

**EPHRATA BOROUGH COUNCIL  
WORK SESSION MINUTES  
APRIL 5, 2021**

The Ephrata Borough Council Work Session was called to order by President Susan Rowe at 7:00 PM on April 5, 2021, in the Council Chambers of the Borough Office, 124 South State Street.

Due to the Coronavirus – COVID-19 guidelines set forth by Governor Tom Wolf and in the respect of the practice of social distancing, President Susan Rowe, Vice President Thomas Reinhold, President Pro Tem Melvin Weiler and Council Members Timothy Barry, Linda Martin, Ricky Ressler, Greg Zimmerman, Mayor Ralph Mowen and Borough Manager D. Robert Thompson, as well as the Solicitor, James R. McManus, III, were present within Council Chambers while Police Chief John Petrick participated via a video conference. Absent from the meeting was Council Member Victor Richard.

The following visitors were present within Council Chambers:

Larry Alexander, The Ephrata Review  
Rebecca Beres, 44 Brookfield Drive, Ephrata\*  
Don Haines

The following visitor(s) participated via video conferencing:

Rebecca Beres, 44 Brookfield Drive, Ephrata\*

\*Ms. Beres began her participation in the meeting via video conferencing and then participated in-person a short time later.

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

**STATEMENT FROM PRESIDENT ROWE CONCERNING HOLDING A PUBLIC MEETING VIA VIDEO CONFERENCE**

“This meeting was advertised in accordance with Act 15 of 2020 enabling residents that wish to participate in the meeting virtually to do so through the duration of the COVID-19 emergency declaration. Although the mandates have been lifted, there are still restrictions on the number of people we can have at a gathering in a building, so we are meeting those standards.” President Rowe, addressing Mr. Thompson, inquired if any citizen participating virtually wished to address Council; in which, Mr. Thompson advised he received a request from Ms. Beres and Ms. Wurtz (who did not join the meeting) to speak if they so choose.

**First Opportunity for Citizens to be Heard**

With no citizens in attendance wishing to address Council, President Rowe moved onto the Discussion of Committee Actions.

**Discussion of Committee Actions**

Development Activities Committee

Mr. Zimmerman advised the Committee met on March 22, 2021, and has seven Action Items:

1. The Committee reviewed a request to waive land development requirements for John Bright. In 2006, the site was developed for mini storage and all improvements were made except one storage building was not constructed. The owner would like to construct the remaining building, but the time to complete the land development has expired. Staff has reviewed the proposed building and it would comply with the zoning ordinance. The site was reviewed for compliance with the original plan. One tree is missing and some minor repairs need to be made to the basin, but otherwise the plan is complete. The Committee will recommend that Borough Council approve the waiver request at the April meeting subject to conditions that a missing tree be planted and the basin repaired before a building permit is issued.
2. The Committee reviewed a land development plan for the Brian McCarty. This plan was originally approved and recorded in 2011, but the owner never built the proposed building and the plan has expired. Since that time a new zoning ordinance and a new stormwater ordinance have been enacted. The plan and stormwater management plan have been updated and reviewed. The Committee will recommend that Borough Council approve one waiver/modification and approve the plan as a final land development plan subject to the inclusion of staff comments dated March 5, 2021 and HRG comments dated March 8, 2021. This item will appear on the April Consent Agenda.
3. At last month's meeting the Committee reviewed a request for an access easement over the trail to serve parking spaces for 1 East Main Street. It was tabled after a draft of the easement was received and there were concerns over provisions in the draft. Solicitor McManus presented a history of the trail easements in this area and how they relate to the proposed easement agreement. The solicitor commented that the draft easement emphasizes the rights of the owner, but does not reflect a fair arrangement for the Borough. The easement needs more work and he suggests that the Borough Manager meet with the owners to develop a plan that contains reasonable assurances that they won't interfere with trail usage and the owners get access to their parking. It needs to be a mutually acceptable agreement. The Committee will table this until next month.
4. Kelly Withum, Executive Director of Mainspring of Ephrata, presented a request to serve alcohol at the Party on the Plaza events in the months of June, August and October. They will need to restrict parking along the driveway and half of the railroad lot closest to North State Street. The Committee will recommend that Borough Council approve the request at the April meeting to use the plaza, restrict parking and to sell beer and wine subject to the receipt of a certificate of insurance naming the Borough as an additional insured, an incident support plan approved by Emergency Management and receipt of a copy of the PLCB special occasion permit.

