Service, Inc. cable television franchise to Service Electric Cablevision, Inc. Motion was unanimously approved.

Mayor Wagner indicated there was a cable franchise webinar offered by the PSAB that she would like the CATV Advisory Committee to view.

MANAGER: Manager Smith commented at the Public Works Committee we have been discussing our 2011 projects, which have been prioritized and appear on the agenda for Council action this evening, i.e. North Eighth Street, which is reconstruction of the abandoned rail line; Hufnagle Boulevard, which is our access road into the Recycling Center; and Ikler Street, which is reconstruction from Route 15 west two blocks to Shikelimo Street.

Councilmember Baker made a motion, seconded by Councilmember Casimir, to approve Confirmation of Assignment for the North Eighth Street and Hufnagle Boulevard Improvement Projects to HRG, Inc. in the amount of \$15,400. Motion was unanimously approved.

Councilmember Baker made a motion, seconded by Councilmember Morris, to approve Confirmation of Assignment for Ikler Street Improvement Project to HRG, Inc. in the amount of \$23,250. Motion was unanimously approved.

Manager Smith explained he, along with Steve Beattie, attended a workshop last night at SEDA-COG for the 2011 Transportation Enhancement Grant Program. In 2005/2006 we applied and received funding for the Hometown Safe Routes to School Program which took care of the Third Street and Fourth Street curb extensions on Market Street. The original design was to also include Second Street, but we didn't have enough funding for all three. We are optimistic that PennDOT would allow us to finish that initial project.

Councilmember Casimir made a motion, seconded by Councilmember Morris, to approve application to PennDOT for the Transportation Enhancements Program (TEP) funding for completion of the curb extension project on Market Street, including Second Street intersection, and to further authorize the Council President to execute all necessary documents for this application. ON THE QUESTION: Councilmember Mahon asked if

MAYOR

POLICE CHIEF

COUNCIL PRESIDENT

SOLICITOR

INTERGOVERNMENTAL COOPERATION OF AGREEMENT BETWEEN BOROUGH AND EAST BUFFALO TOWNSHIP/CREATION OF REGIONAL POLICE DEPARTMENT APPROVED (ORDINANCE NO. 1002)

TRANSFER OF CONTROL OF CATV SERVICE CABLE FRANCHISE TO SERVICE ELECTRIC CABLEVISION (RESOLUTION 11-03)

MANAGER 2011 PROJECTS PRIORITIZED

CONFIRMATION OF ASSIGNMENTS: N EIGHTH STREET AND HUFNAGLE BOULEVARD AND IKLER STREET

2011 TRANSPORTATION ENHANCEMENT GRANT PROGRAM APPLICATION APPROVED

Tuesday, March 15, 2011

this work would tie into the actual Market Street Reconstruction by PennDOT. Manager Smith said he would hope so; the Market Street reconstruction work is scheduled to occur after the Arts Festival, which is the end of April. Mr. Beattie indicated this would be a mirror image of what was done on Fourth Street. There was **much** discussion. Motion was unanimously approved.

Councilmember Baker made a motion, seconded by Councilmember Casimir, to appoint Kathryn Morris the voting delegate, and Susan Mahon the alternate voting delegate, for the PSAB annual Conference held in April per the PSAB Constitution on voting. Motion was unanimously approved.

OLD BUSINESS: None.

NEW BUSINESS: None.

WRITTEN REPORTS: Councilmember Baker made a motion, seconded by Councilmember Mahon, to acknowledge receipt of the Budget Index; Police and Parking Report, Zoning Officer Report, and Code Enforcement Officer Report. Motion was unanimously approved.

WORK SESSION: Council President Bergonia announced there will not be a work session held on Tuesday, April 12, 2011.

There being no further business, Councilmember Baker made a motion, seconded by Councilmember Molesevich, to adjourn the meeting. Motion was unanimously approved. Meeting adjourned at 8:55 PM.

Respectfully submitted,

Patricia M. Garrison
Borough Secretary

**PSAB VOTING
DELEGATE
KATHRYN MORRIS/
ALTERNATE
SUSAN MAHON**

OLD BUSINESS

NEW BUSINESS

**WRITTEN
REPORTS**

WORK SESSION

ADJOURNMENT