

MOUNT JOY BOROUGH COUNCIL
May 3, 2010 Minutes

The Mount Joy Borough Council held its regular meeting on May 3, 2010, at the Mount Joy Borough Office.

President Rebman called the meeting to order at 7:00pm, Mayor Ginder gave the invocation, and the Pledge of Allegiance followed.

Roll Call - Present were: President Rebman; Councilors Bower, Golicher, Hall, Hiestand, Metzler, Murray, and Shaffer. Also present were Interim Borough Manager, Scott Hershey, Chief O'Connell, Codes and Zoning Officer, Stacie Gibbs, and Mayor Ginder.

Report of the Mayor

A written report was provided.

Report of the Chief of Police

Chief O'Connell highlighted the monthly report for March 2010. The report shows there were 34 traffic arrests and 37 criminal arrests for the month. There were 201 calls answered for the month, and a total of 577 calls answered for the year. Monies collected by the Police Department for the month of March for tickets, permits, reports, and services totaled \$6,308.12.

Report of Fire Department Mount Joy

A written report was provided.

Mayor Ginder stated there were many nice compliments about the compost site and that using the signs was a great idea and seemed to bring a lot of residents in. There was also a lot of good feedback from the residents about the mulch.

Ginder reported that a Mount Joy man, Chris Heisey is starting his first Major League baseball game tonight, playing for the Cincinnati Reds.

The Report of Main Street Mount Joy (MSMJ)

Main Street manager, Stacy Rutherford reported that Main Street Mount Joy was able to work with a Planning Grant under the DCED program in the amount of \$25,000. to further the downtown planning process with two goals in mind. One is to study the organizational sustainability and the other is a marketing plan.

Rutherford reported that they received a \$60,000.00 grant that they had applied for through DCED, and will be matching it with funds Main Street Mount Joy had set aside for a total of \$120,000.00. The plan is to use it in \$30,000.00 increments each year over the next four years.

Rutherford reported that the golf outing is May 7, 2010 will not be held at Groff's, but will be at Four Season's in Landisville.

Rutherford reported the Mount Joy Farmer's Market began last Saturday and was a wonderful day for it. The market will be open every Saturday through the middle of October from 8am-12pm in the parking lot of the Union National Community Bank.

Rutherford reported that the new design is up for their website and encouraged people to visit it at msmj.org.

Report of Planning and Zoning Director

Gibbs reviewed the monthly written report for April 2010.

Report of the Special Projects Manager

A written report was provided.

Kauffman reported on the pre-emption devices for the LED signalization. The bids, although opened in April, have not yet been awarded. They came in approximately 32% under estimate. The funding is there and notice was received today that the Notice to Proceed should be issued on or about June 15, so hopefully the LED and pre-emptions will be in mid to late summer.

Report of the Borough Manager

Hershey reviewed the monthly written report for April 2010.

Public Input Period

Rebman announced there will be two public input periods. The regular one now, and the one dealing with Resolution #06-10 regarding amplified music being heard off premises being heard before those items.

Bob DeHoff, 15-25 Marietta Ave., spoke concerning his sidewalk. He said he repaired the bad sidewalk and now he was told he has to replace it again. He said the expansion joint is the only thing missing and if he does that it should be in compliance with the Borough Ordinance. Hershey stated the Ordinance says that Monolithic pours are not permitted and that the sidewalk must be at least 4" thick. Hershey asked Borough Inspector, Ken Barto how thick the sidewalk was. Barto replied the areas he saw ranged from two to three inches thick. Hershey said Ken Barto gave an option to saw cut and put an expansion in, but there is no guarantee that will work. It would depend on how it is poured and we wouldn't know that until the contractor would get in there. DeHoff said that Barto came back and said it wouldn't meet the five year life. He said the Ordinance was changed in June of 2009, and at that time his sidewalk met the five year requirement, but now the Ordinance added that the sidewalk needs to meet the Borough specifications. He said as he reads

the Borough specifications, an expansion joint would make the sidewalk compliant. Hershey said that it is still a Monolithic pour. DeHoff said that if he cuts the joint, it is not a Monolithic pour. Rebman asked if all the sidewalks have always been done the right way. Hershey said the option to saw cut and replace the curb has been offered in the past. Rebman stated that DeHoff is requesting to saw cut and not replace the curb. DeHoff said his curb is in great shape. Hershey stated his concern is if the curb fails and is not separated from the sidewalk, then you are tearing up the street. Rebman asked how DeHoff will guarantee that it will seal so water does not get in. DeHoff said he had two different, reputable concrete companies say they can do it and that it will last 10-15 years. Hershey said if its saw cut the whole way through, they've achieved what we are looking for as far as separation of curb and sidewalk. Rebman asked Council what they want to do.

