

March 19, 2018
7:00 p.m.

The regular meeting of Doylestown Borough Council commenced in Council Chambers, with the following members present: President Jack O'Brien, Vice President Noni West, and Council Members Ben Bell, Tim Brennan, Joe Flood, Joe Frederick, Sue Gordon, and Wendy Margolis. Also present were Mayor Ron Strouse, Junior Councilperson Josie Hall, Borough Solicitor Jordan Yeager, Borough Engineer Jim Dougherty, Borough Manager John Davis, Central Bucks Regional Police Department Chief Karl Knott, Planning/Public Works Director/Deputy Borough Manager Phil Ehlinger, Finance Director Caroline Brinker, and Director of Building & Zoning Karyn Hyland. Councilperson Don Berk and Water Director Chris Norris were absent.

PLEDGE OF ALLEGIANCE

SPECIAL PRESENTATIONS: None.

APPROVAL OF MINUTES

February 26, 2018 Council Meeting Minutes. Mr. O'Brien called for a motion to approve the February 26, 2018 Council Meeting minutes. (Frederick-Flood) With no comments, the vote was called, and the minutes were unanimously approved.

MAYOR'S REPORT: None.

PUBLIC SAFETY - Ms. Gordon

1. **Consideration of Ordinance No. 2018-3, Extending the No Parking Zone on Stacey Drive (East Side) at Sandy Ridge Drive and Adjusting the Parking Restrictions on West Ashland Street at Lafayette Street.** Ms. Gordon stated that this ordinance, which had been properly advertised, makes two changes to existing no-parking zones. She said the first change, in response to a request from the Sandy Ridge Twins Association, extends the no-parking zone at the residents' mailboxes on Stacey Drive from 65 feet to 80 feet. The second change adjusts the recently created no-parking zone on the north side of West Ashland Street between Lafayette and Washington Streets by returning 90 feet of the new no-parking zone at 198 Lafayette Street to the previous two-hour parking designation. That change was requested by Lynn Cooney Family Hair Care, 232 West Ashland Street, in order to restore parking needed for their elderly and infirm customers. The resident of 198 Lafayette Street does not object to the change.

Ms. Gordon stated that the Committee is recommending that Council adopt Ordinance No. 2018-3, and if Council wished to follow the recommendation, it could do so by motion. (Gordon-Flood) With no comments from Council, Staff, or the public, the vote was called. All were in favor and the motion passed unanimously.

Ms. Gordon then reported that the Committee discussed the gun ordinances that were rescinded several years ago, since she and several Borough Council members were not on Council then. She asked Mr. Davis to review what was discussed. Mr. Davis explained that around 2014/2015, the legislature passed a law that basically was meant to preempt local gun ordinances and indicated that state law would supersede any local gun ordinances that would exceed state

restrictions. He said it also included provisions that would make it possible for individuals in the Commonwealth and nonprofit organizations to sue municipalities that retained those ordinances. Mr. Davis said as such, Borough Council, along with most municipalities in the Commonwealth with some notable exceptions, proceeded to review and repeal their gun ordinances. Mr. Davis said we repealed an ordinance that did not permit firearms in public parks and in public parking lots. He said Philadelphia, Pittsburgh, and several of the larger cities did not repeal their ordinances and instead sued the Commonwealth, but subsequent to that, the law was determined by the Pennsylvania Supreme Court to be unconstitutional and therefore it ceased to exist and those suits became moot. Mr. Davis said the law was determined to be unconstitutional not on its own merits but based on how it was passed – that it was unconstitutionally added to an unrelated piece of legislation. He said there are now similar bills that replace that legislation in committee in both the House and the Senate that basically restore it, but they have not moved for some time.

