

ATTENDANCE

Council Members: Angela Ashbrook
Alma Akinjiola (arrived at 7:50 p.m.)
Barry Bloch
Ryan Hanosek (arrived at 8:44 p.m.)
Todd Rutledge
Roseann Schleicher, Vice-President
John Yerman, President

Mayor: Ronald Conrad

Interim Borough Manager: Chris L. Boehm

Solicitor: Patrick Armstrong

Engineers: Stan Wojciechowski (7:30 p.m. to 8:12 p.m.)

Administrative Assistant: Selma Ritter (7:30 p.m. to 9:27 p.m.)

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

ENGINEER'S MONTHLY REPORT (the "Report") – BARRY ISETT & ASSOCIATES ("BIA").
Engineer Stan Wojciechowski discussed his February 01, 2021 report.

a. Cotton Street

i. Substantial Completion issued. J. Phillips Excavating & Hauling, LLC completed all of the work related to the Cotton Street Bridge (vehicular), including the \$500.00 change order. BIA issued a Substantial Completion Certificate, which needs to be signed by the Borough.

ii. Pay Application #1 – final payment in the amount of \$26,460.00. Approval of this Payment Application will allow the project to be closed out.

President Yerman made a motion to approve J. Phillips Excavating & Hauling, LLC's Payment Application #1, in the amount of \$26,460.00, second by Council Member Bloch. Motion carried: 5 ayes (Council Members Akinjiola and Hanosek were absent from the vote).

iii. Status of Maintenance Bond. No discussion.

b. Main Street Streetscape Phase IV.

i. Payment Application No. 2 – does not include reimbursement for any if and where directed items. In his January 28, 2028 report, Engineer Wojciechowski stated BIA "examined the actual constructed/completed quantities and find that the requested amounts are consistent with the Schedule of Values for each requested payment" and BIA "find[s] that the value remaining, \$76,178.00, would be sufficient to complete outstanding work and address construction deficiencies." Mohawk Contracting & Development, LLC's ("Mohawk") Payment Application #2 is in the amount of \$229,959.00.

Engineer Wojciechowski reported there is approximately \$50,000.00 worth of work that still needs to be completed, which the contractor would like to complete in the Spring of 2021.

Council Member Schleicher made a motion to approve Mohawk's Payment Application #2 rev1, in the amount of \$229,959.00, second by Council Member Bloch. Motion carried: 5 ayes (Council Members Akinjiola and Hanosek were absent from the vote).

ii. Change Request to extend time. Due to weather conditions, Mohawk provided a written contract extension request until May 31, 2021, which would include final plantings and finalization of the brick pavers. Engineer Wojciechowski recalled Mohawk was asked to delay the start date of the project until October 2020.

Council Member Schleicher made a motion to approve Mohawk's change request for the time extension to May 31, 2021, second by President Yerman. Motion carried: 5 ayes (Council Members Akinjiola and Hanosek were absent from the vote).

iii. Change Request to add photocell control at the control panel for each phase for the receptacles. This change request, in the amount of \$7,500.00, includes the purchase and installation of dusk to dawn timers on the decorative lights on Main Street for the Christmas decorations in Phases II, III and IV. The change order cost would be recoverable by the DCED grant funds from Phase III.

President Yerman made a motion to proceed with the change request to add the dusk to dawn timers, subject to a vote on a formal document at a future Council meeting, second by President Schleicher. Motion carried: 5 ayes (Council Members Akinjiola and Hanosek were absent from the vote).

iv. Status update.

- South Church Street. The water lateral replacement project is now available on PennBID. The pre-bid meeting was held on January 26, 2021. The bid deadline is later this week.
- Sanitary Sewer Project. The Department of Environmental Protection (DEP) is requesting Lehigh County Authority give them a 60-day time extension to review the Interim Act 537 Plan.

c. Estates at Brookside – status update and discussions. Engineer Wojciechowski recalled, at a previous Council meeting, Council considered an offer from the developer for a cash contribution in lieu of the 18-month maintenance period, which would trigger acceptance of the road and sewer dedications. Council tabled the discussion to allow the developer to prepare the dedication legal documents. He noted the Borough Planning Commission, at their November 17, 2020 meeting, conditionally recommended Council accept the contribution. One of the conditions was the developer had to send letters to the property owners regarding the restrictions on their property; however, to date, the developer has not drafted the letter or legal documents for the Borough's approval. President Yerman questioned if Solicitor Armstrong and Engineer Wojciechowski work together on drafting the letter, if the developer could be charged for their services, instead of the Borough. Solicitor Armstrong stated the developer could be charged for the legal and engineering fees that accrue from them drafting the letters to the property owners. President Yerman wants to review the letter prior to it being sent to the property owners.

