

**EPHRATA BOROUGH COUNCIL  
WORK SESSION MINUTES  
JUNE 4, 2018**

The Ephrata Borough Council Work Session was called to order by President Susan Rowe on June 4, 2018, at 7:00 p.m., in the Council Chambers of the Borough Office, 124 South State Street.

The meeting began with a moment of silence which was followed by the Pledge of Allegiance.

In attendance in addition to the President were Vice President Thomas Reinhold, President Pro Tem Melvin Weiler, Council Members Timothy Barr, Ricky Ressler, Victor Richard, Greg Zimmerman, Linda Martin and Mayor Ralph Mowen.

Also in attendance were Borough Manager D. Robert Thompson, Police Chief William Harvey and Borough Solicitor James R. McManus, III, Esq.

Visitors included:

- Kory Musser, 340 Washington Ave., Ephrata, PA
- Tom Krall, Exton, PA
- Rebecca Lawrence, Ephrata Public Library
- Marylouise Sholly, Ephrata Review

**Opportunity for Citizens to be Heard**

There were no comments or remarks from attendees.

**Discussion of Committee Actions**

Development Activities Committee

Mr. Weiler advised the Committee reviewed EPAC's request to serve not for sale beer or wine at sponsor events as noted on the request dated April 23, 2018 subject to receipt of a copy of the PLCB Special Occasion Permit and a certificate of insurance naming the Borough as an additional insured.

Mr. Weiler advised the Committee reviewed Dove Westgate Church's request to use Whistle Stop Plaza on July 27, 2018 subject to receipt of a certificate of insurance naming the Borough as an additional insured and an approved incident support plan from the Police Chief.

Mr. Weiler discussed a request from the Ephrata Public Library to conduct a hot air balloon experience on June 11, 2018, from 5:00-7:00 p.m. The experience includes rides in the basket of a tethered balloon owned by Ephrata National Bank and operated by the United States Hot Air Balloon Team/East Coast Premier Balloon Company. Committee members discussed the request prior to the meeting and are prepared to make a recommendation this evening. The recommendation will be for conditional approval subject to: a safety plan approved by Chief Harvey, receipt of Certificate of Insurance naming Borough of Ephrata as additional insured from the balloon operator and the Library and satisfactory hold harmless and indemnification of the Borough by the balloon operator received no later than 4:30 p.m. Friday, June 8, 2018. Councilman Ressler asked about optional Special Event Insurance and Borough Manager Thompson stated it is not necessary. Mr. Weiler indicated he would be making a recommendation later in the evening. Discussion among Council further ensued.

Chief Harvey provided a timeline of his multiple attempts to make contact with Jake Frame, operator/pilot of the balloon, to receive information necessary to complete a safety plan; however, to date, he has not received a response from Mr. Frame. Chief Harvey further advised his knowledge of this event came from an individual who saw a posting on Facebook and brought the matter to his attention. Chief Harvey expressed as both the Emergency Manager and Chief of Police, he sought to inquire further about the event and the safety efforts being put into place. Chief Harvey reiterated to Council that he has not yet had a meeting to discuss his concerns.

President Rowe asked Chief Harvey what his recommendation to Borough Council would be as far as the conditions being asked and if he thought they protected the Borough as far as liability and indemnification or are there additional concerns. Chief Harvey advised he has concerns due to the fact that he has yet to be contacted by the balloon team/operator. Chief Harvey further advised that Ephrata National Bank is partial owner of the said balloon or has interest in it and he does not know what interest they may have and/or whether they need insurance. Chief Harvey stated other questions he has included where the balloon is going to be assembled, is it going to be tethered (if so, what to ... a building, a machine, a bench), how much of a safety zone is needed and what is the safety plan from their operator to advise what to do should things go awry. Chief Harvey further questioned if the balloon is going up as a single event or is it an amusement-type ride which is considered an aviation event. Chief Harvey further advised there are a lot of unknowns that have yet to be beckoned with.

