

November 12, 2013
MILLERSVILLE BOROUGH COUNCIL MEETING MINUTES

The MILLERSVILLE BOROUGH COUNCIL MEETING was held on Tuesday, November 12, 2013 in the Millersville Borough Public Meeting Room located at 100 Municipal Drive, Millersville, Pennsylvania.

The meeting was called to order at 7:00 PM by Council President, Michael C. Kirkham followed by the pledge to the flag. A moment of silence was then observed.

COUNCIL MEMBERS

Michael C. Kirkham	Richard M. Moriarty, Mayor
Philip A. Lastowski	Thomas R. Keller
Linda J. Deal	Lynn M. Miller (via conference phone)
J. Philip Gerber (absent)	James A. Stager

OTHERS PRESENT

Edward J. Arnold, Millersville Borough Manager
Sgt. Jeffrey Margevich, Millersville Borough Police
Jessie L. Ebersole, Millersville Borough Staff
Leslie McMullen, Millersville Borough Sewer Dept. Superintendent
Edward R. Saylor, Planning Commission
James A. Kirk Jr., Zoning Hearing Board
Josele Cleary, Borough Solicitor, Morgan, Hallgren, Crosswell & Kane, P.C.
Andrew DiProspero, H.A. Thomson Co.
Steven A. DiGuseppe, Millersville University
Elaine J. Jones, Lancaster Intelligencer Journal / New Era
David Aichele, 127 Landis Ave., Millersville
Mike and Lindsey Gerner, 36 W. Charlotte St., Millersville
Ray Gerner
Claire Hammond, 26 W. Charlotte St., Millersville
William Feller, 50 W. Charlotte St., Millersville
Mike Miklos, 67 W. Charlotte St., Millersville
Don Risser, 83 W. Charlotte St., Millersville
Scott Bailey, 61 W. Frederick St., Millersville
Marna Kirkham, 505 Thorngate Pl., Millersville
Sylvia Howells, 520 Thorngate Pl., Millersville
Frank Bachman, 658 Letort Rd., Millersville
Eileen Grumbine, 325 E. Main Street,
Kirk Schlotzhauer, 402 Manor Ave., Millersville
Greg Boll, 105 Dunharrow Dr.,
Ryan Greiner, 1609 English Brook Dr.
Douglas Warner, 109 Norlawn Circle, Lancaster
Carol A. Diller, 103 Bender Mill Rd., Lancaster
Tracy Bemederfer, 3620 Horizon Dr., Lancaster
Stephen R. Albright, 6 Breezy Knoll Rd., Willow Street
Jen Kroesen, 19 Quarry Dr.

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OTHERS PRESENT (continued)

Lamar Benner, 310 Historic Dr., Strasburg
Larry Newcomer
Joshua Hamilton
Pam Seaburg
Rev. Curtis Seaburg
John Carpenter
Josh Getz
Kathy Huber
Emily Huber
Mary Quinn
Jen Gilbert
Cooper Montgomery
Joe Torck
Ashleigh Mast
Kent Mast
Jeremy Gentile & Family
William Potts
Rick Funk
Allen Wixon
Larry Burrows

MINUTES

None

CITIZEN'S REQUESTS OR CONCERNS

Lindsey Gerner of 36 West Charlotte Street addressed Council with photos of the sewer and water backup into their home and the damages that were caused to their basement. (The event happened at approximately 2 a.m. on October 30th from a water main break which caused erosion and the collapse of the borough's sewer line. The pressurized water was forced back through the sewer line into multiple homes on West Charlotte Street.) Mrs. Gerner explained the details of the events that morning, including the cleanup and removal of damaged items. She further stated her thoughts and concerns were with her elderly neighbors who were also dealing with the same situation.

Douglas Warner, representing his father Frank Warner, explained that his father called early in the morning to ask for his help with sewage water in his basement. When he arrived he noted there was a pump and hose hooked-up to remove approximately three inches from his father's finished basement. A restoration company was called-in to clean up their home. The elderly couple spent most of their time in the lower level as it has a kitchen, living room, bathroom, and laundry room. In his case it wasn't just the mess, he had to help his mother who has dementia and got very emotionally worked up over the situation. An ambulance was called to take her to the hospital. He stated how thankful he was for his other family members who came to assist. He proclaimed, "Everything is a disaster" and he is hoping to get some help to put everything back. He further stated that his father has lived in Millersville for 91 years and has been a big supporter of the community and local businesses.

