

## MINUTES

### SHREWSBURY BOROUGH COUNCIL

REGULAR MEETING

SEPTEMBER 9, 2009

PRESENT: Mayor James W. Reedy, Richard R. Buchanan, Thomas D. Metz, Peter W. Schnabel, Christopher M. Skoglund and Eric W. Stoley

#### OTHERS

PRESENT: Jeffrey L. Rehmeyer, II, Esq.; Brian L. Sweitzer, Supt. of Public Works; E. Michael Lee of Codes Enforcement; Joe and Nancy Sacco; Gavin Markey, Esq.; Neil Metzger; Jayne Dunlap; Mike Nelson; Danny Smith; Cheryl Hunter; Sam Albright; Kellie and Chris Jackson; Joyce Jackson; Jonnie Everett; Ted Nadobny; Zach Slenker; other citizens who did not speak

The regular meeting of the Borough Council convened at 7:31 p.m. in the Borough Municipal Building, 35 West Railroad Avenue, with President Schnabel presiding.

#### CITIZEN'S COMMENTS

Zach Slenker, of Kratz Road, asked permission to hold a 5K race to benefit the Forsight Vision Center to be held on November 7. The Race will start in front of the fire station and proceed west through streets in the Bridlewood development, to Tree Hollow Drive to West Clearview Drive and back to the playground parking lot. Mr. Slenker stated he has an insurance certificate. The playground would be used for parking.

Permission was given for the use of the playground and Council acknowledged the Run. Chief Childs is aware of the Run and the Fire Company will be assisting with traffic for the few minutes at the beginning of the Run in front of the fire station.

Rutter's Expansion and Neighbors: The Rutter's store representatives were invited this evening to give an informal presentation of their plans for the existing Rutter's at 249 North Main Street and the plans to purchase the adjacent former Total Fitness building at 241 North Main Street for expansion. Since the neighbors to the east had problems when Rutter's was built in 1993, as a courtesy, they were invited for the Rutter's representatives to hear any concerns they had with the existing operations and to incorporate those concerns into future plans, if the

project proceeded. Rutter's was also present to ask Council to consider amending the Wellhead Protection Ordinance to allow for an expansion of a business that was in existence before the Wellhead Protection Ordinance was adopted in order to upgrade tanks and monitoring equipment. As stated by Council and acknowledged by the Rutter's representatives, the Ordinance does not allow for expansion of an existing nonconforming use, like the gas station.

The following is a summary of neighbor complaints:

Joe Sacco, 74 Brook Meadow Circle, asked if there was a noise ordinance. He hears loud truck noise and radios blaring especially after midnight. The trucks don't turn off their engines or radios and he hears spinning tires.

He was told there is a nuisance ordinance and he will have to call the police and file a complaint in order to document the offenses and show a pattern.

Jonnie Everett, 238 North Main Street, Lot 6 also hears car stereos playing and has called the police. Trucks park along the street.

Kellie Jackson, 2 Plank Road, stated they are awakened every night since the store went to 24 hours and her daughter wakes up afraid. She stated tractor trailers park and leave the engine idling on Plank Road and walk over to the Rutter's. When the store was robbed, the robber ran through their yard; they hear profanity of customers parking on the east side of the building.

Mrs. Jackson was told to contact the police about the trucks idling and the noise.

Attorney Markey, representing Rutter's, stated he was making notes of the comments to pass along to the Rutter's.

Jayne Dunlap, 72 Brook Meadow Circle, stated the Dumpsters are being emptied too early; trucks park behind Rutter's, and they hear the clerk's voices through the intercoms as they talk to customers at the pumps.

(Discussion continued under Subdivision & Land Development Business)

### **APPROVAL OF MINUTES**

E. Stoley moved to approve the minutes of the August 12 meeting.

T. Metz seconded. The motion carried with all in favor.

### **APPROVAL OF EXPENDITURES AND REPORT OF ACCOUNTS**

C. Skoglund recommended postponing approval of the expenditures and report of accounts for July until the next meeting when M. Ridgely is present.

## **BILL LIST**

The bill list for August was presented. General account: check numbers 9646 thru 9694; Water account: check numbers 4232 thru 4245; Sewer account: check numbers 4072 thru 4085; Highway Aid account: check number 805.

