

PRESIDING: Council President Briggs

INVOCATION: Gerard J. McGlone, Mayor

PLEDGE OF ALLEGIANCE TO THE FLAG

1. ROLL CALL:
  - Council President Briggs
  - Council Vice President VanSciver
  - Council Member Crawford
  - Council Member Edge - ABSENT
  - Council Member Lynch
  - Council Member Raymond
  - Council Member Smith
  - Mayor McGlone

COUNCIL RECESSED TO EXECUTIVE SESSION TO DISCUSS A LEGAL MATTER

FOLLOWING THE EXECUTIVE SESSION, COUNCIL RECONVENED THE MEETING

2. PUBLIC FORUM:

Council President informs all present that copies of the agenda are available at the press desk. This is a Public Session of Council. Should any citizen/taxpayer wish to offer comments on any item on the agenda, now is the time to bring those comments before Council. Are there any citizens/taxpayers who wish to bring before Council any item not on the agenda?

a. Amy Coloian, St. Patrick's School, thanked Council for listening to all the concerns expressed by the parents at the last Council meeting. Amy reported that she did have an opportunity to contact PennDOT this week and a PennDOT representative provided her with a portion of Article 6 dealing with Crosswalks. She stated that she was informed that Publication 46 was yet unpublished but was in the process of revisions and is under the last section of spellcheck. Don Centofante, from PennDOT, faxed to Amy the section regarding mid-block crosswalks. Amy reported that having read through this section, both she and Dr. McAdams believe it is referring to new installations and asked that Council read the entire section and how it speaks to the different requirements of a mid-block crosswalk. Amy requested that Council consider the reinstatement of the crosswalk.

Amy stated that another item not clearly discussed at the last meeting, was that there were actually two mid-block crosswalks. The second crosswalk ran perpendicular into the Church parking lot and comes out to the sidewalk of the main building. This crosswalk was approximately 300 feet from the corner of the existing crosswalk.

Council President Briggs read from Section 6.9.1 from the PennDOT handout regarding "Unsignalized Midblock Crosswalks", that states "A majority of state traffic engineers have indicated that midblock crosswalks are highly discouraged in their state and are rarely installed." Council President Briggs stated that he went out to the site and if you have a place where kids are crossing, and the driver is told to yield, and 100 feet away there are crosswalks

where kids can cross at stop intersections, it blows me away that anyone would choose a yield over a stop intersection. Requiring cars to “yield” to pedestrians, which is the law for the Channing mid-block crosswalk, is categorically riskier to any pedestrian than requiring cars to “stop” which is the law for all four corners of the Channing/Roberts crosswalk. Council President Briggs stated that he never saw any cars encroaching into the crosswalk. He feels that if a crossing guard was standing north of the crosswalk, the cars would not strike a child if they were encroaching into the crosswalk, they would strike the crossing guard.

Amy Coloian stated that she cannot see the argument for a mid-block crosswalk. She stated that Council members were out for a period of one hour one morning. She personally has visualized people encroaching into that crosswalk during different times of the day.

Council President Briggs stated that he is not suggesting that we saw the rule on the day we were out at the site. What he is suggesting is you have a four-way stop. He can sit here and look anybody in the eye and say he did the best he could by voting against a midblock crosswalk. He stated that he would never vote for a midblock crosswalk and he would not want to feel responsible for a child getting hit.

Council Member Lynch stated that he has three kids and getting out of the car and getting them into a store safely from a parking lot was a feat in itself. His belief is the shortest distance between two points is a straight line. The shortest place to get these kids across the street, out a door and across the street and into another door, is the safest location. Now we’re bringing more cars into the equation. Skilled or trained crossing guards need to be involved in this process and St. Patrick’s School has to take care of that.

Council Member Smith stated that knowing full well that some kids will cross elsewhere, he doesn’t know what the liability would be.

Council President Briggs stated that other people use the streets. The issue is, have we put something in place that is an attractive nuisance. By allowing the mid-block crosswalk, this action will reduce safety and increase the risk for those people (particularly children) who are not part of the St. Patrick’s School community. A crossing guard will bring added safety at the mid-block crosswalk only during the hours of school drop-off, leaving the other 23 hours of school days and 24 hours of non-school days with higher risk.

Council Member Lynch stated that his view is that the crosswalk has been there 20+ years and that crossing at that midblock crosswalk is the safest way to cross the kids.