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Mr. Gerner explained his sequence of actions on that early morning, the removal of doors and lips to allow the sewage water to escape from his home. They (he and his wife) used a broom and shovel for an hour and forty minutes while the sewage water flowed. He called his insurance company and they informed him that it was not covered. His wife contacted the Borough and was informed to write a letter to initiate a claim with the borough's insurance company. He went on to state that he has received multiple emails and messages from many supporters relative to this incident, all believing that the borough should pay for the damages. He understands that it is the City of Lancaster's water line that caused the sewer break that caused the backup of sewage water into his home. He stated this is where he lives and he is looking for the Borough for help and reimbursement.

Kirk Schlotzhauer from 402 Manor Avenue came to support the families of West Charlotte Street. He is very proud of how the community has pulled together. He quoted, "we are more than just a tag line; we are a community of neighbors". He further stated his pride in the leadership of this community and with Council and quote "appreciates that you will do the right thing for these families by your decision".

Mr. Scott Bailey, 61 West Frederick Street believes moving forward there needs to be some form of discussion and investigation into the manner in which it was handled. He further stated this was not a water fall but much rather a toxic spill and should have been handled as such.

Tom Weber from 66 Manor Avenue, mentioned that he had a similar situation happen to his family with his home in Lancaster and that the City paid most of his costs. He would like the Borough to do the same and he asked that they just be treated fairly.

Larry Burrows, 44 West Charlotte Street did not have sewer water enter his home but believes "it is the right thing to do, to help these people out, even if you have to go back to the City of Lancaster for reimbursement".

President Kirkham asked Leslie McMullen, Sewer Department Supervisor to explain the events of the evening. He detailed his procedures in trying to clear the lines with the borough's jet truck. With no success, he then proceeded to hook up a pump to bypass the affected line from manhole to manhole. The police department and the fire company were on site and it was determined that the City of Lancaster had a water main break. The City of Lancaster called in Horst Construction to excavate the road and start repairs.

President Kirkham then asked our Solicitor to explain Borough Code. Josele Cleary from Morgan, Hallgren, Crosswell & Kane stated there are many statutes that the borough must follow, one of those statutes explains when a borough is liable for damages. In this case what the borough's investigation has determined is that the borough's line, an intact functioning line, was broken because the water main broke. That caused a sinkhole that in turn caused the sewer line to fail. She continued to explain, there was nothing the borough did or could have done because the fault was the break in the water line that caused the sewer line to collapse. Therefore, the borough has no insurance coverage because insurance pays only when the borough is responsible. Ms. Cleary continued to clarify that there is another provision in the borough code that in essence says the borough can only pay money that the borough is obligated to pay. Any money that the borough pays that they are not obligated to pay, the taxpayers can claim that their money that they paid in taxes is being misspent and can seek to recover those funds from the members of Borough Council. Since the borough is not responsible for the damages caused by the water main break, the borough can't pay.

President Kirkham asked our insurance representative, Andrew DiProspero to make any additional comments. Mr. DiProspero stated we have an insurance policy for the borough that pays what the borough is legally responsible to pay and despite the awful situation, he cannot change the facts.

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Citizens continued to voice their concerns and comments. A few questions were directed to Ms. Cleary pertaining to the ownership of the water line. The facts were presented that the borough has not owned the water system in a long time and that it is the City's responsibility to maintain the water line. Mrs. Gerner questioned if the sewer line had been televised recently to know for fact that the sewer line had not been compromised. Mr. McMullen replied that the borough does not own televising equipment and only televises those lines that are known to have issues. He further clarified that what he does know, is the eighteen feet of line that collapsed was due to the water main break and that in the twenty-five years he has worked for wastewater department, not one resident on West Charlotte Street has had any problems with their sewer line.

Mayor Moriarty stated these are our neighbors who are in a time of need and asked what we can do to help them. He realizes that the borough cannot pay for this directly and asks that we continue researching this and find a way to help.

