

MINUTES OF THE COMMITTEE MEETING  
OF THE EAST PETERSBURG BOROUGH COUNCIL

<b>DATE AND TIME:</b>	October 26, 2023	6:00 p.m.
<b>LOCATION:</b>	Community Center	6051 Pine Street
<b>ATTENDANCE:</b>	Council Members:	Debra Miller, President John Schick, Vice-President Adam Gochnauer, Pro Tem John Herr (Absent) Randy Rannels William Sharp Sandra Valdez Mayor: Borough Manager: Borough Solicitor:

**Meeting was called to order:** 6:00 p.m.

**Moment of Silence / Pledge to Flag**

**Visitors:** Tammy and Jeff Moseman, Josh Roberts, James Swarr and Anette Rogers

**I. PUBLIC COMMENTS:**

1. **James Swarr** asked for a follow up on the group home situation. He said last he heard there was a cease and desist and said he knows they have not. Amy Leonard said there have been notices issued from both the zoning and building side and those have been appealed and will now go to the ZHB and UCC Appeals Board for consideration. The borough will continue to use the zoning officer and building code official to support its position in terms of the notices that were issued.

**James Swarr** said he filed an inquiry of for 1945 State Street regarding the signs for renting storage containers at the front of this property. He asked what is going on with this. Manager St. Clair said she will check on this tomorrow and let him know. Mr. Swarr asked who is the authority to enforce the borough zoning ordinances. Amy Leonard said it is ARRO and whoever their consultants are. Ms. Leonard said ARRO is the zoning officer and the building code official. Mr. Swarr asked how many different people are coming out. Manger St. Clair said there are different people, and it is not always the same. Mr. Swarr asked if the individuals doing the inspections are using marked vehicles. Amy Leonard said if they are on the public street, they do not have to have a marked vehicle, but if they are actually going onto someone's property or interacting with someone, they would have to say who they are. Ms. Leonard said we cannot always say who will be going out because it depends on ARROs staffing and who they send out. Mr. Swarr said he feels personally, with some of the issues he has submitted, Collin has not handled it the way he should have.

2. **Tammy Moseman** asked if anyone discussed issues re: drama and attorney fees with the fire department. Adam Gochnauer said it was not asked formerly by the borough, but he did ask, and he was told by two separate people who do the books, that their money was used and not taxpayer money. She said she knows there has been issues with the books over there in the past, and it is a concern for her. She asked why Chief Kottmyer would say it was taxpayer money used if it wasn't. Adam Gochnauer said John Kottmyer never saw this and was only told about it. He said the financials that they publish do look good and they are audited, and there has been no findings. Josh Roberts said if they are being professionally audited, he is good with that. John Schick said they get the reports every month and if something didn't look right they would see it.

**II. AGENDA ITEMS FOR DISCUSSION ONLY:**

1. **Amy Leonard: Solicitation Ordinance update**  
Amy Leonard looked into what can be banned and what can not be banned. Borough code does allow the borough to regulate and require a license/permit. There are certain categories of people for which you can not