Council President Briggs stated that he disagrees. He believes there are more cars now than there were 20 years ago. The risk is higher all over town because of the volume of cars.

Council Member Crawford stated that there was discussion whether they should cross at the end of the block or at a midblock crosswalk. He believes there are arguments on both sides. He questions whether we want to add to the possibility of an accident occurring with a crosswalk in the middle of the block. Over the years clearly a straight line would move the kids quicker, but the question of quicker is not always better.

Council Member Lynch stated at certain times you have kids crossing from the School to the Church for a Mass. It is much simpler to get six classes out one door with people standing there preventing cars than it is to get those same kids up to Roberts Lane and young kids are immature and decide to walk out of the crosswalk. It is safer to keep them in order for a short period of time. The quicker we can get them out of the school and into the Church is a much safer issue.

Council President Briggs reminded everyone that crossing at Roberts occurs within 45 minutes at the beginning of the day. That does not negate the fact that this Council should not do something that adds risk to the kids who don't go to St. Patrick's. By allowing the mid-block crosswalk, the Council is actively defying PennDOT thinking, our traffic engineer's analysis and recommendation and our Police Chief's advice, thereby greatly increasing the liability risk for the Borough.

A motion was made by Council Member Lynch and seconded by Council Member Smith to reinstall the crosswalk on Channing Avenue between St Patrick's School and St. Patrick's Church. Council Vice President VanSciver asked if Council Member Lynch would accept the proviso that the crosswalk be approved only if a crossing guard is approved during the school hours. Council Member Lynch stated that he would accept that proviso and Council Vice President VanSciver so amended the motion. Council President Briggs stated that you can't make a motion that requires a private entity to hire a crossing guard because that exceeds the authority of the Council and clearly establishes a double standard (one for St. Pat's children and one for the rest of the world). The motion was further amended to the proviso being legally imposed. The amended motion includes installing the crosswalk if a crossing guard is at each sidewalk.

The motion, as amended, carried by a vote of 4-2 with Council Members Lynch, Smith, VanSciver and Crawford voting in the affirmative and Council Members Briggs and Raymond voting opposed.

Council President Briggs stated that should anyone get hurt, those who voted in favor of it will, in his opinion, bear responsibility.

Mayor McGlone asked which crosswalk St. Patrick's would want to see reinstated.

Amy Coloian responded that she and Dr. McAdams talked about this and they would be comfortable with either one.

Dr. McAdams asked about the training of a crossing guard and Council President Briggs responded that the Chief would work with them on finding a trainer.

b. John Buckley, 165 Church Street, questioned why the name was being changed from the Emergency and Municipal Services Tax to the Local Services Tax. The Manager explained that this Bill was amended by the Senate and they changed the name of the Tax. Municipalities are required to change the name to comply with the approved legislation.

3. APPROVAL OF MINUTES:

A motion was made by Council Vice President VanSciver, seconded by Council Member Smith and unanimously carried by a vote of 6-0 to approve the minutes of the Regular Meeting held on Tuesday, September 18, 2007, as submitted.

4. APPROVAL OF REPORTS:

A motion was made by Council Member Lynch, seconded by Council Member Raymond and unanimously carried by a vote of 6-0 to approve the Treasurer's Report, the Committee Reports for Finance and Administration, Public Safety, Public Works and the Chief of Police Report, the Code Enforcement Officer's Reports (Building Inspector's Report, Housing and

Property Maintenance Report and Zoning Report), the Superintendent of Public Works Report and the Manager's Report for the month of September 2007 as submitted.

5. RESOLUTION NO. 576 – ELIMINATE CONTRIBUTIONS TO THE POLICE PENSION PLAN FOR CALENDAR YEAR 2008:

A motion was made by Council Member Crawford, seconded by Council Member Smith and unanimously carried by a vote of 6-0 to approve Resolution No. 576, a Resolution to eliminate for the Calendar Year 2008 members contributions to the Police Pension Plan.

6. RESOLUTION NO. 577 – AUTHORIZE EXPENDITURES OF GENERAL MUNICIPAL PENSION SYSTEM STATE AID:

A motion was made by Council Member Lynch, seconded by Council Member Crawford and unanimously carried by a vote of 6-0 to approve Resolution No. 577, a Resolution authorizing expenditures of General Municipal Pension System State Aid.