Chief Harvey advised Rebecca Lawrence, Ephrata Public Library, has been in some discussions with Mr. Thompson; but as far as the main event, he has yet to hear from Mr. Frame or has been provided any guidance. Chief Harvey stated his recommendation, at this time, would be a no due to the fact there is too much unknown.

President Rowe thanked the Chief for his comments. Mrs. Martin advised she talked to Mr. Frame earlier today who advised he had attempted to make contact with Chief Harvey but he was on vacation. Mrs. Martin advised she did not know if the Chief had provided Mr. Frame with a list of questions he would like answered. Chief Harvey responded he provided a specific list of questions to Mr. Frame and further stated while he was on vacation, he checked his email frequently. Chief Harvey reiterated that he called Mr. Frame, received no answer and left a message for him requesting a return call. Mrs. Martin advised she has Mr. Frame's cell phone number she can provide to the Chief who responded he had the number. Mrs. Martin stated it is her understanding that Mr. Frame will be providing the requested information to Chief Harvey.

Mrs. Martin further stated this type of event was actually done last year at Green Dragon. Mayor Mowen advised Green Dragon is located in Ephrata Township. Mrs. Martin advised her thought is that it is done quite frequently around this area, not in the Borough necessarily, but it is her understanding there are not a lot of concerns from other municipalities. Mrs. Martin further stated she understands that Chief Harvey would like more information regarding the safety matters.

Mayor Mowen advised his concern is why Mr. Frame is speaking with Mrs. Martin and not with Chief Harvey. Mrs. Martin reiterated that she called him in doing her due diligence to get

additional information; in which, Chief Harvey again advised he also reached out to Mr. Frame, but did not receive a response.

President Rowe advised that although she spoke with Mr. Frame, Mrs. Martin is still unable to answer the Chief's questions/areas of concern. Mrs. Martin advised she is not able to do so, but again advised similar events have been done for years without issues. Mayor Mowen stated what Mrs. Martin said is true; however, this type of event has not been done within the Borough.

Chief Harvey advised he is also looking at power line exposures as well as expressing his concern the event is being held in an urban area if the balloon should break loose. Chief Harvey advised Green Dragon has hundreds of yards to play with before they get into utilities or other structures and here he is looking at Borough structures, close proximity, major highway as well as utility poles. Chief Harvey further stated he is trying to protect Borough assets and residents.

President Rowe again thanked Chief Harvey expressing her appreciation of his opinion. President Rowe asked Borough Council if any members had any further questions on this matter. Mr. Richard had a question specific to insurance asking what the guidelines are for what amount is prepared on the Certificates of Insurance. Mr. Thompson advised he believed the amount to be \$500,000 per occurrence.

Vice President Reinhold questioned what the deadline is to receive all of the required documents necessary for the event. President Rowe advised that Borough Council will be voting on this recommendation at tonight's meeting. Vice President Reinhold clarified this matter is being voted on tonight with the thought that if they do have an approved safety plan, if they do have a Certificate of Insurance and/or if they have all of the items required; however, if they don't have all items necessary and Borough Council conditionally votes yes, the event does not happen. Vice President Reinhold advised if we let them proceed, we're not going to let them go to Monday Noon to provide all of this information requesting a deadline be put in place. Mr. Thompson advised his thought was when we have the recommendation that the deadline would be by close of business on Friday. Vice President Reinhold confirmed the date to be Friday, June 8, 2018, and the time to be by 4:30 p.m. President Rowe advised it would be a conditional approval based on that information.

President Rowe asked Ms. Lawrence, Ephrata Public Library, if she had anything she would like to add to the discussion. Ms. Lawrence inquired if the Committee has a plan in place for notifying the Library of what is needed so that all of those documents can be provided to the Borough by Friday, June 8, 2018, at 4:30 p.m. President Rowe advised Mr. Thompson will be in touch with her as well as Chief Harvey so he can get the answers he is seeking.

