

The regular monthly meeting of the Borough Council of Lewisburg, Union County, Pennsylvania, was held on **Tuesday, December 20, 2016**, in the Council Chambers, 55 South Fifth Street. Present: Council President Bergonia; Councilmembers Cox, Derman, Frederick, Mahon, Morris and Yohn; Mayor Wagner, Solicitor Lyons, Manager Lowthert, Secretary Garrison and BVRPD Chief Yost. Absent: Councilmember Cook. Also present: Tom Egan, Nada Gray, Stacy Hinck, and coaches/members of the Lewisburg High School Soccer Team.

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

RECOGNITION OF LEWISBURG'S BOYS SOCCER TEAM FOR ACHIEVING THEIR SECOND CONSECUTIVE PIAA STATE CHAMPIONSHIP: The Mayor and Council welcomed and congratulated the Lewisburg Boys Soccer Team. Mayor Wagner presented each team member with a chocolate soccer ball for a job well done and presented the team with a Mayor's Award for Excellence plaque.

APPROVAL OF MINUTES: Motion was made by Councilmember Morris, seconded by Councilmember Mahon, to approve the minutes of the November 15, 2016 regular monthly meeting and the December 13, 2016 special meeting. Motion was unanimously approved.

PUBLIC HEARING: Council President Bergonia adjourned the regular order of business to conduct a public hearing on a proposed ordinance amendment for the establishment of general and specific standards relating to location, placement, construction and maintenance of broadcast transmission towers and antennas; providing for regulation of such facilities, and providing for enforcement of said regulations. He called the public hearing to order at 7:15 PM.

Tom Egan, 333 North Third Street, a member of the Planning Commission, reported the Planning Commission reviewed the proposed amendment to the zoning ordinance at their December meeting. It was agreed by the Commission to recommend that Council not adopt this proposed amendment due to significant technical issues and the fact it doesn't structurally integrate into the existing zoning ordinance. It is not clear this ordinance respects the wishes of this community. Since the Planning Commission meeting, he, as a member of the community, continued to look into this issue and found that this proposed ordinance is inaccurate, conflicts with and weakens the existing zoning ordinance, and does not provide for community acceptable improvement of the wireless communications service, while allowing for undesirable solutions in the name of complying with poor State and Federal regulations. The first example is that the ordinance includes a definition of antenna that has no relation to scientific or engineering understanding of such things while haphazardly excluding many things that ought to be covered by a well-constructed ordinance by focusing almost exclusively on cellular phone communication services. The amendment tries to cram regulations for towers in general into the section for requirements for consideration for conditional use approval, thus making it a mess that is difficult to interpret. This amendment is needlessly wordy claiming that tower operators would need to meet FAA regulations, which would be the case even if the amendment did not say so; though some of those regulations should probably be changed into requirements for consideration for conditional use by requiring that the applicant provide the Borough with documentation, e.g. that the FAA has approved the signal lights for the design of a tower. This amendment, as written, will create difficulty of enforcement of some of the regulations as written such as the removal of antennas if they are disused; operators would be on a honor system to report such disuse because the Borough and its contractors lack the means to detect if an antenna is disused. Some changes to the zoning ordinance would be necessary due to the poor regulation at the State and Federal levels.

Nada Gray, 721 Market Street, a member of the Planning Commission, shared that she feels Council and the Planning Commission were pressured into an ordinance written by a law firm that has no knowledge of the Borough's geography, history, or the pride this Borough takes in its appearance. This appears to be a canned ordinance taken off the shelf to benefit the cable, wireless communication systems, and profit making concerns, including law firms; not the citizens of this Borough. The Planning Commission was asked to accept their (Cohen Law Group) advice with no references to where they had worked successfully to protect them from having their ordinances voided. The proposed amendment has no standards for sizes, spacing, type of antennae, or other considerations to think through when granting approval of applications that supposedly will be coming to the Borough. This Borough and its citizens have invested a lot of time and money to preserve the quality of this town, its historic buildings, landscapes, lights and traffic signals. She heard our neighbor, East Buffalo Township, was able to turn down a request they felt was not compatible with their area as they had a new ordinance that made this possible. She suggests a study be done with other ordinances more favorable to allowing communities to have more control based on where we live and to protect our values.