Tracy Bemesderfer, granddaughter of Jiggs Warner, voiced her dismay that Council is not making the decision to pay for the damages tonight and asked if Council knew the law, why they wasted their time sending an insurance adjuster to their home. Based on the conversation of the audience, Mr. Keller asked Ms. Cleary to clarify the fact that Council is not invoking immunity. Ms. Cleary stated this is not governmental immunity. This is straight forward; the damages were not caused by any action of the borough. The borough had a line that was functioning with no problems until the water main broke. The water main's pressure caused erosion and with no support under the sewer line, the sewer line collapsed. Mr. Keller further clarified that if Council chooses to pay money for something the borough is not responsible then they can be personally responsible for reimbursing the borough. Mrs. Gerner emotionally stated her disappointment in the communication from the borough and that in their time of need questioned, "Where were the Council members I know?" Mrs. Gerner has been part of the Borough's Boards and Commissions for nine years. President Kirkham reiterated that Council does care and will meet with the Borough Manager to discuss improvements to communications during emergency situations. The next step is to submit claims to the City of Lancaster and President Kirkham offered to hand deliver the information to Mayor Gray. President Kirkham further stated, "at this point Council's hands are tied but will do what we can and will keep trying to find a way to help".

REPORTS OF COMMITTEES OR BOARDS

None

MAYOR'S REPORT

None

MILLERSVILLE UNIVERSITY REPORT

Mr. DiGuiseppe kept his report short by only reporting on the Special MU Alert tests that are scheduled for today and Wednesday, November 13th. These tests will be on the outdoor mass notification (siren) system. He informed Council that multiple announcements may be made each day as the contractor works on the system.

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PENN MANOR SCHOOL REPORT

None

FINANCE COMMITTEE

None

WASTE WATER COMMITTEE REPORT

None

PLANNING AND BETTERMENT COMMITTEE

None

STREET COMMITTEE

Mr. Stager made a motion to enter into a contract for snow removal with R&H Excavating as needed for the period of November, 2013 through November, 2014 at \$95 per hour. Mrs. Deal seconded the motion. With no discussion the motion passed by a unanimous voice vote.

SAFETY COMMITTEE REPORT

None

PERSONNEL COMMITTEE

Mrs. Deal announced that the Civil Service Commission has completed their responsibility in the hiring process for the two police officer positions and has posted the certified list of candidates. The list contains four names. Mrs. Deal made a motion to accept the police eligibility list from the Civil Service Commission. Mr. Stager seconded the motion. With no discussion the motion passed by a unanimous voice vote.

Mrs. Deal made a motion to make a conditional offer of employment to Robert Bechtel as a police officer effective December 16, 2013 with the provisions that he must successfully pass the medical examination including a drug test, psychological evaluation and the polygraph test and as per the police contract his first year of employment will be a twelve month probationary period. Mr. Keller seconded the motion. Mr. Arnold asked for the record to state that he was the highest scoring on the list. Mrs. Deal concurred. President Kirkham inquired on the status of the grant application intended for the hire of a new officer. Mayor Moriarty stated there is a list of departments that have been approved for the grant and that we are not on the list so far. Sergeant Margevich stated per his conversation with Chief Rochat, we have not received an official notification yet. With no further discussions the motion passed by a unanimous voice vote.

Mrs. Deal made a motion to make a conditional offer of employment to Jason Turner, the second candidate on the list, as a police officer effective January 6, 2014 with provisions that he must successfully pass the medical examination including a drug test, psychological evaluation and the polygraph test and as per the police contract his first year of employment will be a twelve month probationary period. Mr. Stager seconded the motion. With no discussion the motion passed by a unanimous voice vote.

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PRESIDENT'S REPORT

President Kirkham stated that Council will continue to search for a way to help the people involved in the sewer/water backup. He also wants to design a plan of action for the future that will state the notification to all of Council, Managers and all else affected. He would also like to see a notice put on the backside of the sewer/trash bills for residents to consider purchasing insurance coverage for sewer backup into their homes.

BOROUGH MANAGER'S REPORT

None

EXECUTIVE SESSION

None

ADJOURNMENT

Mr. Lastowski made a motion seconded by Mr. Stager, to adjourn the meeting at 8:55 PM. The motion passed with a unanimous voice vote.

Respectfully submitted,



Edward J. Arnold
Borough Secretary

EJA/jle