

PRESIDING: Henry H. Briggs, President

PLEDGE OF ALLEGIANCE TO THE FLAG

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

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. Joe Platt, Traffic Planning & Design – Council Member Raymond reported that at the last Public Safety Committee meeting, the members discussed ways to deal with speeding traffic on Monument Avenue. The Committee focused on keeping Monument Avenue and King Street safe and started looking at the idea of installing additional stop signs. This was discussed within the context of putting crosswalks at different locations. Motorists currently do not honor crosswalks. The Committee came up with the idea of installing stop signs at crosswalks so that the pedestrians can safely cross the street because the vehicles must stop at the stop signs. The Committee identified three possible locations for the stop signs and crosswalks:

- Monument & Powelton Avenues
- Monument & Prospect Avenues
- Monument & Malvern Avenues

- Joe Platt reported that PennDOT has guidelines that include 8-9 criteria for a stop sign. Some of the criteria include:

- a) volume warrants for side streets
 - b) number of crashes
 - c) the speed to reduce volume warrants – 85th percentile must be exceeding 10 mph over the posted speed limit. If vehicles are not traveling over 40 mph, we would be stuck with the higher criteria

- d) sight distance if only impracticable to fix it

Council President Briggs stated that the Borough has no state roads and asked what would happen if we did it anyway without meeting warrants.

Mr. Platt responded that Traffic Planning & Design would prepare a study and the Borough would be required to adopt an Ordinance for a stop intersection. He stated that if the borough ignores their studies, he does not know what would happen. The Borough cannot install a stop sign for speed control. Council President Briggs stated that it is his feeling that he will

never vote for a crosswalk without a stop sign because he feels that will increase the risk to pedestrians.

Council Member Smith stated that he still likes the No-Through Traffic signs during certain hours of the day.

Mr.. Platt stated that a traffic study is needed every time a municipality changes the control of the road. In order to install No-Thru Traffic signs, a study would be required.

Mr. Platt reported that traffic counts must be completed on a typical day and there must be 200 pedestrians that traverse the sidewalks over an eight-hour period.

Council Member Lynch reported that at the intersection of Monument & Malvern Avenues, there is seasonal traffic for the baseball fields. He asked if there were temporary signs for this situation.

Council Vice-President VanSciver asked what the criteria was for changing the direction of traffic.

Mr. Platt responded that we would have to do the same studies but would have different warrants. Chapter 212 of the Vehicle Code would list the warrants.

Following discussion, it was decided that, in early September, Traffic Planning & Design would look at the following areas:

1) One-way traffic option on Monument Avenue from 7:00-9:00am going westbound and 4:00-6:00pm going eastbound.

2) Stop signs at Monument & Powelton Avenues

3) Stop signs at Monument & Malvern Avenues

We would want to reduce the volume and make Monument Avenue a less attractive choice for cut-through traffic.

(Mayor McGlone left the meeting)

The cost to study each intersection was estimated at \$2500 per intersection. It was asked if we could get some volunteers for the data collection and Council Vice President VanSciver offered to find some volunteers.

b. Scott Oswald, Longford Avenue – expressed concern over the maintenance of the property adjacent to his property that is going through the subdivision process. He reported that the lawn has not been mowed for quite some time and the weeds are in excess of 12” and there are rodents on the property.

Council President Briggs responded that the process is that the Code Enforcement Officer can cite the property owner but that it is a long process before any results can be seen.

c. Ann Donovan Hall, 30 Rafaella Drive – questioned the status of the LaGrie Subdivision and whether the matter of the 22 foot cartway was resolved with the Fire Company.

3. 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 June 2007 as submitted.

COUNCIL RECESSED TO EXECUTIVE SESSION TO DISCUSS A LEGAL MATTER

4. OTHER BUSINESS:

a. Delinquent sewer customers – the Manager reported that there are currently eight delinquent sewer customers totaling \$10,092.25 in arrears and asked Council for permission to shut off water to the properties until the sewer accounts are brought current. Council directed the Manager to begin the shut off procedures.

b. Zoning Ordinance Amendment – comments have been received from the Planning Commission regarding the Zoning Ordinance Amendment. The Planning Commission did recommend that Outdoor Café's be approved through Conditional Use and not a Use by Right. The Manager reported that this would be consistent with the other C Districts. The Ordinance will be advertised for adoption on August 21, 2007.

c. Attendance at Council meeting by Congressman Joseph Sestak – Council was pleased that Congressman Sestak has offered to attend a Borough Council meeting and asked that the Manager invite him to attend in September, if that is convenient for the Congressman.

5. ADJOURNMENT:

A motion was made by Council Member Lynch, seconded by Council Member Crawford and unanimously carried by a vote of 6-0 to adjourn the meeting at 9:00 p.m.