Stacy Hinck, 127 North Fourth Street, Chairperson of the Planning Commission, stressed that coordination of this amendment with the current zoning ordinance is sorely needed. The Planning Commission understands the need for and accepts many of the provisions in this amendment. But she suggests that this Borough is covered until it has a further opportunity to review and suggest changes to the amendment proposed. It would seem

ATTENDANCE

CALL TO ORDER

RECOGNITION OF LEWISBURG'S BOYS SOCCER TEAM FOR SECOND CONSECUTIVE PIAA STATE CHAMPIONSHIP

APPROVAL OF MINUTES

(PUBLIC HEARING)

PROPOSED ORDINANCE AMENDMENT DEALING WITH BROADCAST TRANSMISSION TOWERS/ANTENNAS/ REGULATION AND ENFORCEMENT

TOM EGAN

NADA GRAY

STACY HINCK

December 20, 2016

possible for the Borough to discuss with any company that wants to install broadcast transmission facilities that the Borough is currently in the midst of a good faith effort to review its ordinance to further allow for such uses, and could do this within a matter of a few months. It would be better to allow more time to review/consider this amendment vs. quickly adopting something for the sake of having something. She strongly believes there are a number of provisions in this amendment that belong elsewhere. What is being proposed are amendments to the section on the 'conditions' for conditional approval. It shouldn't cover the 'process' of conditional approval, that process is covered in the administrative section for the zoning ordinance. Similarly with the provision concerning non-conforming uses; it doesn't apply to the approval of a conditional use and the zoning ordinance has provisions for non-conforming uses. And although the provisions concerning maintenance, removal, replacement, and modification seem fine, they do not apply to the approval of a conditional use and a zoning officer might not think to look in that unlikely place when considering an existing facility. So, it would seem these provisions should go to a new section in supplemental regulations covering existing wireless broadcast facilities. This may also apply to the provisions concerning a building permit, as this process occurs after a conditional use has been approved. The Planning Commission understands that amendments to provisions for broadcast wireless facilities need to be made. To summarize the feelings of the Planning Commission, it is felt the language is needlessly confusing and that there is significant confusion as to the vision and goals this amendment is trying to convey. A number of points in the ordinance are technically wrong, structurally wrong or so vague it would be impossible to understand. The Commission agreed that they would not be able to agree on language to propose an improved revision of this amendment since this ordinance was already advertised and Council has to adopt or reject this amendment tonight. The Planning Commission cannot recommend that this ordinance be adopted as written.

(There was **much** discussion that basically revisited all comments previously addressed.)

Council President Bergonia asked if there is anyone else that would like to speak with regard to this proposed ordinance amendment. No one wished to speak. Council President Bergonia declared the conditional use public hearing closed at 8:15 PM.

PUBLIC PARTICIPATION: There were no members of the public that wished to speak.

PUBLIC WORKS/POLICE COMMITTEE: Manager Lowthert stated a meeting was held with East Buffalo Township Tuesday the of December to discuss the Intergovernmental Agreement (IGA) for the Buffalo Valley Regional Police Department. At the end of that meeting there was a consensus that a smaller group be formed to more closely review/discuss the issues of concern. A letter was received from East Buffalo Township (EBT) Monday morning indicating their willingness to meet tomorrow the or Thursday the . Some Councilmembers commented that wasn't enough notice, others did not feel that a meeting with EBT should be held, and others expressed the need for a facilitator if additional meetings were to be held. It was suggested this meeting could not be held until sometime in the month of January. There was **much** discussion.