7. MINIMUM MUNICIPAL OBLIGATION – PENSION PLANS:

A motion was made by Council Member Raymond, seconded by Council Member Smith and unanimously carried by a vote of 6-0 to enter into the 2008 Budget the Minimum Municipal Obligation for the Uniformed Pension Plan the amount of \$0 and for the Non-Uniformed Pension Plan the amount of \$33,074.00.

8. OTHER BUSINESS:

a. Fee-in-lieu of parking spaces – Council Vice President VanSciver stated that he is a proponent of a higher fee because the Borough will be empowered to obtain a parking lot. It is not a mandatory item for a potential landowner to utilize. If they can't proceed with their project any other way, it is an avenue to get an attractive project for the Borough to approve without them seeking a variance. If an applicant could not meet the requirements to support a variance, the citizen could contest it from the owner. It gives the Borough options. Council Vice President VanSciver believes it would be something viable to create a parking fund.

Council Member Crawford feels that West Chester set their value too low so they didn't collect enough money to purchase property and build a parking lot.

Council Members questioned how often we have developers seeking a variance because of parking restrictions and how long it would take to get enough money to purchase and build a parking lot.

Council Vice President VanSciver responded that it might not apply to a typical development. It might be a future development that would be very useful to the Borough but they couldn't provide parking that would be needed for the project to be successful. Maybe the Borough could do something else that the developer could not do. Council Vice President VanSciver didn't think things would be any different now than they were over the past five years, however, the next five years may be very different. There are other developers who have been acquiring land in the Borough on King Street. Although he stated that he doesn't have any specific information that he can share publicly, he stated that everyone is aware of the Kahn

parcel. If a second developer came to us with a project that the Borough favored, but there wasn't sufficient parking available, with a significant fee-in-lieu of parking, perhaps the Borough could do something. This would be another tool in the chest.

A motion was made by Council Vice President VanSciver, seconded by Council Member Crawford and carried by a vote of 5-1 to establish the cost of the fee-in-lieu of parking for one spot at \$25,000. Council Member Raymond voted in opposition.

b. 1<sup>st</sup> Draft of 2008 Budget – Council Member Smith presented the 1<sup>st</sup> Draft of the 2008 Budget and asked Council to pay particular attention to the Capital Reserve Budget. He stated that last year it was pointed out that the Capital Reserve Fund would be skinned down because of past projects. We have completed projects in the past few years that have eaten away at the Capital Reserve Fund.

Council Member Smith also brought to the attention of Council the significant contributions that would be required from Tredyffrin Township and the Valley Forge Sewer Authority for upgrades to the conveyance system and at the treatment plant. It is estimated that the Borough's share of upgrades would total \$600,000 over a 2-2 ½ year period. Council Member Smith explained that back in the early 1990's, the Borough took out a Bond for improvements within the Borough. The Principal and Interest for the Bond was paid from the Sewer Fund because of the excess reserves in this Fund from the sale of the water works. This was a legal transaction. Now the tables have turned and the Sewer Fund needs the money. Going forward, the Principal and Interest from this Bond will be paid from the Capital Reserve Fund. To pay the \$600,000 for upgrades, we recommend increasing the sewer rates in 2008 and borrowing the balance of money due at an interest rate of 3-4%. Council Member Smith also asked Council to consider increasing the millage rate by ½ to 1 mill in 2008 and increase at the same rate for the next three years in order to build up the Capital Reserve Fund. By increasing the millage incrementally, we would not be hitting the taxpayers all at once. One mill equates to approximately \$198,000.

Council Member Smith asked that Council get back to the Manager with their comments. Council Member Smith would then like to meet with the Finance Committee to review Council's comments and ideas and present Council with the final product for approval.

Also included in the 2008 Budget is money for a new truck for Public Works. We are requesting that Council approve the purchase of this truck at this time because there is a 6-8 week lead-time for delivery and the truck is needed for snow plowing. It will be the only truck in our fleet that can fit under the No. Warren Avenue underpass. Funding will come out of the 2008 budget. Council unanimously approved the purchase of the truck at this time.

Council President Briggs stated that if we are going to talk about raising taxes, he wants to make sure we have lumped together all the big expenses we have so that when we do raise taxes, the increase will cover expenses and provide the necessary surplus in the Capital Reserve Fund. His concern is the rising interest rates and in 2-3 years we might be paying enormous interest rates.