C. Skoglund moved to approve the August bill list.  
E. Stoley seconded. The motion carried with all in favor.

## **APPROVAL OF PAYROLL REGISTER**

E. Stoley moved to approve the August 11 and 25 payroll registers.  
C. Skoglund seconded. The motion carried with all in favor.

## **SUBDIVISION AND LAND DEVELOPMENT BUSINESS**

### **Rutters' Informal Presentation**

Neil Metzger of LSC Design and Atty. Gavin Markey were present to give the informal presentation of future plans to expand into 241 North Main Street and to ask Council to amend the Wellhead Protection Ordinance to allow for the expansion. This is not review of a land development plan.

Mr. Metzger stated the store at 249 North Main Street was built in 1994. The Wellhead Protection Ordinance was not adopted until after the store was built. The plan is to tear down the existing Rutter's building and use the building at 241 North Main Street for the store and to re-arrange the gas pumps close to where they are presently located. There are currently four pumps at two each for a total of eight dispensing pumps. The expansion would have eight pumps at two each for a total of 16 dispensing pumps with an overhead lit canopy. The existing two underground storage tanks would be replaced with new double-walled tanks under Act 100 with a more up-to-date electronic spill monitoring system. A 12,000 gallon kerosene tank would be added. Better storm water management will be done so the water leaving the pump area will be cleaner than it is now. There will not be a tractor trailer fueling station. Atty. Markey stated the public would have a chance to attend any zoning hearing and any meetings for plan review to add their input and concerns. The Zoning Hearing Board could also place restrictions and

conditions on the operation to satisfy the neighbors' concerns, including mandatory trash clean-up. A better fence could be installed and trees or shrubs planted. Parking could also be pushed further west away from the houses to the east. Dumpster location will also have to be addressed. The intercom system could also be addressed. There is a better lighting technology with the use of LED lights. The plan also calls for a one bay car wash out near the intersection with the water being reclaimed.

The intersection of Plank Road and North Main Street will need to be studied with possible upgrades and a perhaps a traffic signal and turn lanes installed. Existing entrances and exits will need to be studied. It was mentioned that traffic may pass on the east side of the three lots(Rutter's, Total Fitness and Brooks-Huff) from Plank Road to Northpoint Drive as a short-cut.

Kellie Rush Jackson, 2 Plank Road, stated they currently have 30 foot evergreen trees in place behind the fence and they still hear noise and get trash from the store. She would like to see a better wall or fence put in place. She stated she took bags of trash she picked up over to the store manager on previous occasions, but nothing was done to routinely patrol for trash. Atty. Markey was asked to have a principal of Rutter's call Mrs. Jackson.

Joe Sacco, 74 Brook Meadow Circle, said he installed landscaping on the hillside on the east side of the fence and questioned why not all of the adjoining property owners were notified and if the existing tanks are not upgraded if the expansion does not occur, he will call the EPA. He also questioned neighbors' property values as a result of the Rutter's store.

Jayne Dunlap, 72 Brook Meadow Circle, asked about the loading zone on the east side of the building. If the project proceeds, she would like to see that addressed along with trash restrictions. The property on the east side of the fence still will need to be maintained. There are openings in the existing fence and sound carries through.

Mike Nelson, 76 Brook Meadow Circle, stated a vehicle came through the fence at the tire business behind his property and the Dumpsters attracts buzzards.

Jonnie Everett, 238 North Main Street, Lot 6, asked if the expansion doesn't take place, will the tanks still be replaced.

The answer was unknown at this time what the time requirements are to replace tanks. Jonnie also asked how they are going to keep motorists from going in the wrong lane at the entrance on Plank Road as it's confusing now.

Dan Smith, of Smith Bros. Garage, stated he wasn't notified of the meeting. He asked when the store went to 24 hours and it was stated that only the Village district has hour restrictions. He asked if the wall/fence was made higher and soundproof, where will the noise go as his mother lives across the street on Plank

Road. He stated tractor trailers park at the Southern Turf and Tractor lot during the night to walk across to the store. Trucks also park along Main Street and block the sight view for motorists pulling out of Plank Road. Dan was also concerned about the foot traffic through Mrs. Smith's yard.

Ted Nadobny, of 3 Brook Meadow Circle, was concerned there could be increased traffic through the Brookview Meadows development.