Mr. Yeager clarified that the preemption provision of the state law preexisted those more recent amendments and that was not affected by the Supreme Court's decision, so there was, prior to that, that broad preemption that limits the ability of local governments to enact gun control measures. He said that was not part of the suit and that remains in place. Mr. Yeager said was struck down under that single subject rule, that notion that you cannot mix topics in a bill, was the standing that broadened who could sue a municipality to allow for people who don't even have any connection with the Borough to be able to sue the Borough and the fee shifting provision that put municipalities at risk for the other side's attorney's fees in pursuing it, but the preemption preexisted and remains.

PUBLIC WORKS AND ADMINISTRATION - Mr. Frederick

1. **2018 Milling Bids.** Mr. Frederick stated that on March 1, 2018, bids were opened for the 2018 paving season. A tabulation of bids was provided. Mr. Frederick said it is recommended that the Borough award the base bid to the lowest bidder, James D. Morrissey, Inc., at a price of \$62,262.50, conditioned upon receipt of a properly executed performance bond and compliance with bid specifications. He said if Council wished to follow the recommendation, it could do so by motion. (Frederick-Margolis) With no further comments from Council, Staff, or the public, the vote was called. All were in favor and the motion passed unanimously.

2. **2018-2019 Road Materials Bids.** Mr. Frederick reported that on February 26, 2018, bids were publicly opened and read by the Bucks County Consortium for the purchase of road materials for the 2018-2019 season. A bid tabulation was provided. He said that based on three most purchased materials, the low bidder is once again Eureka Stone Quarry, Inc. He said the Committee reviewed the bids and is recommending the award to Eureka Stone Quarry, Inc., conditioned upon receipt of a properly executed performance bond and compliance with bid specifications. Mr. Frederick said that if Council wished to follow that recommendation, it could do so by motion. (Frederick-Gordon) With no comments from Council, Staff, or the public, the vote was called. All were in favor and the motion passed unanimously.

Mr. Frederick reminded all residents that every year when we're doing milling and paving, they will have to comply with the ordinance to upgrade their sidewalks and curbs to meet the Borough's specifications. He said he knew the people this year were working quite closely with the Borough, but he just wanted to give this reminder for people in the upcoming years.

Mr. O'Brien said he thought the curbs and sidewalks were inspected beforehand and people are given notice that there has to be repair made. Mr. Frederick agreed and again said he just wanted to give people that reminder.

3. Mr. Frederick called upon Mr. Ehlinger for the Public Works Department monthly report. Following up on the comments by Mr. Frederick and Mr. O'Brien, Mr. Ehlinger said they have had a lot of success working with property owners during the past four years and really haven't had any real problems. He felt this has become a very effective way to methodically move through the Borough and get our sidewalks upgraded to a safe and passable condition and the curbs upgraded for durability and longevity.

Mr. Ehlinger then stated that the monthly Work Order and the Fleet Services Reports for February were provided. He noted that they've also been working downstairs in the police headquarters trying to make that a little more habitable for them. Mr. Ehlinger said they are also working on cutting down parking meter posts to get them down to exact guideline specifications.

COMMUNITY AND GOVERNMENTAL AFFAIRS - Mr. Berk

In Mr. Berk's absence, Mr. O'Brien called upon Noni West for this report. Ms. West reported that the Committee did not meet, but they are forwarding for consideration **Resolution No. 2018-6, Calling for a Voter-Marked Paper Ballot Based Voting System Funded by the State**. She said there is one adjustment to the resolution that was provided to everyone, and the Solicitor advised her that she could just read that change and just the actual resolution section. Ms. West said the change was in the seventh "Whereas," and it should read:

WHEREAS, Pennsylvania is one of the last remaining states without voter-marked paper ballots available to perform a risk-limiting audit to ensure that the winners of elections are the choice of the voters and not hackers or mis-programmed software, and conduct recounts in close elections; and, ...

NOW, THEREFORE, BE IT RESOLVED, that Doylestown Borough Council, in the name of free, equal, and fair elections central to our democracy holds that it should be an ongoing priority for Bucks County and Pennsylvania to purchase the equipment for a voter-marked paper ballot voting system, including accessible ballot marking machines for voters that need them and scanners to read the ballots.