Ms. Lawrence stated she spoke with Ephrata National Bank today who confirmed what Mrs. Martin mentioned earlier in that ENB has not had to supply as much material as we are seeking to provide to the Committee. Ms. Lawrence advised she will do the best that she can to provide the Committee with all of the necessary documents gathered from Mr. Frame as well as the Library so they can have the balloon at the event.

Additionally, Ms. Lawrence stated that the balloon event has not been advertised other than on

the Library's Facebook page due to the balloon availability being weather permitting. President Rowe questioned Ms. Lawrence that by advertising the hot air balloon on the Library's Facebook page, if she felt the news had spread far and wide as far as notifying people that a balloon will be at the event. Ms. Lawrence advised she has been conducting outreach school visits and there has been no discussions about the hot air balloon; further advising the children are more excited about the Princess from Dutch Wonderland conducting the story time during the night of this event. Ms. Lawrence described the promotional flyer to Borough Council advising it has no mention of the hot air balloon. Additionally, Ms. Lawrence advised she brought along brochures from the US Hot Air Balloon Team for Council's reference.

Ms. Lawrence stated that Mr. Frame surveyed the Library's property to ensure it is within 100 x 100 square feet and that there were no power lines in the way to prohibit the execution of the balloon, as well as confirming that the truck carrying the balloon would be able to drive onto the grass in order to set up the balloon.

President Rowe thanked Ms. Lawrence for her comments. Chief Harvey advised that Ms. Lawrence has taken over for Joy Ashley who, in the past, has worked with him on plans when the Library held special events. Ms. Lawrence advised she is not the Director of Development (Joy Ashley's previous position), that she is the Manager of Public and Outreach Programs. Chief Harvey advised, with all due respect, this process is a learning curve for Ms. Lawrence.

Mayor Mowen advised that the only thing that is different in the items that are requested for this event from others is the language in the contract between the Library and the balloon company. Mayor Mowen advised these items have been required for special events for quite some period of time and is nothing new. Ms. Lawrence replied that the requirements are new for the Summer Reading Celebration. Mayor Mowen advised these requirements are due as this is an outside event. Ms. Lawrence questioned if the Van Go Museum on Wheels, which is parked in the parking lot of the Library, should have acquired Certificates of Insurance for the event. Mayor Mowen advised it depends on the number of people attending the event. Mayor Mowen concluded that before the Library holds any future outdoor events, they make contact with Chief Harvey.

President Rowe further advised that any time an event is held on Borough property, Borough Council approval is necessary. Mr. Zimmerman questioned if Chief Harvey is okay with getting all of the information by the close of business on Friday at 4:30 p.m. Chief Harvey advised he leaves Wednesday to attend his annual training conference out of state and he will have to appoint a designee to finalize this matter.

Mr. Richard stated over the years, numerous discussions have been held about last-minute requests and frustrations experienced with those requests due to the necessary requirements being completed as well as the necessary paperwork being collected. Mr. Richard inquired as to why this discussion is taking place at tonight's meeting. President Rowe advised we were not aware of the hot air balloon until an individual saw the post on the Library's Facebook page and contacted Chief Harvey. President Rowe confirmed that previous discussions have been held to reduce, if not eliminate, last-minute approvals; however, these requests have been "slowly creeping" back in. President Rowe stated we need to get the information out to

individuals/organizations that they need to contact the Borough in advance of a special event and get the information to a Committee for discussion before it comes to Borough Council for discussion/approval. Mr. Richard advised this is a classic example of where “we are the last people to know when we should be the first people to know.” Mr. Richard expressed he is not “anti-community” and he loves for events to happen in Ephrata, but advised these last-minute requests put the Borough and Borough Council in a situation. President Rowe stated as the Chief mentioned beforehand, Ms. Lawrence is new to the position and is not aware of all of the information that should have been presented to the Borough and to Council at the Committee level.

#### Highway Committee

Mr. Barr advised the Committee reviewed the results of Bid #18-7 Lincoln Avenue and Marshall Street Improvements and will recommend that Borough Council award the bid to apparent low bidder: New Enterprise Stone & Lime Company, Inc., from Ephrata, PA, in the total bid amount of \$279,040.30 as part of the Consent Agenda at their June 11, 2018, meeting.