Solicitor Rehmyer summarized certain provisions of the Ordinance. Under the Wellhead Protection Ordinance, a retail gas station is prohibited. However, the Ordinance allows a petition to be filed with Council to remove a prohibited use from the list of uses prohibited by the Ordinance, if certain conditions are met to include a change to non-risk methods related to the use, such that it no longer poses a pollution hazard. This is a high burden for a retail gasoline station. Since Rutter's gasoline station was built prior to the Ordinance, it is allowed to remain as a non-conforming use. But, the Ordinance does not allow a non-conforming use to be materially altered, changed or expanded. Therefore, the Rutter's gas station must remain as it is. But, Borough Council could consider if there is a benefit to the Borough and its water system to allow a non-conforming use to expand, if such expansion is accompanied by substantial improvements in technology that reduce the threat of pollution. Thus, the question to the Council is if it wants to consider reviewing the Wellhead Protection Ordinance and allowing an existing non-conforming use to be expanded if the user can demonstrate that it will improve the non-conforming use and further the purposes of the Ordinance.

Council asked that the neighbors of the Rutter's store be invited to the meeting because Council remembered from 1993 that the nearby neighbors had concerns and thought they might have them regarding any expansion. As a courtesy, the Borough will attempt to invite adjoining property owners to meetings on this expansion issue.

As part of its expansion request, Rutter's would like to expand into the property next door because it could use more space. With regard to the expansion, Rutter's wants to hear the neighbors' concerns and try to address them.

Any expansion of the Rutter's store and retail gas station would require subdivision, land development, and zoning approvals, in addition to a change under the Wellhead Protection Ordinance. Such a process would take a lot of meetings and/or hearings. But Rutter's can use them to make corrections and to improve their operation.

The Rutters' representatives were asked that someone from management check on this location from time to time to make sure the property is being maintained, per the comments this evening.

The Rutter's representatives will take the neighbors' comments back to evaluate them but there are certain things they can't control.

Nancy Sacco, 74 Brook Meadow Circle, stated they have been living with these conditions since 1993. They have not seen the upkeep as promised at that time. Mrs. Sacco was told the Borough has complaint forms for residents to complete.

### **Scout House Addition**

Bob Dixon and Scout Master Sam Albright were present to show the drawing for the 20 x 22 foot addition on the east side of the Scout House. About five trees will need to be removed. Since there are changes to the drawing submitted with the grant application, an amendment will be submitted to DCED. A drainage issue prohibits the addition on the west side.

T. Metz moved to approve the sketch plan for the Scout House addition.  
E. Stoley seconded. The motion carried with all in favor.

### **Eagle Scout Project**

A Scout is proposing to paint the pavilion and cook shack as a project. The paint will cost about \$500.00.

R. Buchanan moved to approve the expenditure of approximately \$500.00 for paint.  
T. Metz seconded. The motion carried with all in favor.

Due to the bottom edges of the pavilion getting damaged from rain and moisture, it was recommended that B. Sweitzer look into prices for installation of rain spouting for the pavilion. This would be payable out of the PLGIT Playground account.

**Southern Regional Police Department** – Richard R. Buchanan

The time analysis for July was Shrewsbury Borough at 432 hours; New Freedom Borough at 398 hours and Glen Rock Borough at 188 hours.

Based on ten months of record keeping, Shrewsbury Borough is using 47% of the police time, New Freedom Borough at 33% and Glen Rock Borough at almost 20%.

Buck was asked if the speed trailer could be placed on Northbrook Lane occasionally.

### **Codes Enforcement** – E. Michael Lee

#### Penn Mar Recycling

They are in compliance at this time.

#### CVS Pharmacy

CVS would like to start demolishing the two buildings at the intersection of South Main Street and Constitution Avenue prior to obtaining their bond, which is in the works. They will also be capping off the water and sewer lines. The final report on the dirt will show it is clean.

### **Water & Sewer** – Richard R. Buchanan

#### Sewer Flows

Five inches of rain were received in a 24-hour period on August 28 into August 29. Our sewer station pumps doubled the normal running time due to the amount of rainwater entering the sewer system due to the creeks overflowing, floor drains and sump pumps in homes tied to the sewer system, and infiltration and inflow. Our sewer flows were 1,089,000 gallons for that time period compared to the average flow for August of 609,000 gallons per day. Two days after the storm, our sewer flows returned to the normal 572,000 gallons per day.

