

**Stewartstown Borough Council
Meeting Minutes
Monday, May 3rd, 2021**

Members present

Polly Kreiss
Brittany Barnette
Donna Bloom
Pam Almony
Roy Burkins
Bill Gemmill
Gordon Wisnom, Sr.

Others present

Mayor Kenton Kurtz
Craig Sharnetzka, Solicitor
Jason Brenneman, Engineer
Ira Walker, Jr. Sewer/Water
Stacy Myers, Recording Sec'y

Visitors

Linda Miller	Barbara Ziegler	Jason Roberts	Sarah Dotzel
Ken Anderson	David Elwell	Dana Thompson	Kim Carl
Tom & Marci Stifler	Cheri Booth		

1. The meeting was called to order @ 7:00p.m. followed by the pledge to the flag.

2. **Public Comment/Visitors**

- Taras Vizzi, from 24 S. Main Street was present to address the issue of sidewalks in town that are in disrepair. He had forwarded pictures of some of those sidewalks to Borough Office staff as well as Attorney Sharnetzka. He understands the Borough has a Sidewalk Ordinance which holds the property owner responsible for maintenance & repair of their sidewalk. For the properties where the owner does not adhere to the Ordinance, Mr. Vizzi suggested the Borough make the repair then bill the property owner. If the owner does not pay the bill, Mr. Vizzi suggested a lien be placed on the property for the involved costs.

Atty. Sharnetzka said although that could be the process for the Borough to follow, enforcement of the Sidewalk Ordinance is a problem. If the Borough sends a violation to one property, then all properties with sidewalk disrepair would need to be notified and that puts a strain on Borough staff. Expense is another issue, being that the Borough would have to front all repair costs, then file the lien and it could be years until the Borough would be reimbursed. Mr. Vizzi suggested researching grant money for sidewalk repair. He mentioned a "Restore" program or County Land Bank that may have funds available. CDBG (Community Development Block Grant) offers grant monies, but they're income-driven and Jason Brenneman stated, from prior research, he knows Stewartstown Borough doesn't qualify as a low-to-moderate income area. And when applying for such grants, residents aren't willing to disclose their income, as discovered two years ago when researching for grant funds for East Pennsylvania Avenue sidewalk repair/installation.

Council is well aware of the disrepair of some Borough sidewalks and, Mr. Sharnetzka stated, the issue has come up 4-5 times since he's been Borough Solicitor (2005). Mayor Kurtz reported there was an evaluation done on sidewalks back in the 1990's and one problem was, where do you draw the line to say one homeowner needs to replace a sidewalk and another does not? And although that is one of the biggest issues in Mayor Kurtz' opinion, he agrees with Mr. Vizzi that certain areas pose a safety concern to the public.

Council said, unfortunately, enforcement of the Sidewalk Ordinance would put residents in a bad financial situation, as many simply don't have the means to repair/replace their sidewalk and the Borough can't discriminate against who will be & who won't be required to do so. Once the Borough undertakes the job to fix Borough sidewalks (where identified as a safety issue), they would need to do all of them. Atty. Sharnetzka's guess is that most areas of sidewalk disrepair in the Borough is not due to the property owner not caring, but for financial reasons. The Ordinance states the homeowner is responsible, but once the Borough

identifies certain sidewalks as a safety concern, they (Borough) would then assume the responsibility rather than the homeowner.

Mr. Vizzi said the Borough could obtain someone with technical expertise to find which sidewalks need or do not need repair, but he stated, in his opinion, the Borough is one slip away from being held liable for the current sidewalk situation in town.

Council thanked Mr. Vizzi for his concern and stated if he sees a sidewalk or area that he's particularly concerned about, he is welcome to bring it to staff's attention.

- Tom Stifler was present with a driveway concern. Mr. Stifler purchased 20 Trout Lane (previously Bob Herzberger's home) in August 2020 and stated the original farm of 110 acres was subdivided. As you enter Mr. Stifler's gravel driveway, his home sits on 14 acres (all Borough property) and egresses to 90 acres (all Township property) behind it. That 90 acres was recently sold (when Mayor Herzberger was owner) to an Amish gentleman who wants to build a home on it. Both Mr. Stifler & this gentleman use the same gravel driveway, which is approx. 800' long.

Mr. Stifler's driveway has become a 50' right-of-way, the first 300' belongs to a neighbor at the beginning of the driveway & the next 170' are Mr. Stifler's and then another 50' ROW of 300' for egress to the Amish homeowner behind Stifler's. That 170' of Stifler property affront two tree-covered lots that he doesn't plan to build on.