BE IT FURTHER RESOLVED that Doylestown Borough Council urges the General Assembly of Pennsylvania to secure and protect our elections by providing funding and assistance to Bucks and other counties for the replacement of the present insecure and non-verifiable voting equipment with the equipment needed for a voter-marked paper ballot system, and pass legislation requiring that all voting systems in Pennsylvania are voter-marked paper ballot based, and that these ballots shall be the ballot of record in the event of any discrepancy.

Ms. West said if Council wished to adopt Resolution No. 2018-6, it could do so by motion. (West-Margolis) Motion was to approve the amended resolution.

Mr. Frederick asked what the anticipated cost is for Bucks County to upgrade the machines. Ms. West asked audience member Madeline Rawley. Ms. Rawley stated that for the two needed machines, and it would depend if there was a Co-Star agreement where you get other counties, but it's estimated to be \$5000 for the optical scanner and \$5000 for the ballot-marking device for persons with disabilities, which would be \$10,000. She said we have 304 polling places, so roughly three million-odd dollars. Mr. Yeager asked if that was for multiple machines and polling places. Ms. Rawley said you only need one of each so it's actually cost effective, as well as what we need in order to be sure that the choice of the voters is the person who wins the election, not some hacker or misprogramming of the system.

Mr. Brennan said he was happy to vote for this resolution, as voting is our most important right. He said there are people literally dying in other countries to have the type of democracy that we have. He said he was also happy to see Governor Wolf take executive action in requiring future machines be paper verified. Mr. Brennan thought we should also be encouraging our federal officials to be equally diligent in protecting our rights, but felt this is a smart, simple step and he was happy Council is encouraging this.

Ms. Rawley thanked Ms. West for writing the resolution and understanding, caring, and acting on this issue. She said anybody can hack into our current system and the only way to get around that is to go back to paper ballots and keep that separate and external to the software inside the machine so that you have something afterwards to verify the results. Ms. Rawley thought the bottom level, the grass roots, has to speak up because the federal government is not moving on this and the state has failed to recognize the problem as there's no funding yet. She said the County could do it itself if it wanted to as they have the right to choose the machine that is used and they can fund it by taking the \$3 or \$4 Million out of their \$26 Million budget. She thanked Council. Lastly, Ms. Rawley said she had a petition to the County Commissioners if anyone wanted to sign it. She added that more people would have been present tonight, but they have their meeting every third Monday of the month at the Doylestown Friends Meeting House.

Mr. Bell noted there was nothing in the resolution that stipulates that the General Assembly act on this according to any time table. He said he pointed that out because in the event that there are concerns about budgetary limitations, he thought the state could act on this in an incremental basis following the spirit of the resolution, but selecting to roll it out in a way that is fiscally in line with whatever the sentiments are in Harrisburg at the time.

Mr. O'Brien asked Mr. Bell if he was proposing a change to the resolution. Mr. Bell responded no, he was trying to look at this through the lens of people who are fiscally conscious and who might be alarmed by a one-time hit to the state budget. He said he was just trying to defuse that potential concern.

With no further comments from Council, Staff, or the public, the vote was called. All were in favor and the motion passed unanimously.

ZONING AND PLANNING - Mr. Brennan

1. **Zoning Hearing Board Report.** Mr. Brennan said he would defer to Ms. Hyland for the report and then he would take it back for the motion.

Ms. Hyland reported that the Board will meet on March 21, 2018, to hear three applications: 1) 137 South Main Street, Keystone Social Club, LLC, requesting a special exception

for three parking stalls so that they can open a restaurant in that location. She said the Committee recommends that the Borough Solicitor attend the March 21 hearing to represent the interests of the Borough. Ms. Hyland then noted that on Saturday, the Borough received a request from the applicant's attorney that the hearing be continued as they would like an opportunity to come back before the Committee and present the application; 2) 383 West Oakland Avenue, for a dimensional variance to increase the size of a garage; and, 3) 228 East Court Street, also a dimensional variance, which Council has seen in this report a few times since it was continued a few times.