On a **MOTION** by Hall and a second by Metzler, approval was given to allow Mr. DeHoff to attempt to saw cut and install expansion joints and when the contractor has made the cut, someone from Public Works go and probe to assure to their satisfaction that it is separated. Roll call vote. All yes's. *Motion carries unanimously.*

Bob DeHoff Sr., from The Orchards, asked if any consideration would be given to having one side parking only on New Haven St. , from Donegal Springs Rd. over to Marietta Ave. Rebman said that could go to Public Safety Committee, Monday, May 24, 2010, at 6pm.

Don Farr, 425 Columbia Ave., spoke opposing the Ruhl estate sub-division. He said he and his neighbors have concerns. He states that a section of the Alley was vacated by the Borough in 1979. He said that he believes the portion in discussion is the section in the Alley that was vacated. He said it is the only portion that has no garages. He said the Borough did not maintain that portion and there is no way the Borough could have plowed that without pushing the snow into the sides of the greenhouse, and he has never had piles of snow in his yard. Hershey said he respectfully disagrees because he has plowed that Alley and so has Ken Barto.

Hershey said the Ordinance from 1979 does not specify which section of the Alley was vacated and that the Borough has always maintained this segment of South Alley, which would make it a public Alley. Farr said he would like to propose the vote be tabled and a meeting be held with adjoining neighbors. Hiestand stated that they are not voting on anything relating to the sub-division. Rebman said the agenda is for waivers only.

Gibbs said these are sketch plan waivers and that the land development and sub-division plans have not been submitted. The applicant will make their decision to move forward based on Council's decision on the waivers. It would first go to Planning Commission if the applicant decides to move forward.

Ned Sterling, 13 W. Main St., stated he would urge Council to not vote for the waivers of street and cartway width improvements, curb improvement, and sidewalk improvement on South Alley for the Ruhl estate.

Approval of the Minutes of the Previous Meeting

On a **MOTION** by Bower, and a second by Hiestand, the minutes from the regular meeting on April 5, 2010, and the minutes from the Special Borough Council meeting on April 13, 2010 were approved. *Motion carries unanimously.*

Administration and Finance Committee

On a **MOTION** by Hiestand, and a second by Golicher, approval was given to appoint William Barnum Wahl To the position of Borough Manager effective May 4, 2010, per terms of the Manager's agreement. *Motion carries unanimously.*

On a **MOTION** by Hiestand, and a second by Golicher, approval was given to adopt Resolution 05-10 appointing individuals to positions. *Motion carries unanimously.*

A presentation was given by Steve Flaherty concerning the Mount Joy Borough Authority Guaranteed Sewer Revenue Bonds, Series of 2010. He stated that they are taking current loans and refinancing. It is not new money. All bonds have a guarantee through the Borough Council, so they would just have to guarantee the debt again. The Authority would like to move forward so they need to know if Council is willing. It is a once in a lifetime chance to get the debt lower or lower interest rate. Hiestand stated that it is no harm to the Borough and said it is fine.

On a **MOTION** by Hiestand, and a second by Golicher, approval was given to authorize the Borough Solicitor to prepare an amendment to the text of the Mount Joy Borough Zoning Ordinance, Section 402.A.25.m(2).a), Mobile/Manufactured Home Park.

Gene Oldham, from DCGohn Assoc. said this will allow the solicitor to draft an Ordinance so it can go to Planning Commission and be reviewed and recommendations given. He said the current homes are 14 feet long and they do not make them that size anymore. Hall stated that this park is kept nice, but others are not, and this would apply to all. He said 15 feet from one home to the other is not much space and could be a fire hazard. He said to start the language for the Ordinance and go from there. Golicher said possibly a minimum set back will also be required when drafting the Ordinance. *Motion carries unanimously.*