Mr. Barr advised the Committee reviewed a request from the Ephrata Pioneer Fire Company, per their letter dated May 8, 2018, to close South State Street from West Franklin Street to Fulton Street on Tuesday, June 26, 2018, from 5:45PM to 9:15PM to conduct demonstrations and educational activities associated with their annual fund drive kick-off open house. The Committee will recommend that Borough Council conditionally approve the request, subject to Borough receipt of a satisfactory certificate of insurance naming the Borough as additional insured, as part of the consent agenda at their June 11, 2018, meeting.

Mr. Barr advised the Committee reviewed a request from Patti Hummel, Boy Scout Troop 73 Committee Chairperson, per her letter dated May 15, 2018, to use the East Locust Street parking lot during the 2018 Ephrata Fair to park cars as a fundraiser. The Committee will recommend that Borough Council conditionally approve the request, subject to Borough receipt of a satisfactory certificate of insurance naming the Borough as additional insured, as part of the consent agenda at their June 11, 2018, meeting.

#### Municipal Enterprises Committee

Mr. Richard advised that Borough Manager, D. Robert Thompson reviewed a potential cable franchise agreement with Comcast. (Note: Mr. Reinhold, an employee of Comcast, recused himself from discussion as well as voting on this matter.) Comcast proposes to offer internet, cable, and telephone service to businesses and residents near a 40-47 mile path along Routes 272 and 322 and a second path centered in Lititz. Ephrata Borough, Ephrata Township, Lititz Borough, and Warwick Township have joined forces to form the Lancaster County Cable Consortium to jointly negotiate the terms of an agreement with Comcast. The Cohen Law Group has provided a proposal to represent the Consortium for a flat fee of \$3,900 per municipality. If an agreement is achieved, that agreement would be subject to final approval by Council. The Committee will recommend that Council authorize the Borough Secretary to engage the services of the Cohen Law Group at a cost of \$3,900 to negotiate a potential cable franchise agreement with Comcast when they meet on June 11, 2018.

Mr. Richard advised that Director of Operations, Thomas Natarian, reviewed a proposed First Amendment to the Power Purchase Agreement (PPA) and Lease, as well as a Memorandum of Lease with Turning Point Energy (TPE), the Borough's solar partner. The amendment was requested in order to redefine the boundaries of the leased solar site to exclude areas in the 100-year flood plain. The Committee will recommend that Council authorize the Borough Secretary to execute the First Amendment to the PPA, First Amendment to the Lease, and the Memorandum of Lease with Turning Point Energy when they meet on June 11, 2018.

Mrs. Martin advised she wanted to clarify that the amendment was requested in order to redefine the boundaries of the leased solar site to **exclude** areas in the 100-year flood plain.

Mr. Barr questioned how wide is the proposed path(s); in which, Mr. Thompson provided a summary of location as well as an explanation of Comcast's proposal. Mr. Thompson further stated the purpose of the agreement is for The Cohen Law Group to be able to negotiate an agreement with Comcast that would be consistent with the existing agreement that we have and would not have any impact and/or consequence to any existing customer. Mr. Barr questioned if Comcast were to be granted this agreement, would the customers within those paths have Comcast as their only option for service. Mr. Thompson advised if the customer is in an area where they could obtain service from either Blue Ridge Communications and/or Comcast, they would be able to choose their provider which would, in turn, be a value to the residents of the Borough.

Mr. Richard advised this is not a situation where the Borough can really say no so the recommendation is to have The Cohen Law Group represent us in the consortium to get the most favorable terms. Mr. Thompson confirmed this is going to happen, but that we could come with terms of the conditions which could mean they would not be awarded a franchise agreement.