5. Kelly Withum, Executive Director of Mainspring of Ephrata, presented a request to serve alcohol at three Wednesday at the Whistle Stop events in May, June, and July. They will need to restrict parking along the driveway. The Committee will recommend that Borough Council approve the request at the April meeting to use the plaza, restrict parking and to sell beer and wine subject to the receipt of a certificate of insurance naming the Borough as an additional insured, an incident support plan approved by Emergency Management and receipt of a copy of the PLCB special occasion permit.
6. The Committee reviewed a proposal to replace seven HVAC units at Borough Hall. The current units are original to the building that was constructed in 2002. The typical life of an HVAC unit is 15 years. Three units have already been replaced. The proposal includes the purchase and installation of the units through a COSTARS contract with Frey Lutz Corporation. COSTARS is a Pennsylvania cooperative purchasing agency that allows registered entities to use contracts that have already gone through the bidding process. The contract is over budget by \$10,000, but when combined with the control system proposal, the net result will be less than the total budgeted amount. The two projects go together. The Committee will recommend that Borough Council award the HVAC replacement contract to Frey Lutz Corporation for \$120,000.
7. The Committee reviewed a proposal to replace the HVAC Control System at Borough Hall. The current system is original to the building that was constructed in 2002 and is antiquated. The proposal includes replacing the controls through a COSTARS contract with Dynatech Controls, Inc. The contract is under budget by \$31,215. The total budgeted amount for both projects is \$235,000 and the total of both contracts is \$213,785. The Committee will recommend that Borough Council award the HVAC replacement contract to Dynatech Controls, Inc. for \$93,785.00

Mr. Zimmerman then provided an overview of the Discussion Items as listed on the Committee Report.

Vice President Reinhold stated he is glad to see activities resuming at the Whistlestop Plaza.

Ms. Martin, in referencing the occupancy limits on Borough properties, inquired if the specific information is known; in which, Mr. Thompson advised the occupancy limit is based on the what the event is and if people are standing or sitting at tables, etc. Mr. Thompson further advised these matters are referred to the Zoning Officer who will provide that specific information.

Ms. Martin, referencing the Pennsylvania Department of Health's website, advised outdoor events are at 50% maximum capacity and indoor is at 25% maximum capacity; however, those numbers can change come June when the proposed events are scheduled to be held. Ms. Martin stated, "... basically, it's kind of a case-by-case scenario." Mr. Thompson clarified it depends on the type of event that is being held.

Ms. Martin, referencing Borough Council's authorization of the Solicitor attending the upcoming Zoning Hearing Board, inquired if there is something specific being looked at; in which, Mr. Zimmerman clarified that it is to have the assurances that the variance criteria are complied with.

Ms. Martin stated, "... a variance to me means they are asking for relief from that specific zoning requirement" and requested further clarification of what a variance is; in which, Solicitor McManus advised a variance is a request to do something that is not allowed in the Zoning Ordinance and there are statutory requirements needed to show a hardship. Solicitor McManus then provided a brief overview of the two types of variances: dimensional (minor) variance and use (major) variance. Solicitor McManus advised he is not familiar with the application in question and has not been able to meet with Staff due to COVID-19 restrictions; however, he is aware there is a transcript of the last hearing available which will assist him to formulate what needs to be proven to enable to grant further relief.

In response to Ms. Martin's inquiry of the position/stance being taken and if it is mutual or if there is opposition, Solicitor McManus clarified if the applicants do not comply with the legal requirements for a variance, then Council is opposed to granting the variance. Vice President Reinhold then stated, "... I just want to make sure that they are going through the proper means and ways to get there ... that's all."

Mayor Mowen advised the applicants want to have tables out on their patio - which they have been doing for a couple of years – and they were not aware it was a zoning violation until the Zoning Officer advised them of the need for a zoning variance. Solicitor McManus advised that is the issue that is to be decided as they are deviating from the conditions attached to the prior approval with respect to the areas that are eligible for public dining. Solicitor McManus further advised it is his understanding that patrons can simply drive to the facility as they would a restaurant and sit outside at a table to dine which is different from the conditions that were approved previously.

Solicitor McManus advised it is Council's position in terms of evaluation of this request is do you want to limit or put any limitations on the expanded use of the facility for dining unrelated to the overnight occupancy as a bed and breakfast facility. Solicitor McManus further advised there are multiple factors which need to be addressed and is not a simple determination. Solicitor McManus then inquired to Council members if there are limits to the extent to what you want to see this particular use expand; in which, President Rowe advised that would be up to the Committee and the Committee Chair to give you direction and to give Council direction as to what they are voting on at the upcoming Voting Session. Solicitor McManus further advised at past hearings, he has not been given clear direction from Council and wants to make sure that he is proceeding in the direction that is consistent with Council's desires.

President Rowe, addressing the Committee members, inquired if they are prepared to provide direction to the Solicitor or do they wish to discuss the matter at the upcoming Voting Session. Due to Mr. Zimmerman not being in attendance at the upcoming Voting Session, he advised he would like to discuss the matter during this meeting.