Mr. Brennan said that regarding sending the Solicitor to the hearing, Council hasn't sent him very often, it's usually if there's overriding local or government concern, or if there is some intense community interest. He said in this case, there was a lot of community interest because of density and parking issues, so the Committee did decide to send the Solicitor. Mr. Brennan said the Committee recommends that the Borough Solicitor attend the hearing to represent the interests of the Borough, and if Council is in agreement, it may authorize the Solicitor by motion. (Brennan-Gordon)

Ms. Margolis asked that since this is continued, why is Council voting on sending the Solicitor. Ms. Hyland said it will be on the Committee's agenda next month. Mr. Yeager said the continuance, he presumed, would be to the following month for the Zoning Hearing Board, so the authorization would be for that. Mr. Brennan commented he didn't think the continuance would change the nature of the concerns, just the date of the hearing. Mr. Davis added that Council could also change its mind at a later date and deauthorize the Solicitor's attendance. He said he thought the primary reason why the applicant and their attorney are coming to the Zoning and Planning Committee to explain in greater detail what it is they're doing is because the Solicitor is potentially being authorized, so that would guarantee that it would go forward, which is in everyone's interest.

With no further comments from Council, Staff, or the public, the vote was called. All were in favor and the motion passed unanimously.

2. Historic & Architectural Review Board (HARB) Report. Mr. Brennan said the HARB, at their February 22, 2018 meeting, recommended the issuance of Certificates of Appropriateness for the following applications: Sign Applications: 100 Mechanics Street and 19 East Oakland Avenue; and, Building Applications: 1) 61 East Oakland Avenue, removal of three chimneys, 2) 327 Maple Avenue, new residential construction, recommended with these changes: lower the roof line to a 10/12 pitch, change the windows on the entire front portion, three sides, to a minimum of six over one with the third floor attic windows 12 over one or smaller, the chimney will be fashioned in a Craftsman style, pushed in 8-12 inches to penetrate the roofline and include a batter, install half round gutters, the raised seam metal roof over the front porch should be painted in a low luster ash grey and a smooth HardiePlank to be used for the siding, 3) 152 North Church Street, demolish and replace residential addition, recommended with these additional requirements: the addition should step back several inches from the stone structure to create a reveal, the architect should confirm the roof to roof connections, install half round gutters and smooth HardiePlank siding. Applicants will return to HARB with the front porch and door changes, 4) 172 Lafayette Street, residential windows and siding, recommended with the following amendment to the application: the German siding below the front porch roof will remain "as is", but will be repainted to match the new smooth finish HardiePlank siding that will be installed on the other three sides of the house, and 5) 277 Belmont Avenue, windows, door, chimney removal and

two-car garage, recommended for the following: Phase 1 - chimney removal and Anderson 400 series 1 over 1 style for the windows and door, and Phase 2 - the Board requests the use of either HardiePlank siding or CraneBoard siding for the two-car garage.

Mr. Brennan said the Committee recommended that Council approve the applications in accordance with HARB's recommendations, and if Council wished to follow the Committee's recommendations, it could do so by motion. (Brennan-Margolis) With no comments from Council, Staff, or the public, the vote was called. All were in favor and the motion passed unanimously.

3. **Building and Zoning Monthly Report.** With regard to the Building Inspector's report, Mr. Brennan reported were 101 permits and a total cost of permit fees of \$14,874.00. For Code Enforcement, he said there were 24 residential use and occupancy inspections, two non-residential use and occupancy inspections, 12 complaints were investigated, 13 building inspections, one recycling inspection, seven sidewalk/paving inspections, three sidewalk/snow inspections, three litter enforcement, one graffiti inspection, three fire company issues, and two hazardous tree evaluations.