Councilmember Morris made a motion, seconded by Councilmember Derman, that a small committee be formed to meet with the designated members of East Buffalo Township to discuss the IGA.

YES - Derman, Frederick, Mahon, Morris and Bergonia
NO - Cox and Yohn

Motion was approved by a 5 to 2 vote.

Council President Bergonia selected Councilmember Derman, Manager Lowthert and Mayor Wagner to serve on this committee.

After **much** discussion, the Manager was directed to send a letter to EBT agreeing to meet, conditional upon the following: 1) these meetings be open to the public; and 2) it be understood that there is no discussion regarding the current cost sharing arrangement of a 52/48 split (EBT/Borough), unless it is for consideration of a reduction of the percentage that is currently paid by the Borough.

Council received the Buffalo Valley Regional Police Department's (BVRPD) monthly report.

Councilmember Derman made a motion, seconded by Councilmember Mahon, to approve time extension request of Pennoni Associates, Inc. for the preliminary engineering of the U.S. Route 15 Adaptive Signal Project to March 31, 2017. Motion was unanimously approved.

Councilmember Mahon made a motion, seconded by Councilmember Derman, to direct the Solicitor to draft a resolution for Council approval that would increase the degradation fees for pavement excavations occurring in pavements less than five (5) years old as follows: roadway pavement age of less than five (5) years = \$1,000.00; less than four (4)

(PUBLIC HEARING
ADJOURNED)

**PUBLIC
PARTICIPATION**

**PUBLIC
WORKS/POLICE
COMMITTEE**

**COUNCIL AGREED TO
FORM SMALL
COMMITTEE FOR IGA
DISCUSSIONS WITH
EBT**

**MEMBERS SELECTED
BY COUNCIL
PRESIDENT WERE:
DERMAN/LOWTHERT
AND WAGNER**

**MANAGER DIRECTED
TO SEND LETTER TO
EBT OUTLINING
MEETING AGENDA**

**BVRPD MONTHLY
REPORT**

**TIME EXTENSION REQUEST
OF PENNONI ASSOCIATES
FOR PRELIMINARY
ENGINEERING OF ROUTE 15
ADAPTIVE SIGNAL PROJECT
GRANTED**

**SOLICITOR DIRECTED TO
DRAFT RESOLUTION
INCREASING DEGRADATION
FEES**

December 20, 2016

years = \$2,000.00; less than three (3) years old = \$3,000.00; less than two (2) years old = \$4,000.00; less than one (1) year old = \$5,000.00. ON THE QUESTION: Manager Lowthert stated he is hopeful this will encourage the various utilities to schedule their work prior to the Borough's road construction/reconstruction projects. Motion was unanimously approved.

COMMUNITY DEVELOPMENT/PLANNING COMMITTEE: Councilmember Morris indicated everyone received the HARB minutes dated December 13, 2016 and no action is required of Council. She pointed out that HARB reflected in their minutes that LED lights are the way of the future, given the elimination of incandescent lighting.

a. Gary Peck (G.Peck Holdings, LLC)/300 Market Street/Lights. An application was submitted to and reviewed by HARB for replacement lights. It was the opinion of HARB that this replacement of lights is not within their scope of review/approval. It was also the sense of HARB that LED lights of this nature are the way of the future given the elimination of incandescent lighting.

Councilmember Morris made a motion, seconded by Councilmember Mahon, to accept the resignation of Clare Sammells from the Lewisburg Planning Commission, with regret. Motion was unanimously approved.

Councilmember Morris made a motion, seconded by Councilmember Mahon, to appoint Councilman Michael Derman as the Lewisburg Borough alternate on the Buffalo Valley Regional Police Commission. Motion was unanimously approved.