Mr. Zimmerman stated, "... I think it goes back to there are Zoning Ordinance standards that all facilities in the Borough should comply with ... same thing with the variance criteria ... it is black and white ... like the Solicitor said, there are reasons that you can grant the variance ... if it doesn't fit, you really can't do it ... the way it is going now, that's no longer a bed and breakfast by definition because the owners do not reside there anymore so what classification

does that go into ... well if it goes into a hotel, that's completely separate, different criteria ... now the parking that was required for a bed and breakfast is completely different than it is for a hotel ... the restaurant is significantly different ... in my mind, you got to live by the rules because you are going to just open yourself up for a situation ... you got a large building across the street and if anybody looks at what happened at that location, they'll be able to do the exact same thing ... you got a major intersection there ... you got a church ... you got a school ... the Rec Center is right up the road ... where is all the parking going to come from ... there's no parking ... so my thought is the Solicitor needs to go and adhere to the Zoning Ordinance and the criteria that is established with the variance ... if they fit, fine ... but there's limited amount of wiggle room and I think if we open that door up, we're just going to create more problems for the Borough as we move forward."

Mr. Barr stated, "... I'm just a little suspicious of their motives ... it's one thing to put a few tables out as a courtesy to your customers ... it's another reason to put out those tables and stretching the zoning rules ... I'm not sure why they are doing what they're doing, but I certainly understand they are wanting to do more business ... but I agree with Greg that they need to comply with zoning."

Vice President Reinhold stated, "... I defer to the Chairman ... I'm in line with what he is saying ... all we are asking is for Mr. McManus to be there at the next meeting to insure that those standards are met and the variance criteria are complied with by the owners there ... I think that is in line with what we need to do because again, you open that up for anybody that's going to pop up a B&B in the future ... the biggest dispute that they had was the necessity for the variance for the additional parking requirements that come with it ... that's the bane of what we are looking at ... even though they've been operating for the last couple of years where not everybody is always inside – especially when the weather gets nicer, they're outside."

Mr. Zimmerman stated, "... the other thing that I heard is they have had some small wedding receptions there which are not allowed ... there again, they put a tent outside and generate additional parking ... so they are walking a fine line and they are stepping over it from time to time and we just need to have assurances that they understand what they are allowed to do and what they can't do." Vice President Reinhold then stated, "... and if they want to expand upon it, then just go through the proper channels to do that."

In response to President's Rowe inquiry of his understanding of the direction of Council, Solicitor McManus replied, "... I understand my directive is to make sure they make a strong legal case for a variance ... I can tell you based upon my knowledge of variance law, if it is a use variance, it will be very difficult for them to prove that ... so my line of questioning will not be very passive by necessity because I don't know ... maybe they'll prove a variance, maybe they won't ... but if I think that they're not, then I'm going to have to draw the Board's attention to that because that's how cases are presented."

Solicitor McManus stated, "... Zoning Hearing Boards are created to administer a Zoning Ordinance ... to prepare the legislation and need a Zoning Ordinance that sets all of these rules in place ... that is solely the provenance of the governing body ... that's the law ... and once the law is presented, the Zoning Hearing Board's task is to follow the rules of does this apply or

doesn't that apply and there's guidance from case law and statutory law as to how they should evaluate variances ... one of the reasons that has been universally rejected is that, "I can do this because I can make more money" ... that's not a legal basis to grant a variance."

Ms. Martin commented, "... from an economic standpoint, Lancaster City did away with all of their parking restrictions downtown so that it would drive economic development in the area and that shortly after they did it, that place exploded with restaurants and art galleries ... so from an economic development standpoint, if you keep the reins of government tight on everybody's neck and don't look at the times we're living in and things of that nature, we're going to drive economic development straight into the ground ... for them to be able to sit outside, that's social distancing ... that's what we're looking for right now ... I mean sometimes you have to go with the sign of the times and not have government so tight around everybody's neck."

Mayor Mowen commented, "... at this point sitting here listening to the discussion, I'm not sure that Mr. McManus has been given definite direction ... he's going to go there and the edict that he's going is to make sure the Zoning Hearing Board adheres to the law." Mayor Mowen then inquired if the Board has their own attorney; in which, President Rowe advised they do. Mayor Mowen further commented, "... if he goes in there and starts telling them, "... well you're not doing this right ... that could create a rift ... the other issue is that the Zoning Hearing Board approved changes for this business permitting the owner to live in the house next door ... so they've already been on record with precedent of making exceptions ... this is a difficult one because the Zoning Hearing Board has granted them exceptions already and now to go back and say you're not going to be able to do this stuff could create some issues ... I don't feel it is fair to put Mr. McManus in a position of acting as their attorney." Solicitor McManus then stated, "... I am not their (Zoning Hearing Board) attorney, I am your attorney." Mayor Mowen further commented, "... I understand that ... but you'll be going there to make sure they are following the regulations." Solicitor McManus clarified he would be attending as a representative of the governing body of the Borough to present a case. Solicitor McManus related that he wants to do the best job he can depending upon what Council wishes to do with respect to the issues that are before them.