ENVIRONMENT AND RECREATION - Ms. Margolis

1. **Consideration of Ordinance No. 2018-4, Shade Tree Ordinance.** Ms. Margolis stated that this ordinance, which was properly advertised, consolidates and updates the Borough's current Tree and Tree Removal Permit ordinances. She said currently found in two different chapters, these ordinances would now be consolidated under Chapter 25: Trees. Ms. Margolis said the ordinance also refines the definition of "Street Tree," clarifies responsibilities when sidewalks and street trees come into conflict, and lays out an improved process for dealing with emergency and hazard trees.

Ms. Margolis said the Environment and Recreation Committee is recommending that Council adopt Ordinance No. 2018-4, and if Council wished to follow the recommendation, it could do so by motion. (Margolis-Frederick)

Mr. Flood asked whether any feedback has been received since advertising the ordinance. Mr. Bell stated he received a letter from resident of East Court Street, presumably in response to the advertised ordinance and he was interested in removing tree, but he didn't see any criteria for granting or denying a tree removal permit.

Mr. Davis stated that it does lay out the procedures of the Shade Tree Commission when they remove the permit in terms of what criteria they use. He asked Mr. Ehlinger for more guidance on the subject. Mr. Ehlinger stated that unlike other regulations, the regulation of tree removal has a certain aspect of art as opposed to science as this is a living species and there is a lot of subjectivity in the nature of the health of the tree. He said no one can really know and there are potential liabilities. He said we have the Shade Tree Commission, who are equipped, through professional and personal expertise, to make those judgments because we couldn't actually put it in writing exactly what those criteria are. He said the arborists know what they know and they provide their best recommendation. Mr. Ehlinger said the regulation of the removal of trees is somewhat novel in the Commonwealth and we are one of the few municipalities that actually takes tree preservation to the extent that we do. He said that the ordinance is, by default, property rights centric in that there is approval if there is no resolution between the Shade Tree Commission and

the applicant regarding removal of a tree. He commented that It is an unusual circumstance for a regulatory body to be involved in.

Mr. Davis said it sets clear criteria for when and what trees must appear before them and then it depends upon the circumstance – is it being requested as a removal because the tree is dying or is a hazard, or is it necessary for some other project such as an addition. He said he thought the Shade Tree Commission needs to be flexible and review it depending on what the rationale supposedly is for removing the tree.

Mr. Yeager stated there are broad criteria set forth in 201, and it includes age, health, quality, value, and aesthetic and historical aspects of the trees. Mr. Flood said we purposely gave them latitude.

Mr. Bell said he thought he would explain to the letter writer what he learned this evening. Mr. Davis added that Staff could talk to him as well, if Mr. Bell wished. Mr. Bell said in the letter, it says the tree is dying, so he thought it was entirely consistent with the way we do things already. Mr. Davis said certainly a dying tree is a very obvious criteria and that's one where the Shade Tree Commission would look to see exactly what the health of the tree was.

With no comments from Council, Staff, or the public, the vote was called. All were in favor and the motion passed unanimously.

Ms. Margolis next reported on items not requiring any action which were that they are definitely have plans for expanding the Community Garden at the Public Works location at the end of Harvey Avenue and they also will be setting up an experimental electric car charging station at the Plaza West parking lot relatively soon.

WATER UTILITY - Mr. Flood

Mr. Flood said the Committee did not meet and, in Mr. Norris' absence, he gave the Water Department February 2018 Report: there were two water service repairs, 11 water meters were repaired, seven well house repairs, six SCADA system alarms, six house calls, three fire flow tests, two emergency shutoffs, and one bulk chemical delivery. He also noted that the 2017 Delaware River Basin Commission Report had been submitted. Mr. Flood asked for the visual aid on the removal of a lead water service. Mr. Ehlinger narrated that the Melinda Cox Library is going through an adaptive reuse to be residential, mixed use, and office. He said the building had very poor water service and they discovered it did not have a shutoff at the main so they were unable to actually disconnect it without the need for depressurizing the entire top of the hill over there. He said they actually had to jump in and put in an insert valve, which added another whole layer to the project, in the existing main to enable them to depressurize that section. Mr. Ehlinger said they had plates out there for about a week, with a storm right in the middle of it, but it's now done.