#### Stimulus Money and PA H2O Grant

Stimulus money is available for water and sewer projects for the fall of 2009 and spring of 2010. A large portion of the remaining Public Works time in 2009 will be devoted to sewer televising.

It was suggested the Borough set up a meeting with PennVest. We don't qualify for grants as the median income is too high.

### Geothermal Well/Heating Systems

A closed-loop system was discussed, but since it is only three to five feet deep, it provides little heat recovery. A food-based gel should be required. A concern is when a geothermal well is drilled, it could hit one of the Borough's water supply's veins and close it up. B. Sweitzer would like to see the wells prohibited in Zones 1, 2, and 3. This is why we have a Wellhead Protection Ordinance, to protect the Borough's water supply.

This will be discussed at an upcoming Wellhead Protection Committee meeting. The proposed geothermal heating system is between 75 – 150 feet outside of a Zone 3.

Sol. Rehmeier will draft a short ordinance in the meantime to restrict the wells until further investigation can be done

The homeowner can attend a Council meeting and explain what they would like to have installed.

Mayor Reedy left the meeting at 10:02 p.m.

### **Public Roads & Lighting** – Christopher M. Skoglund

#### Road Reconstruction

Northbrook Lane and South Highland Drive were repaved. The thermoplastic roadway speed limit signs will be applied to Northbrook Lane.

#### Recommendation of Payment

C. Skoglund moved to pay W. Craig Adams, Inc. the amount of \$101,269.33 for paving Northbrook Lane and South Highland Drive.

E. Stoley seconded. The motion carried with all in favor.

### Crack Sealing

Crack sealing work for 2009 is finished. The Township will be reimbursed a skid of crack sealing material next year.

### Mount Airy Road U-Turn Signs

A "No U-Turn" sign was placed heading northbound on Mount Airy Road at the south exit at the Shrewsbury Square Shopping Center.

### **Public Lands & Buildings and Finance**

#### Signs at Playground

Two signs have been installed at the playground announcing no unauthorized trespassing from dusk to dawn.

#### Lawn Mowing of Abandoned Properties

Prices were received to be inserted into the proposed weed ordinance.

#### 2010 Minimum Municipal Pension Obligation

C. Skoglund moved to approve the 2010 MMO at \$37,393.00.  
R. Buchanan seconded. The motion carried with all in favor.

### **ENGINEER'S REPORT**

### **SOLICITOR'S REPORT**

#### 21 South Hill Street

The zoning hearing was held; E. Stoley said the decision will be announced tomorrow night.

#### E-mail Use and Retention

Sol. Rehmeier prepared a draft memorandum and resolution for review.

#### Letter from Shrewsbury Township

A letter was received from Shrewsbury Township that they are in agreement if the Borough would consider transferring 25 sewer EDUs currently owned by the Andersons to a property in Shrewsbury Township.

No action will be taken on the letter.

#### **Public Safety, Welfare and Personnel** – Thomas D. Metz

##### Committee Appointment

T. Metz was appointed Chairman of the Public Safety, Welfare and Personnel Committee.

##### Sidewalks

Grant money is all but dried up. Council needs to decide how to proceed with getting the sidewalks repaired. A letter may be sent to the worst offenders asking for cooperation.

#### **Secretary's Report** – Cindy L. Bosley

The next York County Borough's Association meeting will be on September 24.

#### **York Area Tax Bureau** – Thomas D. Metz

##### Earned Income

The question of why is the Borough is off 100 tax filings when we continue to grow was raised. T. Metz was asked to check with the Director.

#### **Subdivision, Land Development and Zoning** – Eric W. Stoley

#### **Planning Commission/Regional Planning Commission** – Eric W. Stoley

### Regional Comprehensive Plan

We have not received comments from the other municipalities as part of the agreed-upon process.

### **UNFINISHED BUSINESS**

#### **NEW BUSINESS**

#### Council Rules of Order

The Secretary was asked to update the Rules of Order to reflect the current agenda that is followed.

#### Council Vacancy

The Secretary was asked to place a news item in the paper for the Council vacancy.

### **COMMUNICATIONS**

#### York County Quick Response Team

A letter was received from the York County Quick Response Team listing the contributing municipalities.

### **ADJOURNMENT**

C. Skoglund moved to adjourn the meeting at 10:31p.m.  
E. Stoley seconded. The motion carried with all in favor.

Submitted by,  
Cindy L. Bosley, Sec.