Councilmember Morris reported the sign sub-committee meeting has scheduled another meeting for January at 7 PM. She affirmed the announcement of the 3 Year DCNR Grant in the amount of \$250,000.00 for the Kidsburg Floodplain Restoration Project; this is partial funding and additional funding will be needed. The Planning Commission now has a vacancy with a term expiration date of December 31, 2017, and there is still a HARB vacancy with a term expiration of December 31, 2018. Manager Lowthert reminded Council that Robert Lack and David Heayn have expressed interest in serving in some volunteer capacity so he will be contacting them. Councilmember Derman suggested that Linda Weller, who offered to volunteer at our last meeting, be contacted as well.

ADMINISTRATIVE/FINANCE COMMITTEE: Councilmember Cox made a motion, seconded by Councilmember Derman, to approve the payment of bills from November 12, 2016 through December 16, 2016 in the amount of \$495,184.35. Motion was unanimously approved.

Councilmember Cox made a motion, seconded by Councilmember Morris, to approve the per capita tax exonerations for 2016 (2016-1) in the amount of \$65.00, as submitted by the Tax Collector. Motion was unanimously approved.

Councilmember Cox made a motion, seconded by Councilmember Frederick, to adopt Ordinance No. 1043, authorizing the Tax Collector to impose and collect service charges for returned checks or drafts and tax certifications, and to collect any fees levied by banks or other financial institutions for returned checks or drafts, and to increase the service charge for tax certifications to \$25.00. Motion was unanimously approved.

MAYOR: Mayor Wagner updated Council on her many activities and shared that Jane Albin has agreed to display her artwork in the Council Chambers in the very near future.

COUNCIL PRESIDENT: Council President Bergonia said he wanted to take this time to wish everyone a very Merry Christmas.

MANAGER: Manager Lowthert reported the Public Works/Police Committee meeting scheduled for Tuesday, January will not be held as there's only one item for discussion, to determine additional streets for improvement work in 2017, and he will not have had an opportunity to obtain any cost estimates from Larson Design Group (LDG) by that date.

SOLICITOR: Solicitor Lyons reported a public hearing was held this evening on the proposed amendment for the establishment of general and specific standards relating to location, placement, construction and maintenance of broadcast transmission towers and antennas; providing for regulation of such facilities, and providing for enforcement of said regulations. This ordinance was duly advertised and is before Council this evening for action.

Councilmember Derman made a motion, seconded by Councilmember Cox, to adopt Ordinance No. 1044, an ordinance amendment for the establishment of general and specific standards relating to location, placement, construction and maintenance of broadcast transmission towers and antennas; providing for regulation of such facilities, and providing for enforcement of said regulations. ON THE QUESTION: Councilmember Morris indicated she is a member of the Planning Commission and as such, she will not be voting in favor of this ordinance as a result of the Planning Commission's opposition.

COMMUNITY DEVELOPMENT/ PLANNING COMMITTEE HARB

G PECK

RESIGNATION OF C SAMMELLS FROM PLANNING COMMISSION

APPOINTMENT OF M DERMAN TO BVRPC AS ALTERNATE

GENERAL UPDATES

ADMINISTRATIVE/ FINANCE COMMITTEE PAYMENT OF BILLS

APPROVAL OF PER CAPITA TAX EXONERATIONS

(ORDINANCE NO. 1043) TAX COLLECTOR SERVICE CHARGE, ETC. CHANGES

MAYOR

COUNCIL PRESIDENT

MANAGER JANUARY PW/POLICE COMMITTEE MEETING CANCELLED

SOLICITOR

(ORDINANCE NO. 1044) PROPOSED ORDINANCE AMENDMENT DEALING WITH BROADCAST TRANSMISSION TOWERS/ANTENNAS/ REGULATION AND ENFORCEMENT

December 20, 2016

Manager Lowthert explained that Cohen Law Group has clearly outlined that the Borough is not well protected under its current ordinance and this ordinance amendment provides better protection for our residents and better controls for the Borough when wireless communication requests are received. If the Borough ordinance is to be amended to reflect the Planning Commission's opinion of limiting towers to only two zoning districts, it is Cohen Law Group's opinion that it absolutely will not withstand a legal challenge. There was **very much** discussion. It was the sense of Council that the Borough would be better served to adopt this ordinance, thereby securing the protection needed now, with the intention to review the structuring of this ordinance to allow it to link better with the Borough's current zoning ordinance. Motion was approved with one dissenting vote, Councilmember Morris voted no.