FINANCE/PENSION - Ms. West

Ms. West reported the Committee met and reviewed the Reserve Fund. She said what is happening through June is that we are going to realize about \$395,000 in bonds that are maturing, so a large part of their discussion was what to do with those funds as usually we just reinvest them in other bonds. She noted, however, at this point until it is decided how much cash is needed for capital expenditures and they are also able to assess what the projected interest rate increases are going to do to the bond market, the Committee decided to keep those funds more liquid and

put them into our account at Covenant Bank where it will earn 1.25 percent, which unfortunately is better than what was done last year.

Ms. West then called upon Ms. Brinker for the monthly **Finance Report**. Ms. Brinker reported that the total of all funds expended was \$549,777.99. Motion to approve the Finance Report. (West-Margolis) With no comments from Council, Staff, or the public, the vote was called. All were in favor and the motion passed unanimously.

PERSONNEL - Mr. O'Brien

Mr. O'Brien reported that the Personnel Committee met on February 20, 2018, to interview candidates to fill vacancies on various boards. He said that as a result of the interviews, the Committee is recommending that Kristin McCoach be appointed to the Doylestown Dog Park Advisory Board for a term ending December 31, 2020. Mr. O'Brien stated that if Council wished to follow the Personnel Committee's recommendation, it could do so by motion. (O'Brien-Flood) Mr. Flood commented that he saw Ms. McCoach's husband at the Pancake Breakfast and he said Ms. McCoach is very enthusiastic about being on the Board. Mr. O'Brien added that he spoke to Ms. McCoach to make sure she was okay with this appointment because she originally was interviewed for the Fanny Chapman Pool Board, but we didn't have enough open positions. Mr. Flood said she is a terrific volunteer, very involved in the community, and she's going to be great on the Board. With no further comments from Council, Staff, or the public, the vote was called. All were in favor and the motion passed unanimously.

PROFESSIONALS' REPORTS

Engineer's Report - Mr. Dougherty: No report.

Solicitor's Report - Mr. Yeager: No report.

Central Bucks Regional Police Department (CBRPD) Activities Report. Chief Knott stated the Police Activity Report was provided, showing 1108 incidents in the Borough in February and they spent \$812,646.77, which was 14.99% of the budget.

Chief Knott further reported that CBRPD will be undertaking an aggressive driving detail with PennDOT on March 22 and April 3, 2018, trying to curtail aggressive driving. He said they will be on Main and State Street, with the concentrated effort being in the center of the Borough, where there is a high volume of pedestrian traffic due to the large amount of businesses. The Chief said the enforcement will be on crosswalks, red light violations, and improper passing. He noted that other efforts will be placed in the area of Central Bucks West High School and Lenape Middle School during the school hours in the pedestrian crosswalks. Chief Knott said this is being grant-funded by PennDot, so it's two times a day for each of the two days.

PRESIDENT'S REPORT: None.

OLD BUSINESS: None.

NEW BUSINESS

Mr. Frederick asked Mr. Ehlinger if he thought Public Works was going to get the chance to use the use snow machine this Wednesday. Mr. Ehlinger said it is oiled up and they've got the fuel additive in there, all of which will keep next winter.

Mr. Flood reported that the pancake breakfast was a rousing success this year with the line being an hour long. He said it was terrific. Mr. Frederick asked Mr. Davis to remind Council next year when the pancake breakfast is about a week away because he forgot about and missed it. Mr. O'Brien said it was all over Facebook and social media.

OPEN PUBLIC COMMENT: None.

EXECUTIVE SESSION: None.

ADJOURNMENT

At 7:42 p.m., Ms. West moved to adjourn, seconded by Mr. Flood. The vote was called and the motion passed unanimously.

Respectfully submitted,

John H. Davis
Borough Manager

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