The Manager will explore the interest rates for the truck and determine if we should pay it off at time of delivery or finance it for 3 or 5 years.

c. Malvern Fire Company – Council Member Smith reported that he has been trying to get together with the Malvern Fire Company to discuss implementation of changes that were identified in the Organizational Study that was completed. A copy of the Study was sent to the President of the Fire company in June. Follow-ups were made to the Fire Company looking for a response. Two meetings ago the Council decided to send a letter stating no fund payments would be made until we heard from the Fire Company. The President of the Fire Company contacted Council Member Smith when he was on vacation, and, immediately upon Council Member Smith's return, on October 4<sup>th</sup>, he contacted the President of the Fire Company, Jerry Vaughn. Jerry indicated that this group had a meeting two nights earlier and reported that they have instituted some changes, they will do some other things and won't do others and they will not change the By-laws. A letter was received and read to Council from the Fire Company attorney. Council Member Smith stated that the Fire Company has had over four months to give thoughtful consideration to the suggestions set forth in that Study. Council Member Smith stated that he will not correspond with the Fire Company's attorney and all correspondence will be with Jerry Vaughn. He also believes that sending a liaison to the Fire Company meetings, as suggested by their attorney, will serve no purpose. Council Member Smith asked that Council agree to allow him to send a letter stating that the Fire Company will receive no more money from the Borough until we hear from them.

Council Vice President VanSciver suggested that the letter be sent from the President of Council on behalf of the Council.

Council President Briggs stated that he does not object to that, but that our goal is to have a conversation. He stated that he believes the tone of the way we respond to them should be measured and firm and if the entire Council writes this, it is allowing room for a conversation. Council President Briggs stated that he agrees 100% with Council Member Smith's recommendations. The goal we want is to talk to them.

Both Council Members Raymond and Lynch agreed with Council Member Smith's recommendation.

Council Vice President VanSciver stated that if the letter is a statement saying we are cutting off all funding, he would want to see that letter before it is mailed. His thoughts are that they serve the residents of the Borough.

Council Member Crawford asked the implication of cutting off the funds. He believes that we have to push back but, at the same time down the road, the implication of cutting off all funding means more giving than the \$50,000 or the additional money.

Council President Briggs stated the Fire Company's budget is \$1.5M per year. What we give to them will not make or break them. The significant aspect is if we are saying to them we have seen major problems with your handling of money, it has occurred because of the structure and bad decisions that have been made and we don't want to pour money into a pot where it will get spent badly, it could affect their fundraising.

Council Member Crawford asked if they have an obligation to provide services if we cut off all funding? It was decided that they do, as it is state mandated.

Council President Briggs feels a phone call would be appropriate. We don't want to get nasty, but, because they are unresponsive, this is the way it is going. We should make a phone call. Council President Briggs feels it is important for them to have a sense that we respect them. They are very proud and very good at what they do. Council just needs to know that steps are being taken with their finances.

The Manager will contact Willistown Township to get their thoughts on this matter. It was felt that the more people we have in agreement the more clout we will have with the Fire Company.

d. Ordinance to Change Name of Emergency & Municipal Services Tax to Local Services Tax – The Manager reported that significant amendments would be required for our Ordinance and the attorney's did not have enough time to prepare an Ordinance. The Ordinance will be presented at the November 7<sup>th</sup> meeting.

e. Zoning Hearing Board Decision for Karol Scheibe, 51 Crest Avenue – Council concurred with the borough solicitor's comments regarding the Decision. A Land Development Plan would be required for this new structure.

Betsy Bury, Crest Avenue, questioned whether the Borough had any records indicating the size of non-conforming parcels in the Borough. Since they can be expanded 25%, she questioned how you would get something on record as to non-conforming uses. How does the Borough determine how large a grandfathered business is at this time.

Council Vice President VanSciver explained that there is a difference between businesses with minor uses and residences with businesses. He stated that if he were on the Zoning Heard Board, he would look at the facts on the ground. Information from parcel files would be supplied by the Zoning Officer. The non-conforming uses have to maintain the same use.

9. ADJOURNMENT:

All business having been discussed, a motion was made by Council Member Raymond, seconded by Council Member Lynch and unanimously carried by a vote of 6-0, to adjourn the meeting at 9:10 p.m.

Respectfully submitted,

Sandra L. Kelley  
Secretary/Manager