Mr. Zimmerman asked if Comcast approached the Borough regarding this matter; in which Mr. Thompson advised Comcast did make contact the Borough. Mr. Zimmerman inquired if Comcast's main focus would be the commercial customers at this time. Mr. Thompson advised Comcast is proposing two runs/paths (one would be on Route 501 into Lititz Borough/Warwick Township and the other would be on Route 272). Mr. Thompson stated the one through the Borough is approximately 47 miles and the one on Route 501 is approximately 32 miles.

Mr. Thompson advised The Cohen Law Group has been used in the past when renewing franchise agreements with Blue Ridge Communications. Mr. Thompson further clarified that The Cohen Law Group will represent the Borough(s) at the table as we do not sit down directly with Blue Ridge Communications in negotiations. Mr. Thompson reiterated that spending the \$3,900 is just to pay for the negotiations and that the agreement will come back before Borough Council for action.

#### Community Services Committee

Mrs. Martin advised the Committee reviewed a written request, dated May 14, 2018, from Josh McCracken, Principal of Fulton Elementary School, to place flags at the Winters Leadership Plaza for Veterans Day. The Committee will recommend that Borough Council approve the

request as part of the consent agenda at their June 11, 2018 meeting. The Borough is in receipt of a certificate of insurance naming the Borough as additional insured.

Mrs. Martin advised a request was received from Ephrata Public Library to participate in the GO Ephrata! Program; further advising they have had this program available in the past where both adults and children seek to find posts throughout the area. Mrs. Martin advised this program is to encourage people to get outside and exercise while incorporating reading skills. Mr. Thompson advised the actual program started on June 2, 2018, with approval being sought at tonight's meeting. Chief Harvey questioned a post placement listed as being by a stream. Ms. Lawrence provided clarification of where the post placement will be advising the post will not be along a creek bed. Mr. Ressler stated this request seems to be another instance where it came in last minute without going through the proper channels. President Rowe advised that if/when the Special Events Ordinance is put into place, these late requests should be eliminated.

Mrs. Martin sought clarification if the GO Ephrata! Program is done in Clay Township, Ephrata Township and Akron Borough; in which, Ms. Lawrence confirmed it is. Mrs. Martin inquired if approval is needed from any of those municipalities for the posts to be placed. Ms. Lawrence advised she made contact with each municipality, the posts have been delivered to them for placement and she has not heard of any issues. Mayor Mowen sought clarification on the appearance of the posts; in which, Ms. Lawrence advised they are 4x4 wooden posts with Plexiglas plates that are screwed into the top. Mayor Mowen inquired if the posts were placed in Ephrata Borough last year; and if so, were they approved by Borough Council. Mr. Thompson advised this event was done last year; and as this is becoming an annual event, there is a need to verify that we have the Certificates of Insurance and any other required information on hand. Mrs. Martin questioned why there is not consistency among municipalities with event requirements; in which, Mayor Mowen responded that comparisons cannot be made among different municipalities. President Rowe stated she feels it is important for groups holding events on Borough property that Council is made aware of them and that they have insurance naming the Borough as additional insured for our own protection (both Council and residents of the Borough).

Ms. Lawrence sought clarification of what documents are needed for the GO Ephrata! Program and was provided that information.

Mr. Zimmerman inquired if the Borough has considered sending reminder letters to organizations using Borough properties for events. President Rowe advised most of the organizations are aware of the process. Mr. Thompson advised people have been advised if they are too late for approval; however, if organizations have already advertised those events, it puts us in a unique situation.

Chief Harvey responded to Mr. Zimmerman's suggestion clarifying that he has told organizations/individuals who have recurring events to advise of those events as soon as possible. Chief Harvey stated these organizations/individuals have done a good job of doing that so pre-planning can be completed.

President Rowe advised the Public Safety Committee met; however, they did not have any action items only discussion items. Mr. Ressler advised the Committee reviewed the monthly reports and first quarter budget.

President Rowe advised the Special Projects Committee met and asked Mr. Zimmerman if he had anything he would like to share with Council. Mr. Zimmerman advised the Committee had very good discussions and there is more to come in the near future. Mr. Zimmerman advised the Special Events and Mobile Food Vendor Ordinances are moving forward.