Mr. Weiler commented that he believes the parking issue is still a problem as they (the applicants) do not have adequate parking available and is in favor of enforcing the parking regulations as they are written.

Mr. Ressler, in referencing the Party on the Plaza events and the serving of alcohol, inquired if the VFW will be providing the alcohol as they did at past events; in which, Ms. Martin advised the alcohol will be provided/served by the American Legion. Ms. Martin further advised that Weathered Vineyards, a local winery, will be selling wine as well as Poor Man's and St. Boniface may be coming to future events.

In responding to Mr. Ressler's inquiry of how this will be handled as it is an open event with individuals coming in off the street, Ms. Martin advised there will be an entrance that people will be funneled through. Ms. Martin advised at this entrance, there will be individuals who will card incoming patrons and provide wristbands to them. Ms. Martin further advised the only way individuals can purchase alcohol at these events is to show their wristband to the vendor.

Highway Committee

Mr. Weiler advised the Committee met on March 22, 2021, and has five Action Items:

1. The Committee reviewed a March 2, 2021 letter request from Michael Lillis and Kim Swinko representing the Ephrata War Memorial Association as Co-Directors of the Firecracker Run asking to use the streets of the Borough on Saturday, July 3, 2021 beginning at 8:00 AM for the 44<sup>th</sup> Annual Firecracker Run event. Alternate Committee Member Reinhold advised the Committee that on numerous occasions this event has previously occurred on a Saturday. The Committee will recommend that Borough Council conditionally approve the request subject to EMC review and approval, Borough receipt of a satisfactory certificate of insurance naming the Borough as additional insured, and compliance with current PA Department of Health and CDC guidelines associated with COVID-19 at the time of the event at their April 12, 2021 meeting.
2. The Committee reviewed House Bill No. 765 – Session of 2021 amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes. The Bill would prohibit PennDOT from requiring municipalities to indemnify PennDOT as a condition for approving special event permits involving state highways for third party sponsored events when the third party has already satisfied all other legal requirements, including providing an indemnification statement to PennDOT. The Committee will recommend that Borough Council authorize the Borough Manager to provide a letter in support of this Bill at their April 12, 2021 meeting.
3. The Committee reviewed Comcast's plans to install approximately 4,699 linear feet of underground cable in conduit within the Heatherwood Heights development. Staff has reviewed and approved the latest revised plans. The Committee will recommend that Borough Council conditionally approve Comcast's plans known as Drawing No. 093192019-B1 last revised March 5, 2021 subject to a fully executed Street Opening and Cable System Construction Agreement being in a form acceptable to the Borough Solicitor, Borough receipt of a satisfactory performance guarantee in the amount of \$106,040.00, and provision of a certificate of insurance naming the Borough of Ephrata as additional insured at their April 12, 2021 meeting.
4. The Committee reviewed Comcast's plans to install approximately 15,176 linear feet of underground cable in conduit within the Brickyard and Pioneer View developments. Staff has reviewed and approved the latest revised plans. The Committee will recommend that Borough Council conditionally approve Comcast's plans known as Drawing No. 093192019-C last revised March 5, 2021 subject to a fully executed Street Opening and Cable System Construction Agreement being in a form acceptable to the Borough Solicitor, Borough receipt of a satisfactory performance guarantee in the amount of \$338,070.00, and provision of a certificate of insurance naming the Borough of Ephrata as additional insured at their April 12, 2021 meeting.
5. The Committee reviewed Comcast's plans to install approximately 1,193 linear feet of underground cable in conduit within the Brickyard development. Staff has reviewed and

approved the plans. The Committee will recommend that Borough Council conditionally approve Comcast's plans known as Drawing No. 093192019-C2 dated January 8, 2021 subject to a fully executed Street Opening and Cable System Construction Agreement being in a form acceptable to the Borough Solicitor, Borough receipt of a satisfactory performance guarantee in the amount of \$26,844.00, and provision of a certificate of insurance naming the Borough of Ephrata as additional insured at their April 12, 2021 meeting.

Mr. Weiler then provided an overview of the Discussion Items as listed on the Committee Report.

Ms. Martin, in referencing House Bill No. 765, advised she checked on the status of it and it is on the voting calendar for a committee vote; after which, it will have to be brought to the House floor for a full vote.