On a **MOTION** by Hiestand, and a second by Bower, approval was given for a request from the Charles Ruhl Estate for sketch plan waiver of improvement requirements per Sections 404.4.A, 502.1.A and 502.1.B of the Mount Joy Borough Subdivision and Land Development Ordinance for ***Pinkerton Road***, subject to the Borough Engineer, Borough Solicitor and staff comments. *Motion carries unanimously.*

On a **MOTION** by Hiestand, and a second by Golicher, approval was given to **deny** a request from the Charles Ruhl Estate for sketch plan waiver of ***minimum street and cartway width improvement*** requirements per Section 404.4.A, of the Mount Joy Borough Subdivision and Land Development Ordinance for ***South Alley***, subject to the Borough Engineer, Borough Solicitor and staff comments. *Motion carries unanimously.*

On a **MOTION** by Hiestand, and a second by Golicher, approval was given to **deny** a request from the Charles Ruhl Estate for sketch plan waiver of **curb improvement** requirements per Section 502.1.A of the Mount Joy Borough Subdivision and Land Development Ordinance for **South Alley** subject to the Borough Engineer, Borough Solicitor and staff comments. *Motion carries unanimously.*

On a **MOTION** by Hiestand, and a second by Golicher, approval was given to **deny** a request from the Charles Ruhl Estate for the sketch plan waiver of **sidewalk improvement** requirements per Section 502.1.B of the Mount Joy Borough Subdivision and Land Development Ordinance for **South Alley** subject to the Borough Engineer, Borough Solicitor and staff comments. *Motion carries unanimously.*

On a **MOTION** by Hiestand, and a second by Bower, approval was given for a request by Mount Joy Country Homes/Messiah Family Services for an extension of time to record the Phase I Final Land Development Plan to July 12, 2010. *Motion carries unanimously.*

On a **MOTION** by Hiestand, and a second by Bower, approval was given to authorize signatures on Department of Community and Economic Development (DCED) Grant documents for the Main Street Mount Joy Exit Grant. Grant amount is \$60,000.00. *Motion carries unanimously.*

On a **MOTION** by Hiestand, and a second by Bower, approval was given to add, if necessary, the Mount Joy Memorial Parade Committee to the Borough's insurance policy for the 2010 Memorial Day Parade. Any costs for the additional insurance will be covered by the Parade Committee. *Motion carries unanimously.*

Report of the Public Works Committee

Ken Barto reviewed the monthly written report for April 2010.

On a MOTION by Shaffer, and a second by Golicher, approval was given to grant a request by the Lancaster Family YMCA to use the Grandview Park for a "Spring Fling" Community Event on Saturday, May 22, 2010. *Motion carries unanimously.*

MS4 Stormwater presentation given by Scott Hershey.

Report of the Public Safety Committee

Rebman announced Public Input period for Resolution #06-10 regarding amplified music being heard off premises.

Sam Allen from Bube's Brewery spoke, saying establishments in the area that have noise, even as little as a jukebox being heard when the door is opened, give every effort and even spend money to keep the noise contained and at a respectable level for the surrounding residents.

Ned Sterling, 13 W. Main St., asked if there will be a Liquor Control Board meeting. Hall said if we move forward with both the motions tonight they will set a hearing date and meet here, at the Borough sometime in the future. Sterling said he attended the Public Safety Meeting and that Mayor Ginder indicated that if we are going to support this Resolution we revisit the existing Noise Ordinance and make revisions. Rebman said we would need a motion to give it to the solicitor to renew the existing Noise Ordinance. He said he agrees and we are working on that. He feels it is time to take it out of the District Justice's hands of whether he fines from 50. to 600. and have steps in the fine system instead.

Rick Gible, Market St., stated that he also likes the idea of revising the Noise Ordinance. He said at least with LCB it is written out like a progressive type of punishment. Also the way LCB does it is, if someone complains, the agent comes out and says that the noise is loud and he is the one that goes and testifies. In this Ordinance here, the witness would go and testify. He does not understand why they want to change the law. He saw a couple of establishments that had 39 violations since 2000, never loose their license, stay in business, and just keep getting fines. Shaffer stated that it is the Liquor Control Board that would have to step in there.