Solicitor Lyons reported before you for consideration is a proposed resolution, that will work in conjunction with the ordinance just passed, that allows Council to determine the locations broadcast transmission towers shall be permitted by conditional use.

Councilmember Derman made a motion, seconded by Councilmember Mahon, to adopt Resolution No. 16-11, a resolution that would provide for Borough Council to determine from time to time the roads and corridors throughout the Borough, regardless of the underlying Zoning District, along which Broadcast Transmission Towers shall be permitted by conditional use. Motion was approved with one dissenting vote, Councilmember Morris voted no.

OTHER COMMITTEES: Council President Bergonia indicated the Buffalo Valley Recreation Authority (BVRA) will soon be moving the gym from Route 45 into the former high school building; everyone is anxious for this move.

Councilmember Morris announced she is now the new Acting Lewisburg Downtown Partnership (LDP) Board President. Unfortunately Jessica Brazier was unable to continue in this position due to her job and family commitments. Councilmember Morris indicated she will be working closely with Susan Kauffman, the current LDP Board Vice President, with the hope that Ms. Kauffman will eventually step into the Board President position.

Council President Bergonia reported, as a result of Councilmember Morris' new position on the LDP, he will designate Councilmember Susan Yohn to serve as Council's representative on the Town and Gown Committee. Mayor Wagner commented that she believes work is still taking place for the reconfiguration of the Town and Gown Committee.

Mayor Wagner reported the LNC meeting will be held tomorrow night. Councilmember Derman reported the River Town Committee met last night and he is extremely pleased to see the progress being made by Samantha Pearson and Trish Carothers. He also noted the Flood Impact Task Force is scheduled to meet sometime in January.

Manager Lowthert reported the Shade Tree Commission continues to work on the Tree City USA application, which is submitted annually.

Council President Bergonia reported the CK-COG continues with their work; nothing new to report.

Council President Bergonia reported, as a result of Councilmember Morris' new position on the LDP, he will be happy to represent the Borough on the Community Garden Committee.

Councilmember Cox shared that the next MACAC meeting is scheduled for January and a representative from York will be present at that meeting.

OLD BUSINESS: None.

NEW BUSINESS: None.

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

WORK SESSION: Manager Lowthert confirmed there will be a work session held January 10, 2017 for the LNC presentation of the draft final for the Bull Run Master Site Plan.

Councilmember Morris made a motion, seconded by Councilmember Mahon, to hold an executive session for the matter of Jones vs. Borough of Lewisburg/Docket No. MJ-17301-CV-0000087-2016. Motion was unanimously approved.

Council entered executive session at 9:20 PM. Council returned at 9:30 PM.

There being no further business, Councilmember Morris made a motion, seconded by Councilmember Mahon, to adjourn the meeting. Motion was unanimously approved. Meeting adjourned at 9:30 PM.

Respectfully submitted,

Patricia M. Garrison, Borough Secretary

**(RESOLUTION NO. 16-11)
ALLOWING COUNCIL TO DETERMINE FROM TIME TO TIME ROADS/CORRIDORS FOR BROADCAST TRANSMISSION TOWERS BY CONDITIONAL USE**

**OTHER COMMITTEES
BVRA**

LDP

TOWN AND GOWN COMMITTEE

LNC

STC

CK-COG

COMMUNITY GARDEN COMMITTEE

MACAC

OLD BUSINESS

NEW BUSINESS

WRITTEN REPORTS

WORK SESSION

LEGAL MATTER

(EXECUTIVE SESSION)

ADJOURNMENT