Ms. Martin, speaking directly to Chief Petrick, inquired if Lt. McKim had any conversations with Lakresha Zimmerman, 122 West Franklin Street, regarding her parking ticket issue; in which, Chief Petrick advised he will reach out to Lt. McKim for an update.

Mayor Mowen, advised House Bill No. 606, the radar bill, is finally out of committee; however, the Chairman is saying that he wants 102 of the Republican representatives to sign on before they take it to a vote. Mayor Mowen stated, ". the State mayors have been fighting for this for 15 years ... again, Pennsylvania is the only state in the country that does not permit local police departments to have radar ... I was wondering if Council would send a letter to Representatives Zimmerman and Fee requesting their support for House Bill No. 606?" President Rowe advised his request would fall under Public Safety Committee and requested Mayor Mowen re-visit this matter at that time. Ms. Martin advised she quickly looked up the status of the Bill and advised it is now in Appropriations Committee and the Chairman is Representative Saylor.

#### Municipal Enterprises Committee

Ms. Martin advised the Committee met on March 15, 2021, and has two Action Items:

1. The Committee discussed a request from the Borough's Electric Manager, Bruce Haws, to amend the Code of the Borough of Ephrata, Chapter 165 Electricity Section 165-4A(2) by eliminating an outdated three phase one hundred twenty/two hundred forty (120/240) volt service. Mr. Haws indicated this is an outdated service and has become a safety concern. Existing three phase 120/240 volt services will be grandfathered; however, no new three phase 120/240 volt services will be approved. The Committee will recommend that Borough Council enact an ordinance to amend the Electric Chapter of the Code of the Borough of Ephrata at their April 12, 2021 meeting.
2. The Committee reviewed a letter of support for a grant application to the National Fish and Wildlife Foundation in the amount of \$500,000 towards the Gross Run storm water project. This grant requires a one third match. The Borough has budgeted for the entire project costs so the match will not be an issue. The Committee will recommend that

Borough Council authorize the Council President to execute a letter of support for the project at their April 12, 2021 meeting.

Ms. Martin then provided an overview of the Discussion Items as listed on the Committee Report.

Mr. Weiler, referencing Action Item #1, inquired if the Borough is in the forefront of outdated the three phase 120/240 volt service; in which, Mr. Thompson advised it is his belief that two of the three phases are 240 and the third is at 208 and that some of the newer electricians misplaced the 208 phase and actually connected to the neutral and that is where it becomes dangerous.

Mr. Thompson advised he sent information to the Committee that the Financial Transmission Auction is opening on April 6, 2021. Mr. Thompson further advised he submitted for action at this evening's meeting the Committee Recommendations for the FTR Auction per AMP and GDS recommendations.

Community Services Committee

Mr. Weiler advised the Committee met on March 22, 2021, and has one Action Item:

1. The Committee reviewed the 2021 Cultural Arts Grant proposed awards recommended by the Ad Hoc Art Grant Committee – Brubaker, Kimmel, and Bare. The Committee recommended the following awards for the April Council meeting.

Ephrata Public Library	\$3,000
EPAC	\$1,800
Ephrata Concert Band	\$2,000
Ephrata Cloister Associates	\$800
Historical Society	\$1,000
Ephrata Rec Center	\$1,200
Eicher Arts Center	\$700

There were questions and comments from Committee and Council members that will need to be addressed at a later date. Some of those questions and comments were; *who chooses the members of the Ad Hoc Committee, how is the award recommendation decided, Council should have some say on who serves on the Committee and how the funds are distributed, when a vacancy arises, should Council appoint the members?* President Rowe referenced the PA Consolidated Statutes, Title 8, Boroughs and incorporated Towns, Chapter 12, Section 1202 (52) to confirm that the art grant applicants meet the criteria of the Statutes. Solicitor McManus is going to be requested to review the Statutes to verify compliance, and to have it done prior to Work Session. The Committee will conditionally recommend that Borough Council approve the proposed art grant awards contingent on Solicitor McManus's findings.

Mr. Weiler then provided an overview of the Discussion Items as listed on the Committee Report.

Ms. Martin, in referencing the repair of the slide at the Ephrata Community Pool, stated, she "... is thrilled to be able to keep it intact this year ... that's a big feature that everybody enjoys ... so good news for us for sure."

Vice President Reinhold, in referencing the Ephrata Community Pool, inquired if they are going to follow the same guidelines and procedures as last year; in which, Mr. Thompson advised that is his understanding.