President Rowe advised the Budget and Finance Committee did not meet and asked Vice President Reinhold if he had any information to report to Council. Vice President Reinhold advised that included within tonight's meeting packet is the ACH Register and the running of the checks. Mr. Zimmerman sought clarification as to the last check listed, for a debt service payment, on the check register. Mr. Thompson advised that the check number got "out of sync" and in an attempt to make sure that it didn't show up on the report over and over again, a zero was added to the check number; however, Mr. Thompson further stated by adding the zero to the check number, the complete opposite occurred and that check number will be included in every run until we reach that check number. Mr. Thompson advised IT is looking into the issue to resolve the matter so this does not keep occurring.

### **Committee Recommendations**

#### **Development Activities Committee**

Mr. Weiler advised the Committee recommends that Borough Council conditionally approve the request from the Ephrata Public Library to operate a hot air balloon experience at the Summer Reading kickoff event on Monday, June 11, 2018 from 4:00 pm-7:00 pm subject to the following which must be addressed no later than Friday June 8, 2018 at 4:30 pm:

- An approved safety plan from the Chief of Police or his designee
- A certificate of insurance from the balloon operator naming the Borough of Ephrata as an additional insured
- A certificate of insurance from the Ephrata Public Library naming the Borough of Ephrata as additional insured
- Proper language in the contract between the Ephrata Public Library and the balloon operator indemnifying the Borough to the satisfaction of the Borough's solicitor

Mrs. Rowe asked for any other questions or comments. Receiving none, Mrs. Rowe stated she has a motion and a second to conditionally approve the request with a vote of sevens yeas by Mr. Barr, Mrs. Martin, Mr. Ressler, Mr. Weiler, Mr. Zimmerman, Vice President Reinhold, and President Rowe and one nay by Mr. Richard.

#### **Community Services Committee**

It was moved by Ms. Martin, seconded by Mr. Ressler, and unanimously passed that Borough Council approve the request from the Ephrata Public Library to participate in the GO Ephrata program per their May 30, 2018 letter, subject to the receipt of a certificate of insurance naming the Borough as an additional insured.

**Opportunity for Citizens to be Heard**

There were no comments or remarks from attendees.

**Discussion/Announcements**

Mrs. Martin reminded Council members that the Brewfest is on Saturday, June 23, 2018, at the Whistlestop Plaza from 1:00 p.m. to 4:00 p.m.

Vice President Reinhold advised a Personnel Committee meeting was held this evening at 6:00 p.m. prior to tonight's Work Session. Vice President Reinhold stated the Ephrata baseball team unfortunately fell 3-2 against Mars expressing his pride in the team and coaches. Additionally, Vice President Reinhold stated his heart goes out to the many people who are affected by the abrupt Worley & Obetz closure.

Mayor Mowen advised a resident approached him and inquired as to why in the last two, three years there have been one or more hydrants on East Main Street that freeze up and are covered for weeks/month. Mayor Mowen advised he told the resident he would request the matter be checked into to see what can be done as if there is an issue with the hydrant, it needs to be resolved.

Additionally, Mayor Mowen advised there is a State of Emergency regarding local emergency medical responders as there is a real crisis brewing with the requirements necessary. Mayor Mowen advised he just found out if a person calls 911 in which an ambulance responds and the person refuses transport services, the ambulance provider receives no compensation. Mayor Mowen advised that "things are tight" in the emergency medical field.

Chief Harvey reminded Council that the first of June started the 2018 Atlantic Hurricane season and encouraged members to have a severe weather safety plan in place.

Mr. Thompson advised that all Council Members received the "Amplifier" quarterly magazine and stated on page 13 there is a picture of a smart meter installation from Ephrata and additionally, on page 17, "... you may see somebody familiar."

**Adjournment**

It was moved by Mr. Zimmerman and seconded by Mrs. Martin to adjourn. The meeting was adjourned.

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D. Robert Thompson, Secretary