It was noted the properties within the development cannot have sheds, decks, pools or other structures erected on them because there is no impervious coverage left on the properties to build on (they are small lots with large houses on them), which is a condition the developer agreed to prior to developing the property (the restrictions are in the property Deed). Interim Manager Boehm suggested all of the property files at Borough hall for the development have a note placed in them so the Zoning Officer knows no permits can be issued for them.

Engineer Wojciechowski suggested if Council accepts the dedication of the streets and sewers early, it should be conditioned upon the developer receiving the Notice of Termination (NOT) from the Lehigh County Conservation District (LCCD).

President Yerman made a motion for Engineer Wojciechowski and Solicitor Armstrong to collaborate on drafting a simple English-based letter to the property owners on what the rules are about the current permitting requests and post-turnover Notice of Termination request and then bill the developer for it, second by Council Member Rutledge. Motion carried: 6 ayes. (Council Member Hanosek was absent from the vote).

d. 722 E. Main Street, Macungie, Minor Subdivision Plan. Hanover Engineering submitted a Preliminary/Final Minor Subdivision Plan to the Borough Planning Commission for their consideration. The project proposed the subdivision of the existing lot, which is located within the R-10 Zoning District, to create a new buildable lot. Lot 1 will retain the existing detached single-family dwelling; Lot 2 is proposed to be a buildable lot for a detached single-family dwelling, with no land development or improvements proposed as part of the plan. Both lots will be serviced with public water and sewage. At their November 11, 2020 meeting, the Zoning Hearing Board (“ZHB”) approved two variances for smaller (1) lot dimensions and (2) front yard setback. At their January 19, 2021 meeting, the Borough Planning Commission recommended approval of the Plan, conditioned upon BIA’s review letter comments being satisfied. BIA then received revised plans, which they reviewed and commented on, which included a drafting item related to line darkening and two recording comments.

Council Member Schleicher made a motion to approve the Minor Subdivision Plan, consistent with the January 29, 2021 BIA review letter for 722 E. Main Street, Macungie, second by President Yerman. Motion carried: 6 ayes (Council Member Hanosek was absent from the vote).

e. Item Not on Agenda.

- B.T. Stone Hill Meadows. The developer hired a new engineer. The Lower Macungie Township Engineer is behind on getting information to Stone Hill. Engineer Wojciechowski will follow up with them on the status of the project.

BIA has been notified by a builder that they are purchasing all 31 lots in the development to improve them (they are not buying the entire subdivision); they will market the lots and as each lot is sold, they will buy each lot individually from the developer. There are some SALDO requirements, in addition to the building permit requirements, which Engineer Wojciechowski is working on with Solicitor Armstrong to ensure the Borough can recover the costs.

- Main Street Commons (“MSC”), Phase 2. The Car Wash documents were not submitted to the Borough by the Planning Commission’s submission deadline for their project to be heard at their February meeting. MSC is planning on submitting the documents in time for the March meeting. The Car Wash would be constructed behind where the current TurfPro (a/k/a Turf Professions, LLC) is located. The TurfPro building will be demolished and the property will become another available pad site. There are pad sites also available behind the bank on the property.

During Phase 2, the developer must provide a site plan showing how they expect to develop the rest of the property, but if it is not part of the application, they do not have to build the type of business shown on the plan.

- Brookside Country Club. Interim Manager Boehm reported they are planning to appear before the Borough's Zoning Hearing Board on March 10, 2021 for a special exception.

PUBLIC COMMENT

- a. Prior Public Comments to Council - None.
- b. Comments from the Audience on non-agenda items - None.

COUNCIL COMPLIMENTS, COMPLAINTS, PETITIONS AND APPEALS

- a. Council Member Bloch.
 - One of the streetlights on Lehigh Street keeps flickering.
 - He questioned when the lighted crosswalk at Main and Poplar Streets (at Salvatore's Pizza) would be fixed. Interim Manager Boehm stated the repairs are in motion and when Telco receives the lights they will contact the Borough to setup an installation date.
- b. Council Member Schleicher.
 - She complimented the Public Works Department regarding their efforts with the snow removal.
 - She received complaints about temporary signs on several business properties in the Borough, which are illegal. The complainants are upset that the Borough Ordinances are not being enforced. President Yerman commented blinking signs are also illegal. In some cases, violation letters were sent to the business owners, but they did not take the signs down. Solicitor Armstrong stated the normal course of action is for the Zoning Officer to send a notification letter putting them on notice of the violation, then if the business owner does not comply, the next step would be to send them an enforcement notice, which is the enforcement action under the Zoning Ordinance. Interim Manager Boehm reported she has spoken with Zoning Officer Peterson about the matter, but he is hesitant to go to the next step of enforcement.