President Rowe, addressing Solicitor McManus, referencing the Arts Grants, inquired if we are in compliance with the Statutes; in which, Solicitor McManus advised he reviewed the grant applications as well as reviewed the Borough Code. Solicitor McManus advised that the Borough Code allows funds to be appropriated for other civic projects and/or programs. Solicitor McManus advised another Section within the Borough Code allows the Borough to make annual appropriations to not-for-profit art corporations for conduct of artistic and culture activities. Solicitor McManus further advised under the general language, the centers and organizations can qualify for the following reasons: (1) they are not-for-profit entities; and, (2) they serve a charitable or a public purpose. Solicitor McManus concluded his comments by advising there is not direct authority, but there is nothing prohibiting these kinds of grants to these organizations.

#### Budget and Finance Committee

Mr. Ressler advised the Committee met on March 22, 2021, and has no Action Items to bring forward at the April Voting Session.

Mr. Ressler then provided an overview of the Discussion Items and Old Business Items as listed on the Committee Report.

Vice President Reinhold, addressing Mr. Thompson, inquired if there is any updated information regarding disconnections available; in which, Mr. Thompson advised he does not have any updated numbers to provide at this time. Vice President Reinhold inquired if penalties are being waived; in which, Mr. Thompson advised with the extension on the disconnections, there was a stay of penalties accruing until the applicants can demonstrate that they applied for assistance.

Mayor Mowen inquired if there is any indication that Ephrata Township, since Pioneer Fire Company covers in excess of 30% of the overall calls, "stepping up" and meeting their obligation on the aerial; in which, Mr. Ressler advised his impression that it is not so much that they won't assist in some of those payments, they just do not want to lock themselves into a budgeted dollar amount. Mr. Thompson further advised for 2021, the Township has committed to contributing \$15,000. Mayor Mowen stated, "... all of the development that we have in this area is in Ephrata Township (and Clay Township) ... but Ephrata Township ... and it's time that they meet their obligation to the fire companies ... especially in this instance ... they need to step up ... and they may not want to put it in their budget, but they need to commit to covering that 30-some percent. Mr. Thompson advised, "... we've had that conversation with Ephrata Township directly ... they have indicated that they are supportive of the Fire Commission ... they've indicated they're supportive of the fire department, but they're looking for some additional understanding of how the Commission is going to work ... as well as they have said

that they can't commit to some number for contribution into the future because they don't know what the future holds." Mayor Mowen advised his major concern is regarding the payment for the aerial which goes into their Township. Mr. Thompson stated the Township has been advised to what the long-term implications are and what is being proposed is a step towards avoiding a 100% paid fire department which is on the far end of the spectrum. Mr. Thompson further stated, "... we are far from getting the Township to commit to anything."

Mr. Ressler advised we as a Council have an obligation to provide safety and fire service to our community and that is why a percentage was decided; however, it is going to be difficult to change those percentages in future years. Mayor Mowen then stated, "... they have never met their obligation to the fire companies ... they just never have stepped up the way they should."

Mr. Thompson advised he has had conversations with Pioneer and their Finance Committee about the remaining 36% and they indicated they would be able to meet that; however, they didn't say exactly how. Mr. Thompson further advised as the Fire Commission starts to move along that perhaps the Township will see fit to contribute long-term.

#### Public Safety Committee

Vice President Reinhold advised the Committee met on March 15, 2021, and has no Action Items to bring forward at the April Voting Session.

Vice President Reinhold then provided an overview of the Discussion Items and Old Business Items as listed on the Committee Report.

Vice President Reinhold, in referencing House Bill No. 606, advised the matter will be discussed further at the April 26, 2021, Public Safety Committee Meeting. President Rowe, addressing Chief Petrick, requested this topic be added to the meeting agenda.

#### Special Projects Committee

Mr. Barr advised the Committee met on March 22, 2021, and has no Action Items to bring forward at the April Voting Session.

Mr. Barr then provided an overview of the Discussion Items as listed on the Committee Report.

Mr. Ressler, referencing the Junior Council Program, advised that Vice President Reinhold volunteered to oversee the program. Ms. Martin expressed her appreciation and stated, "... I think it is incredibly important to get the young kids involved in all aspects of what we do in the Borough."

#### Personnel Committee

Vice President Reinhold advised the Committee met on March 8, 2021, and has no Action Items to bring forward at the April Voting Session.

Vice President Reinhold then provided an overview of the Discussion Items as listed on the Committee Report.

President Rowe, in referencing the Borough Manager's Job Description, requested the document be taken back to the Committee as she would like to see the addition of a confidentiality clause; in which, Vice President Reinhold advised the document will not be voted on as it stands right now and will be taken back to the Committee for further review.

### **Committee Recommendations** **Budget and Finance Committee**

It was moved by Mr. Ressler, seconded by Mr. Weiler, and unanimously passed via roll call vote that Borough Council ratify the recommendation of the Budget and Finance Committee from their March 22, 2021 Committee Meeting to extend the moratorium from winter disconnections by 30 days from March 30, 2021 to April 29, 2021.