Anthony Austin, 32 Old Market St., spoke concerning the petition to the Liquor Control Board for exemption. He said according to the filing process set forth by the LCB, part of that process states that we are confirming that our municipality supports the substitution of our current Noise Ordinance for the Liquor Control Board's regulation regarding amplified sound. He said our Noise Ordinance states that "sound amplification devices should not cause a noise disturbance across a property line between the hours of 10pm and 7am", and a noise disturbance is considered, "any sound which annoys or disturbs a reasonable person with normal sensitivities". This could mean many different things to many different people and needs to be more specific. Also, he feels the first fine should be \$50., but the second should be \$600. to deter owners from taking advantage of our Ordinance. Therefore, he requests this item be tabled or denied until the Public Safety Committee re-visit our current Noise Ordinance.

Owner of Beanies stated, for herself, and she believes other restaurant owners, that it is not their intent to be a nuisance or dis-obey the law. They are all merely trying to make a living.

Toby Myers, partner with Pub Donegul, 112 E. Main St., said that while they are asking to put the decision and responsibility back to the municipalities, the current Noise Ordinance needs to be reviewed as well. There needs to be proper enforcement if the LCB exemption is granted.

Tyler Edmonds, owner of Watering Trough, 905 W. Main St., said he is here in support of the restaurants.

Stacy Rutherford, Main Street Mount Joy, stated that she received a letter from the Board of Directors from Main Street Mount Joy in support of the restaurants. She said the assets in town, such as the restaurants, benefit Mount Joy's downtown destination plan and the community as well.

Leo Shank, 163 Manheim St., said that he is not trying to shut down the restaurants, but the loudness and the time period that it goes on needs to be controlled.

Rebman stated both items 10A and 10B will be tabled to work on the current Noise Ordinance.

On a **MOTION** by Hall, and a second by Metzler, approval was given to refer the Noise Ordinance to the Public Safety Committee for revisions that come in line with the intention of Council toward Resolution #06-10 and exemption from the PA Liquor Code. *Motion carries unanimously.*

Rebman stated that this will be discussed at the Public Safety Meeting on May 24, 2010.

On a **MOTION** by Hall, and a second by Bower, approval was given for a request from the St. Mark's Church to place a banner in the area of the Country Table Restaurant on East Main Street, from May 13, 2010 through June 2, 2010. *Motion carries unanimously.*

On a **MOTION** by Hall, and a second by Metzler, approval was given for a Handicapped parking space at 644 Wood Street. *Motion carries unanimously.*

On a **MOTION** by Hall, and a second by Metzler, approval was given for a Handicapped parking space at 128 North Barbara Street. *Motion carries unanimously.*

Any Other Matter Proper to Come Before the Council

Bower asked if we could have an update on the homes at the Lakes. Gibbs spoke, saying the houses as they are, the builders have vested rights. The plans were stamped from Commonwealth Code, they were reviewed and approved under the building code, and the permits were issued. However, there will be no more homes of that nature built unless they meet the code requirement. Under the advisement of the Borough Solicitor, as they exist right now, they will remain there. There will be no zoning Hearing Board Meeting. If they bring another plan to the Borough it has to be reviewed under 'twin dwelling', which is our definition, and not the definition of semi-detached. Hall asked if Commonwealth Code made an error. Gibbs said she thinks it comes from a number of people and that no one faulted intentionally. Gibbs said that she does not make decisions on her own. Everyone works together and refers to each other. Bower asked what we do to prevent this from happening again. Hershey said it will not happen again. There will be no more permits issued for that type of dwelling.

Authorization to Pay Bill

On a MOTION by Hiestand, and a second by Golicher, it was approved to pay the bills as presented:

GENERAL FUND	\$	211,876.22
REFUSE/RECYCLING	\$	43,894.02
EMA	\$	-
CAPITAL IMPROVEMENTS FUND	\$	6,458.00
HIGHWAY AID FUND	\$	4,935.75
TAX ACCOUNT	\$	203,417.41
COMMUNITY PLAYGROUND	\$	-
ESCROW FUND	\$	3,503.88
GRAND TOTAL EXPENDITURES	\$	474,085.28

Motion carries unanimously.

Golicher asked if we are on track with the budget. Hershey said yes, and reviewed the expense sheet handout given to Council. Metzler asked if the income is on track. Hershey said that Angie monitors that, and he would have to check with her.

Meetings and dates of importance: See the blue colored calendar for the month of May.

Executive Session for personnel matters

No decisions made.

Adjournment

Meeting was adjourned at 9:40pm.

Respectfully Submitted,

Scott Hershey
Interim Borough Manager