There was then a discussion on if Council could tell the Zoning Officer what to do, and how to, enforce the Zoning Ordinances. Solicitor Armstrong stated the Zoning Officer is tasked with enforcing the Zoning Ordinances so Council needs to be cautious on what they say to him. He suggested the Minutes reflect, and let Zoning Officer Peterson know, Council has significant concerns about the temporary signs on the businesses, that are inconsistent with the requirements of the Zoning Ordinance; and Council is looking for the status on how he [Zoning Officer Peterson] will proceed in a manner that is appropriate with the Zoning Ordinance. President Yerman requested Zoning Officer Peterson provide Council with an action plan, with dates, on what has been done and what will be done.

- c. Sgt. Travis Kocher reported residents are throwing snow in the street when they are shoveling their sidewalks and/or driveway. Interim Manager Boehm suggested the MPD send out a Nixle Alert (telephone/text call) reminding residents this is illegal; the Borough will also add a message on their website. The newspaper reporter in attendance this evening was also asked to put it in the newspaper.

APPROVAL OF MINUTES

- a. January 18, 2020. Council Member Schleicher made a motion to approve the January 18, 2020 minutes, as written, second by Council Member Bloch. Motion carried: 6 ayes.

CONSENT AGENDA

a. Treasurer's Report of January 28, 2020. The Report was briefly discussed. It was questioned why the Report showed a *Transfer to Payroll for Invoices & Fees*, in the amount of \$962.13. Interim Manager Boehm will discuss the item with the Borough Clerk/Assistant Treasurer.

Council Member Schleicher made a motion to approve the January 28, 2020 Treasurer's Report, with the answer to the question, second by Council Member Akinjiola. Motion carried: 6 ayes (Council Member Hanosek was absent from the vote).

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

Council Member Schleicher made a motion to approve paying the invoices listed on the Bills for Payment, as of February 02, 2021, in the amount of \$74,641.77, as presented, second by Council Member Akinjiola. Motion carried: 6 ayes (Council Member Hanosek was absent from the vote).

CORRESPONDENCE

a. Emmaus Public Library, re: November 2020 Board Meeting Minutes/Packet. There are currently 1,251 Library Card Holders in the Borough.

b. Lehigh County Board of Assessment Appeals, re: Board Decision Notice Regarding Veteran's Exemption Request for 324 Village Walk Drive. The total real estate tax exemption was unanimously granted effective January 01, 2021.

c. Municipal Retirement Trust, re: December 2020 Monthly Trust Reports. No comment or discussion.

d. Zoning Hearing Board March Agenda. Appeal #2021-01; the Applicant is Kay Brookside, LLC, for Property at 901 Willow Lane, Macungie. The applicant is requesting a Special Exception use from Zoning Ordinance § 345-15.C (8). for the proposed Brookside Country Club ("BCC") subdivision Golf Course Open Space Development (GCOSD), wherein the said development is not a permitted by right use in the R-10 zoning district. The Zoning Hearing Board ("ZHB") is scheduled to hear the matter on March 10, 2021 at 7:30 p.m. at the Macungie Institute. Hearing attendance will be limited to 25 persons, which shall include the Board Members and ZHB representatives.

e. Macungie Volunteer Fire Department, re: COVID-19 Vaccination Update. Some of the volunteers have receive their first set of vaccines and most of them have an appointment scheduled to receive their second one.

REPORTS

a. Mayor Conrad everyone should stay safe and enjoy the snow if possible.

b. Solicitor.

i. Ownership of Walls on Mountain Creek at Route 100. Solicitor Armstrong suggested BIA conduct a survey to see who owns the walls. He also suggested someone view the records at

Borough Hall to see if there are any documents in the files on the construction of the walls. There was a unanimous consensus among the Council Members to ask BIA for a cost estimate to conduct a survey.

ii. Estates at Brookside Request to Forgo the Maintenance Period Requirement. Discussed under the Engineer's Report above, section c.