Respectfully submitted,

Sandra L. Kelley
Secretary/Manager

EXECUTIVE SESSION JULY 19, 2007

1. Discussed letters from Robert Burns – Dan Daley reported that a storm pipe runs through 3 PA Avenue. Last fall, Sandy and Ira reported that there were sinkholes on the property. There is a storm pipe buried under the parking lot. Don't know what was causing the sinkholes so we had a video camera run through. We could get only 20 feet through the pipe. We assume the bulk of the pipe is gone. Hayes Aikens filled in the ditch and put in storm pipe. It appears the majority of the pipe is outside the public right-of-way. Portions of it may be within the right-of-way. The bulk of the pipe seems to be installed to make this developable. Feels the borough doesn't have a responsibility but if he pulls it out and gets rid of it, it will impact the water on Warren Avenue. Water will travel down along Warren Avenue and cause flooding and icy conditions.

Dave Edge reported that in 1973 there were erosion problems and there was no pipe at that time. It was only a ditch. The contractor put the pipe in when they put in the addition and parking lot. We have constant spring water feeding this.

Dan – if this is going to be replaced, I would recommend a plastic pipe. It is not our pipe, we didn't put it in and we shouldn't have to maintain it. We would then have to install a pipe along Warren Avenue.

Dave Edge – he would have to leave it a ditch. You cannot change the direction of the water towards anyone else's property.

Dan – it is a legal question to tell Council what this process is.

Jack Smith asked if we go ahead and fix this, what will the other residents in the Borough say?

Dave – that is a natural spring feed and we have no control over that. It is running. It is not a trickle.

Woody – was it approved by the borough?

Dan – it wasn't approved in any kind of development plan.

Dave – the building could not be built right now without a storm drain system.

We can force them to do it the right way. If he closes this off, he will cause a problem in someone else's property.

We need to ask Wendy or Sean to check into this. We will ask Wendy to attend the August 7th meeting to answer the following questions:

a) We think he can fill that in and create problems for the borough and if he does, how long will it take to get the Courts to have it fixed. What's the danger to the residents?

b) Do we have the ability to go in and fix it? Can we go and put the pipe in the street and go back and try to recoup this cost if the situation he created has posed a problem to the borough.

We should say to Burns that his first assertion is incorrect. It is not the Malvern Borough's pipe then we will know how to proceed.

The main water in this pipe is from a natural spring in the next lot up (4 PA Avenue).

2. Miller property, 206 W. King Street – Henry reported that this property was cleared of vegetation following the end of her appeal time. Last week she showed up and said she would clean up and she had a dumpster brought in. Henry's feeling was that it was too bad. We started a process to get rid of the stuff and we moved forward.

3. Burns property at E. King Street – water traveling down E. King Street and jumped his curb and goes into the parking lot.

No changes on King Street since he did this work. His responsibility to install curb and driveway. Water is jumping the curb.

Ira will look at it at the next large rain event.

Require driveway to come up and then go down into our parking lot. Any water that jumps this curb goes into his driveway.

The borough owns and maintains this curb. It is within our right-of-way. He built it in 1994 and it was not built properly.

Can say you built it badly in our right-of-way.

Dan – the water should stay in the gutter line. He moved the curb when he remodeled the buildings.

Wendy – E. King Street – No. Figure out how to do it. We didn't do anything to change the flow of water.

4. Premier Concrete – On June 27th, Premier Concrete wrote a letter saying they would pay for the equipment and the labor and are asking the borough to pay the cost of the material to overlay the road.

Dan said they spec'd out 1". There is currently 6" of asphalt road that was in good shape and they spec'd out 1" compacted overlay for the beauty of the road.

Premier's argument is that when you end up running a paving machine, you end up with less than 1" of material. We did not specify tons. We clearly said it must be 1".

His argument is that the specs were faulty. He thinks it should be milled out and put back 1 1/2" of blacktop.

Jack Smith – if we change the specs at this point, the bonding company will say you changed everything, so we're off the hook.

Dan – there are no signs of failure where there is 1" of material.

Short rain events happened when they were paving. This caused a problem with pushing because there was no bonding with the tack coat and blacktop.

We have notified the bonding company. We submitted all plans and specs and notices that we sent to Premier.

Premier has required additional funds from the borough – we say NO!

We will get some bore holes in the areas that we think look good to be sure there is 1" of paving. There are signs of distress in the roadway. He responded that he won't pay extra. It will be a legal issue here. This may drag out. Additional material for the road may cost \$30-\$35,000 and labor another \$30-\$35,000.

We are holding \$130,000 of their escrow and Dan think we could get the work done for that money.

If we wait for the bonding company, and they agree with our position, they will take care of the labor and material.

Henry – if we have money and haven't paid them, close out the contract and get someone else. He would not want to do that if we are still on the hook to pay them for their contract. We are not going to wait a long time. Put pressure on the bonding company.

Dan – have bonding company come out and look at the road.

Henry – get bonding company out the end of next week after the borings are completed.

Can we cancel the contract? Send out a copy of the relevant clause and bid specs to our attorney.

In terms of negotiating, can we pull the contract and do it on our own.