require a permit/license fee: farmers selling their own produce, persons selling property if the proceeds are applied to a charitable purpose, manufacturer or producer selling bread/meat/or milk. There are certain categories that are not subject to licensing/permitting: political canvassers, people with a religious organization and some case law says you cannot require a license/permit if someone is passing out fliers/pamphlets. Ms. Leonard said blanket bans on soliciting are going to have a constitutional challenge. Ms. Leonard said she knows there is interest in doing this but her best legal advice is if you outright ban it, you're going to be doing something that is considered going too far, or run afoul of commercial free speech rights, which are protected. Essentially what case law says is that you have the right to regulate it to enforce things like health and safety, such as times of day. Ultimately case law says the borough does not have rights as broad as the property owner. The regulation we currently have requires licensing/permitting through the police, background check, payment of fee. Ms. Leonard says she realizes this does not solve the problem of people approaching homes without permits. There will always be people who don't follow rules and will not get the license. There are also people who get the license and ignore the "no soliciting sign." These are two separate issues. If you go to the extreme of banning soliciting all together, a company can make a legitimate free speech/first amendment issue against you. She said if you ban soliciting you cannot enforce it. Private property owners have broader rights. A private property owner can put up a "no soliciting" or "no trespassing" sign and it is valid. This covers soliciting, political canvassing, and religious proselyting. Property owners have the right to refuse access to your properties. The borough as a government agency does not have the right to say we are going to decide who approaches houses and who cannot. The individual property owner gets to decide this. Ms. Leonard said the way our solicitation ordinance is written and the regulations in the ordinance, are in line with what is constitutional. The problem will continue to be out there regardless of what we do. We know people ignore the signs and some people aren't going to get permits even though they are required to get them. Ms. Leonard said in her legal opinion, the mechanism to control these things is not enacting an ordinance that could land you in some legal trouble. She said her job is to give the best legal advice and to keep us from getting involved in litigation that will be costly. She said some of the companies out there have much deeper pockets than we do and are far more willing to take this to higher public courts. She said she understands that this will not make some of the residents happy and this is not a popular opinion. She said the best option at this point is to provide additional information to residents on the website to let them know they have the right to put up "no soliciting" or "no trespassing" signs and to contact law enforcement if they step foot on your property in violation of these signs because it is enforceable at that point. It can be controlled if residents call the police and law enforcement responds to it. If you are a person who does not want them at your door, put up the sign, and answer the door and tell them to leave your property, or do not answer the door. She said there is not a perfect solution that will make everyone happy. Ms. Leonard said if you outright ban it there could be legal trouble and it cannot be enforced. She also suggested for people who are following the permitting process, when they come to pay the fee we provide them with an informational sheet to let them know that just because you have a permit does not mean you can enter someone's property that has a "no soliciting" or "no trespassing" sign, or if someone tells you to leave then you will have to leave, and if this happens the borough has the right to revoke the license /permit. Ms. Leonard said she thinks that it may not be clear to people soliciting that they cannot enter a property that is posted, and it might help to let them know this. Ms. Leonard said they should have their permit on them and be able to show it if they are asked to. Each person must have a permit even if they are with the same company because the permits are not transferrable.

2. **Review 2024 Borough Meeting Dates**

Council reviewed the dates. This will be on the next meeting agenda to approve.

3. **Review 2024 Banner Suspension Dates**

The event dates have not been determined by the events committee yet. This will be on the next meeting agenda.

4. **Account Payables 10/26/2023**

Reviewed by Council.

5. **Review 3Q23 Financials**

Manager St. Clair reviewed the 3Q 2023 Financials for Water, General and Trash with councilmembers.

6. **Review 2024 Budget**

Manager St. Clair reviewed the 2023 proposed budget for all accounts with councilmembers. This will be added to the next agenda for a vote to advertise the proposed budget for 2023.

Sandra Valdez asked now that we were awarded the DCNR grant, what is the process and when do they release the funds? Manager St. Clair said we won't see any of this grant money until we are finished with the project. Jeff Moseman said we will put this out to bid in January to start the project.

John Schick requested the breakdown for ESC duties as assistant manager vs. emergency management coordinator to include percentage of breakdown of daily task hours.

Josh Roberts asked who pays for the EMS services to handle the planning with the events committee? Manager St. Clair said the EMS coordinators involvement with events is for emergency planning, and the borough pays for her.