### **Municipal Enterprises Committee**

It was moved by Ms. Martin, seconded by Vice President Reinhold, and unanimously passed that Borough Council adopt Resolution 2021-6 authorizing the Borough Secretary to participate in the monthly, annual, and long-term financial transmission rights auctions per the limits in Attachment A.

### **Second Opportunity for Citizens to be Heard**

Rebecca Beres, 44 Brookfield Drive, Ephrata, advised she has a list of questions for Council:

1. The Smithton: Ms. Beres stated, "There was a comment made about a small wedding reception being held ... is there some specific Borough Code that does not allow a wedding reception to be held at a bed and breakfast ... and, if so, what is the specific Borough Code?"

President Rowe advised the information would be included within the Zoning Ordinance; in which, Ms. Beres responded she has Ordinance in front of her and there is no specific Zoning Code that does not allow a wedding reception at a bed and breakfast. Solicitor McManus clarified that is not how Zoning Ordinances are prepared. Solicitor McManus advised only the uses that are allowed are governed by the Zoning Ordinance and anything else is not allowed. Ms. Beres inquired if the complaint was made because there was a tent up in the yard because that was the comment that was made; in which, President Rowe advised the complaint would have been made to the Codes Department and there is nobody in attendance to answer her inquiry.

2. GDM: Mr. Beres stated, "Mr. Thompson, you used the acronym GDM ... can you tell me what that acronym stood for?"

President Rowe corrected Ms. Beres advising she believes she is referring to GDS, not GDM. Mr. Thompson advised GDS is the consultant for Borough's electric portfolio out of Marietta, Georgia.

3. Cultural Arts Grants: Ms. Beres stated, "There are questions about how are these individuals ... who chooses the members of the ad-hoc committee ... one of the individual's name is Kimmel ... is that Jim Kimmel (*Mr. Thompson confirmed it was*)..."

and he is in charge of Ephrata Concert Band if I'm not mistaken, is that correct (*Council members unable to confirm*) ... do we have answers to these questions of who chooses the members of the ad-hoc committee?" President Rowe advised it is her understanding those questions were directed to be answered at a future committee meeting.

Ms. Beres further stated, "The money that is going to the Ephrata Concert Band ... the Ephrata Concert Band is a school organization ..."; in which, President Rowe advised she does not believe it is. Ms. Beres then stated, "I was in band for a thousand years ..."; at which time, Vice President Reinhold advised the Concert Band is mainly comprised of adults and he does not believe it is school affiliated; in which, President Rowe affirmed Vice President Reinhold's comments.

4. ERAP program: Ms. Beres stated, "With the ERAP Program, have you seen receipts come in since the announcement or since the Borough Office was closed, nothing has come in?" In which, Mr. Thompson responded that all of the mail has been opened and no receipts have been received. Ms. Beres then inquired, "Do you anticipate them mailing them in or ..."; in which, Mr. Thompson replied, "... I believe the receipts are going to the applicant and then the applicant comes in and produce them."
5. Borough Website: Ms. Beres stated, "Just a side note, the Borough website still says that the Borough Offices are closed." President Rowe advised that the offices are still, in fact, closed; however, the lobby is open for customers to drop off their payments.

After allotting a brief time for additional citizen comments and/or remarks, President Rowe turned to the discussion/announcements portion of the meeting.

#### **Discussion/Announcements**

Mr. Zimmerman advised on March 31, 2021, there was a Lancaster County Borough Association meeting held via Zoom and he wanted to pass along some information presented by the Lancaster County Commissioners: (1) the COVID-19 vaccination program is successful; (2) a new hospitality program will be coming out in the new future to assist those businesses; (3) an update on the Drug Task Force.

Mr. Zimmerman, in referencing the American Rescue Plan, advised the first payment is supposed to be issued roughly after the signing (March 11, 2021). Mr. Zimmerman advised it was stressed to develop a plan to use the funds as well as accountability of how those funds are spent. Mr. Zimmerman further advised it was stressed to highlight the success stories in use of the funds.

Mr. Zimmerman advised Ephrata's Economic Development Project was mentioned and encouraged other Borough's implement something similar. Mr. Zimmerman advised a discussion was held regarding the ERAP Program.

Ms. Martin extended her appreciation to Mr. Zimmerman for being Ephrata's spokesperson and stated, "... I think it is important for us to sit at that table."

Mr. Barr stated, "... I think it is a great thing that we have the vaccine clinic at the former Bon-Ton building."