- iii. Race Street Storm Drain.
(1) Temporary Construction Easement.
(2) Curb Replacement.

The discussion scheduled with the Public Works Supervisor, Tracy Smith ("Supervisor Smith"), was postponed due to the snow storm and will be rescheduled on a later date.

c. Borough Manager.

i. Borough Manager Search Update. The Committee evaluated the resumes and chose to interview six (6) of the candidates. Initial interviews will begin tomorrow, to specifically discuss relocation and salary. Then, the first round of interviews will be held on February 9th and 10th. The second round of interviews with the finalists will be held on January 17th & 18th.

ii. Truck #3, Mini Dump Truck, Repairs. The Public Works Mechanic provided a summary on the truck's repairs. As of January 26, 2021, \$2,192.14 was spend on the replacement of the oil and EGR cooler (\$1,142.14), and a compression test (\$1,050.00). He provided two options on how to move forward with the repairs: (1) Option A– approval a fuel injector leak test for the cost of \$2,265.85; or (2) Option B– skip the fuel injector leak test, and replace the fuel injectors and repair the exhaust manifold for the cost of \$6,250.00.

Council Member Rutledge made a motion to approve Option B, second by Council Member Schleicher. Motion carried: 7 ayes (all Council Members were present for the vote).

Council Member Bloch questioned if the old truck could be used for snow removal. Interim Manager Boehm will ask Supervisor Smith.

Council Member Rutledge suggested Council come up with a plan to set a specific amount of funds aside in a separate Budget line item to fund major repairs and/or equipment replacement for the Public Works Department ("PWD"), so when their equipment fails Council does not have to scramble to find funding to fix or replace the item. Interim Manager Boehm suggested, moving forward, putting the money from the sale of old PW vehicles in a separate account to help fund equipment repairs/replacements. There was a majority consensus among Council to place funds aside in the Budget for the PWD equipment repairs/replacement, just like they do for the MPD. President Yerman commented Council would need to determine how much money they can afford to set aside, then make a plan to match it.

iii. Authorization to remove Rosemarie Nonnemacher and add Borough Clerk/Assistant Treasurer, Brenda Bower, as bank signatory. Council Member Schleicher made a motion to approve removing Rosemarie Nonnemacher and adding Brenda Bower as the bank signatory, second by Council Member Akinjiola. Motion carried: 7 ayes.

iv. Non-Uniformed Pension Plan, Excess Municipal Contribution. The correspondence, dated January 25, 2021, stated the Non-Union Defined Contribution Plan has an excess of \$926.68,

which was caused by the former Borough Manager withdrawing their three percent (3%) contribution. Thomas J. Anderson & Associated, Inc. recommended the excess reserve be returned to the Borough's general fund, which Council concurred with.

v. Permission for Rosemarie Nonnemacher to provide as needed training to Borough Clerk/Asst. Treasurer. While she was uncertain if it would be needed, Interim Clerk/Assistant Treasurer Nonnemacher requested approval to work approximately five (5) hours every week through April 15th, with a maximum of five (5) hours per week for 11 weeks, for a total of 55 hours at the pay rate she is currently receiving to continue to train the new Borough Clerk/Assistant Treasurer.

President Yerman made a motion to provide additional funding for Interim Clerk/Assistant Treasurer Rosemarie Nonnemacher, through April 15, 2021, not to exceed 55 hours, second by Council Member Schleicher. Motion carried: 7 ayes.

vi. Revised Bills for Payment for January 19, 2021. Clerk/Assistant Treasurer, Brenda Bower, provided a revised Bills for Payment, as of January 19, 2021, because the check for vendor, Foley Incorporated, was not split between two checks (one for Accounts Payable and one for Liquid Fuels). The checks were covered by the correct funds and the total payment amount of \$196,226.61 for payment did not change. The total Budget vs. Actual, which accompanied the Bills for Payment, did not change. The only change was the split.

vii. Verizon One Calls for 15 poles in streetscape. Verizon's contractor, Osmose, will be performing pole restoration work in the Borough. The work would include hammering vertical steel reinforcement bars at various locations around the existing poles and strapping these to the pole. Four of the poles are located within the recently completed streetscape improvements and may conflict with underground utilities related to street lighting, as well as the new brick pavers. Osmose's work would require removal and replacement of the existing pavers. BIA has informed Osmose there are existing underground conduit feeding the Borough's street lighting system which runs through areas where the existing utility poles are located. Osmose told BIA they would perform hand digging only so they do not damage the conduit. Council stated Osmose would need to ensure they restore the bricks that were disturbed. Council Member Rutledge suggested photographs be taken to document the areas current condition.

viii. Miscellaneous Items.