Mr. Roberts said we already pay the police \$800,000.00 per year, and asked how they got that number and what would we get if we decide to pay the additional \$140,000.00 buy-in amount in the future. Manager St. Clair said it is a one-time buy-in amount and it is based on a percentage of their net assets, and it will give us two seats and two votes. East Petersburg will then be able to vote on budgetary issues and will have a seat at the table on any contract negotiations. Mr. Roberts said he has yet to hear what the benefit is of us having voting rights. He said we are paying almost what we paid to Manheim Township. Adam Gochnauer said Manheim Township was going to raise us to 1.2 million minimum. Mr. Gochnauer said when we become a charter member, we are no longer under contracted services, so our long-term gain will be less increases and one figure was even less than our contracted rate. Mr. Gochnauer said he agrees we do not want to buy in just for votes. Mr. Gochnauer said if more entities join in, it will reduce our cost. If we join in the charter we won't see the big increases like we did with MTPD. Tammy Moseman asked if the borough has signed on yet or not. Adam Gochnauer said they decided to extend the contract for one more year and are planning on joining the charter for 2025. Mayor Malone said during the last 2 years of our contract with MTPD there was constant community rhetoric about the response times which were actually under 4 minutes. He pointed out the experience Mr. Swarr had with the police was personal and people on Facebook do get a perception when they read these things. Mayor Malone said since 2011 he, and residents he has spoken with, has seen both groups out there in the community. He pointed out that we do currently have even better response times with NLCRPD. Adam Gochnauer said dealing with the MTPD police officers was wonderful, but dealing with the administration to get information was not so good. NLCRPD gives us so much information and after complaints were given by a resident, within a month they were out there doing traffic studies. He pointed out that some of the things they are looking at in the future are going to make them even better.

#### **7. Misc. Items for Manager and Council**

Received thank you letter from Lancaster County Library for the donation.

Received update on traffic signal on Graystone Road - Construction start date is now October 2024. The project will consist of traffic signal upgrades which is updated controllers, detectors, signal supports and hardware, a 25ft. mast arm with a flashing signal ahead sign to be installed approximately 640 ft. north of the intersection on Main St. Radar detection will be installed in lieu of loop detectors. John Schick said the process for PennDOT takes a lot longer and that is how it keeps getting pushed back.

We will be receiving \$5,086.86 through a trash recycling grant from the state.

Kevin Martin will talk about the updates on the sidewalks on Lemon St.

John Schick pointed out the bid tabs for the signal @ Miller & Enterprise came in a little higher because PennDOT required push buttons be added. Some of the other costs were already taken care of, so the cost will actually end up being less. The amount on the agenda for approval tonight includes all costs.

#### **8. Fire Company Financials – for review only**

### **II. ACTION ITEMS:**

- 1. *It was moved and seconded (R. Rannels / S. Valdez) with unanimous approval by the board, to approve the September 2023, Borough Committee meeting minutes.***
- 2. Manager St. Clair explained this update will reflect Lancaster Township joining into the UCC Board of Appeals through the LIMC. This is the only change.**

***It was moved and seconded (A. Gochnauer / W. Sharp) with unanimous approval by the board, to approve Updated UCC Board of Appeals Agreement***

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3. *It was moved and seconded (A. Gochnauer / R. Rannels) with unanimous approval by the board, to approve check payable to Kline, Kreider & Good Auctioneers in the amount of \$29,863.66 for 6040/6050/6060 Main Street Auction.*
4. *It was moved and seconded (S. Valdez / A. Gochnauer) with 5-0 approval by the board, to approve awarding the lowest bidder Telco, Inc. for the 72/Miller, and 72/Enterprise Traffic Signal Upgrade Project in the amount of \$144,492.04, pending review of all documents by solicitor and Rettew. John Schick Abstained due to his employment with Rettew.*

III. **Extra Items: Issues arising in the last 24 hours:** None.

IV. **Committee Meeting Adjournment:** 7:57 p.m

VI. **Executive Session for legal and personnel matters:** 7:59 p.m. – 8:12 p.m.

**Next Meeting:** Tuesday, November 7, 2023, Council Meeting & Thursday, January 25, 2024, Committee Meeting

Respectfully Submitted,  
Kim Strayer, Recording Secretary