Vice President Reinhold, referencing Lancaster City's easing their parking restrictions, advised he believes that matter needs to be looked into further. Vice President Reinhold further stated, "... I don't want us stunting local businesses from being able to flourish ... that's what I'm basically concerned about."

Vice President Reinhold, referencing Ms. Beres inquiry regarding the Ephrata Concert Band, advised he did a quick search and is made up of a mixture of high school students and adults.

President Rowe, addressing Vice President Reinhold, asked if he is requesting the matter of easing parking restrictions be added to an upcoming Development Activities Committee Meeting for further discussion; in which, Vice President Reinhold responded he would as long as the Chair is okay. Mr. Zimmerman advised he is okay with further discussion; however, he confirmed the next Committee meeting is not going to happen prior to the hearing. Mr. Zimmerman advised his concern is that Ms. Martin referenced Lancaster City which is downtown and that The Smithton is not located downtown. Mr. Zimmerman further advised if it was downtown and there were parking lots and/or garages are available, that is one thing; but at their current location, there is no other parking available other than on-street parking which is, in part, Route 322 which is no parking. Mr. Zimmerman then questioned where the overflow cars are going to park and if it is okay to restrict the operation of the Ephrata Recreation Center as that is most likely the place where people will go. Mr. Zimmerman concluded his comments by stating, "... I certainly don't want to see them not succeed, but there's rules and guidelines set up for everybody to follow as much as they possibly can." Vice President Reinhold then stated, "... maybe the question is do we change the rules at some point." Ms. Martin then commented, "... sometimes it's a sign of the times ... people have to look at the signs of the times and not be so dogmatic in their thought process ... they got to look at the sign of the times and I think we need to keep that in mind."

Mr. Weiler advised he believes Council did a good thing a couple of months back by opening up the Fulton Street parking lot on the weekends to individuals who wish to use the Ephrata Rail Trail as he has observed it to be full the last two weekends. Mr. Weiler further advised it will be a wonderful thing if it can be opened all throughout town.

Mayor Mowen advised on Friday, April 2, 2021, in the 800 block of North Maple Street, the Pioneer Fire Company responded to a brush fire that turned into a major forest fire where there were over 4-½ acres of the mountain burned. Mayor Mowen advised he discovered something that he finds somewhat distressful and that is the fact that the fire company had to lay 1,000 feet of 5" hose from where the fire was to the nearest hydrant. Mayor Mowen inquired if one or two hydrants could be installed in the area; in which, Mr. Thompson advised that matter will need to be discussed with the Ephrata Area Joint Authority (EAJA). Vice President Reinhold who serves as Chairman of EAJA advised he will discuss the matter at their April 8, 2021, meeting.

Mayor Mowen shared a picture of the Ephrata Borough Mountain behind the 600-700 block of North Maple Street. Mayor Mowen advised that whoever went into the area and logged it did a

disgraceful job. Mr. Thompson advised this was part of a logging effort that Council approved probably a year/year and a half ago to clear trees along the electric lines. Mr. Thompson further advised the company is to come back and do some planting in the spring. Mayor Mowen stated, "... they didn't just do at the electric lines ... they clear cut it." Mayor Mowen advised this was brought to his attention by a resident who shared with him that behind her house most of the trees have a big blue "X" on them which means "whack them." Mayor Mowen commented that if all of the trees marked are taken down, the resident will have no trees for probably 100 feet into the woods behind her house which she is quite distressed about. Mayor Mowen advised this matter needs to be revisited if that is the quality of the logging, the logger may need to be relooked at. Mayor Mowen further commented that he is concerned about erosion and water runoff.

Mayor Mowen advised it is the time of year for the Hibshman Scholarships with interviews scheduled for Tuesday, April 27, 2021, Wednesday, April 28, 2021, and Friday, April 30, 2021 (if necessary). Mayor Mowen further advised he will attend the interviews on Tuesday the 27<sup>th</sup> and Friday, the 30<sup>th</sup> and asked for a volunteer for Wednesday the 28<sup>th</sup>. Mr. Barr volunteered for the Wednesday morning shift and Mr. Ressler volunteered for the Wednesday afternoon shift.

Chief Petrick advised he received a letter from PennDOT advising of an upcoming 3-day time period, Friday, May 14, 2021 to Monday, May 17, 2021, at the Route 322 diverging diamond in Ephrata Township that both the eastbound and westbound traffic lanes will be closed due to paving. Chief Petrick advised there is a strategic partners meeting being held later this month with more information to follow.

President Rowe advised that the Municipal Moment for the April 12, 2021, Voting Session will be the Ephrata Area High School's Senior Class Council.

### **Adjournment**

It was moved by Ms. Martin and seconded by Mr. Barr to adjourn. The meeting was adjourned at 9:08 p.m.

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D. Robert Thompson, Secretary