- Council Member Bloch.

(1) He questioned the status of the RADIO water meter installations. Interim Manager Boehm reported the installations have stopped due to COVID-19. However, the meters are changed out when a final reading is done for the sale of a property.

(2) The recent Emmaus Borough streambank restoration work in the park was discussed. Concern was expressed for the riparian buffers (growth) at the banks being removed, which could cause erosion issues. Large boulders and mulch were installed, which may also cause issues.

- Borough Organizational Chart. As requested at the last Council meeting, the Organizational Chart (Chain of Command) was distributed to Council.

- Lumber Street Streetlights. Interim Manager Boehm questioned who the Lumber Street light representative at Fromm Electric would be. Council member Rutledge suggested they use the paper he and President Yerman signed as the purchase order. He also suggested having Fromm Electric place an order for the materials, with the approval drawing to be reviewed and approved by BIA, then the Borough can release on that.

- d. Committees – None.

UNFINISHED BUSINESS

- a. Public Works Department, re: Monthly Report on Upcoming Projects; Due at 2nd Council Meeting of month. No discussion.
- b. Public Works Department Equipment Replacement Plan. Discussed earlier this evening.
- c. Emmaus Public Library (“EPL”) 2021 Agreement. Solicitor Armstrong reported the termination language for the agreement was sent to EPL. President Yerman and Interim Manager Boehm held a Zoom meeting with EPL to discuss the proposed language. The President of EPL’s Board is an attorney; she will draft alternative language.
- d. Coronavirus 2019 (COVID-19) Policies.
- i. Mitigation Measures/Policy #0016.
 - ii. Temporary Telework / Work-at-Home Policy #0017.

President Yerman made a motion to approve both of the policies, second by Council Member Ashbrook. Interim Manager Boehm noted some of the comments that were expressed on the draft policies were not incorporated into the documents and the Unions have not responded with their comments. Solicitor Armstrong suggested Council waits until the next Council meeting to take action on the policies to allow the Macungie Police Department and Teamsters Unions time to provide comments. Interim Manager Boehm will contact both Unions to request their comments and inform them Council plans on taking action at their next meeting. No vote was taken on the above motion and it died.

President Yerman made a motion to approve both policies at the next Council meeting if no comments are received, second by Council Member Ashbrook. Motion carried: 7 ayes.

NEW BUSINESS

- a. Adoption of Resolution 2021-02, Designation of Depositories and Appointing Signatories for 2021. President Yerman made a motion to approve adoption of Resolution 2021-02, second by Council Member Schleicher. Motion carried: 7 ayes.
- b. Adoption of Resolution 2021-03, Approval of Banners Across Rt. 100. President Yerman made a motion to approve adoption of Resolution 2021-03, second by Council Member Schleicher. Motion carried: 7 ayes.
- c. Authorization to donate COVID-19 Block Grant Funds to Macungie Volunteer Fire Department in the amount of \$10, 924.59 for COVID assistance. One of the items listed on the Application was to make a donation to the MVFD, in the amount of \$10,924.59 for their assistance during COVID-19.

Council Member Schleicher made a motion to approve paying the MVFD \$10,924.59 from the Block Grant Funds for their COVID-19 assistance, second by Council Member Bloch. Motion carried: 6 ayes and 1 nay (Council Member Ashbrook opposed).

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

a. President Yerman recalled Council voting to allow the Macungie Institute (“MI”) to pursue grants. He reported there are an annual DCED Grants available for recreational facility planning. He passed the grant information onto the Macungie Institute Trustees to see if they would like their grant writer to review and/or apply for it. He commented there are two grants available: (1) the planning grant, which would help them determine how to better utilize the building; and (2) a grant to help implement the plan. He noted the grants would be for facility usage, not for maintenance of it.

EXECUTIVE SESSION, IF NECESSARY – President Yerman called for an Executive Session at 9:27 p.m. to discuss personnel and real estate items. The regular Council meeting reconvened at 9:50 p.m. with no action taken.

ADJOURNMENT

Council Member Rutledge made a motion to adjourn the meeting at 9:50 p.m., second by Council Member Hanosek. Motion carried: 7 ayes.

Respectfully submitted,

/s/ *Selma Ritter*

Selma Ritter
Administrative Assistant