Hopewell Township recently denied the Amish gentleman a building permit until his portion of the driveway is upgraded to a full-size road with curbing, storm drains, paving, etc. Mr. Stifler & the Amish neighbor behind him would like to keep it as a gravel driveway. The rights-of-way are all in the Borough, but the Amish property is in the Township. The Township did allow the Amish neighbor to build a barn, but denied the house; however, they said nothing concerning the shared driveway.

Atty. Sharnetzka stated in 2016-2017, Hopewell Township required Bob Herzberger to create an Easement Agreement to get that back lot (now Amish property) approved to gain access. He said Paragraph 2, states "Initial Construction—the shared driveway has not been improved to standards required by Hopewell Township.....to provide adequate street frontage & access to Lot 2 per the Township Ordinance & Subdivision & Land Development Ordinance. The owner of Lot 2 shall have the right to construct improvements required by the Ordinances for development of Lot 2". (this refers to Township Ordinances). Per the Township's Zoning Officer, Keith Hunnings, the Township can't impose their restrictions on Borough property. Jason found another subdivision plan which subdivided the 4 lots at the corner of Trout Lane. The plan shows the beginning of Trout Lane (Borough property) being dedicated with curb & sidewalk and sewer & water; however, no bonding was ever put into place for those improvements. Two of the lots are now built on, but the other two are vacant. Craig had previously discussed the Trout Lane dedication with Bob Herzberger, but the Borough didn't want to take on that project and was agreeable to keep it a gravel drive. Mr. Herzberger then obtained rights-of-way from the two property owners closer to Ecker Avenue to keep that portion of Trout Lane a private street.

Since Mr. Stifler & his Amish neighbor wish to keep the gravel driveway as is, Jason said Hopewell Township would need a letter stating Borough Council is amenable to keep that area as is & allow the gravel driveway to remain. If the Township wants to improve the portion in the Township, they can do so.

Mr. Burkins made a motion authorizing Borough staff to send a letter to the Township stating they agree to keep things as is with the shared driveway providing those two lots don't get built up; Mr. Gemmill seconded. All were in favor; motion carried.

3. **Adjourn Meeting**—Mr. Gemmill made a motion to adjourn the meeting @ 7:37p.m; Ms. Kreiss seconded. All were in favor; motion carried.
4. **Public Hearing** opened at 7:38p.m. The hearing is to discuss Rutter's request to transfer a liquor license from Springettsbury Township to Rutter's Store #42 (N. Main/Charles Ave). The

stenographer swore in Sarah Dotzel, Associate General Counsel for Rutter's, and Rutter's District Supervisor Cheri Booth. Tonight's Public Hearing will be on record in its entirety.

Ms. Dotzel & Ms. Booth were prepared to explain safety measures & answer questions surrounding the sale of beer & wine at Rutter's stores. Rutter's already operates 39 stores in Pennsylvania that sell beer & wine, one of which is Store #45 on Pennsylvania Avenue, Stewartstown. Ms. Booth oversees 13 Rutter's stores in Southern York County and stated she, as well as 50% of Rutter's employees have received RAMP training. This stands for Responsible Alcohol Management Program and it is Rutter's goal for 100% of their employees to receive the training, especially in the stores where beer & wine is sold. This enables employees to spot those who are intoxicated, those who are already under the influence of alcohol who are trying to purchase more, as well as how to deal with difficult situations that may arise. Employees must be recertified in RAMP training every two years. There is a limit of 25oz. of alcohol that a person can consume onsite at any of the stores. The majority of Rutter's beer & wine sales are to go. Ms. Booth stated Rutter's has a scanner to verify a person's age, as they take precautions of not selling alcohol to minors very seriously. There are security cameras in all stores, but updated systems in the stores selling beer & wine. Store #42 (N. Main/Charles Ave) will have an updated system installed during the store renovation. This helps Police with identification, should there be a problem.

Council had the following questions/concerns:

- **What's the law of selling alcohol close to a school?** *It must be at least 300' away from a school and the N. Main Street store is 450' away from the Stewartstown Elementary building. This is regulated by the LCB, who will send an analyst out to verify the distance. In addition, Sarah stated, only a certain part of the Rutter's store is licensed to sell alcohol, so the distance is measured from that portion of the store.*
- **How old is the camera system at Store #42?** *It is the old Rapid Eye system, but it will be upgraded during store renovations.*
- **Alcohol sales used to be available at only 1 Rutter's register (at Store #45), but now is available at all the registers. Why/when did that change?** *Within the past year, the law has loosened restrictions on registers which now allows beer/wine to be sold at all registers within a licensed area/store. It streamlines the flow of customers.*
- **How much money does Rutter's put back into the Stewartstown community?** *Sarah, nor Cheri were aware of the amount given within Stewartstown, but Sarah said Rutter's tries to give back in most communities they serve.*
- **Councilman Burkins disagreed with the statement of upgraded cameras.** *Since Rutter's (Store #45 on Pennsylvania Ave.) began selling alcohol, the camera system has never been upgraded and Chief Boddington (SRPD) has, on more than one occasion, requested the system be upgraded to one offering better identification of patrons. Sarah will report back with Council's & the Police Chief's request.*
- **Why does Rutter's feel the need to sell alcohol at two stores so close together?** *They feel it's important to offer as broad an offering as possible to customers, wherever they can. Rutter's has found patrons really enjoy the extensive variety of products.*
- **Mr. Sharnetzka believed that prior to Rutter's selling alcohol at Store #45, they stated alcohol would only be displayed behind glass in the rear of the store.** *Currently, in the store, bottles & cases of wine, Fireball liquor, etc. are sitting on open displays and in open-air coolers. He is disappointed in Rutter's decision to expand the display throughout the store & not to contain it within the glass walk-in area. He believes it would be very easy for underage kids to grab some of these smaller bottles, etc. & walk out with them. Everything that is on the floor is in a sealed container & the Fireball sold in the Rutter's stores does not contain whiskey but rather a malt beverage. Those alcoholic beverages available behind the food service area would be obtained (after showing ID at the register) &*

come in a sealed container for consumption after leaving the store. Pennsylvania LCB has expanded the areas to sell the alcohol, that's why it can now be stored throughout the store. The PLCB controls that & gives permission to do so, not the Borough.

- **Has Rutter's seen any inventory discrepancies since selling alcohol that may suggest some has been stolen?** *Cheri said this is monitored very closely & there have been no large discrepancies in inventory other than possibly 10-15 cans being transferred from food service to the retail side.*

Sarah Dotzel offered more background to Rutter's beer/wine sales, stating in order to sell the alcohol, they're required to have a restaurant liquor license under the Pennsylvania Liquor Control Board. This allows for both on-and-off premises' alcohol consumption; however, patrons can only consume 25oz. on the premises. All employees are aware of the house rules related to this.

To date, no Rutter's stores that sell alcohol have been found to sell to minors or intoxicated people and, should an incident occur, the Police are notified immediately.

This liquor license transfer must be done by a Resolution that's adopted by Borough Council.

Once that's complete, Rutter's will file for a transfer which takes a few months, but typically the alcohol sales will not take place until store renovations are complete.

Ms. Almony made a motion to close the Public Hearing @ 8:05pm; Ms. Kreiss seconded. All were in favor; motion carried.

Ms. Almony made a motion to adopt Resolution 2021-01 to approve the transfer of the liquor license from Springettsbury Township into Stewartstown Borough for Rutter's Store #42 (3 Charles Ave); Ms. Kreiss seconded. Motion carried, with Mrs. Bloom & Mrs. Barnette opposing.

5. **General Business**

- **Approval of Meeting Minutes**—Ms. Almony made a motion to approve the April 5th, 2021 Meeting Minutes; Mrs. Bloom seconded. All were in favor; motion carried.
- **Approval of Financial Statements**
 - **General Funds**—Mr. Gemmill made a motion to approve General Fund bills dated Apr 1st thru Apr 29th, 2021 totaling \$122,861.39; Mr. Burkins seconded. All were in favor; motion carried.
 - **Sewer Funds**—Mrs. Bloom made a motion to approve Sewer Fund bills dated Apr 1st thru Apr 29th, 2021 totaling \$65,381.45; Mr. Burkins seconded. All were in favor; motion carried.
 - **Water Funds**—Mrs. Barnette made a motion to approve Water Fund bills dated Apr 1st thru Apr 29th, 2021 totaling \$54,279.27; Mr. Burkins seconded. All were in favor; motion carried.

6. **Solicitor's Report**—Craig Sharnetzka reported the following:

- **Movie theater update**—Because the Borough was concerned about not being able to obtain title insurance, Craig requested the trustee give the Borough a Special Warranty Deed for the trustee to warrant title to the Borough. In the interim, the Judge had denied the appeal of the bankruptcy transfer, so the Borough can now obtain title insurance and may be able to close on the purchase of the theater by end of May.
Mr. Burkins made a motion to authorize the Borough to obtain title insurance for an approx. cost of \$500; Mrs. Bloom seconded. All were in favor; motion carried.
- **Wiggins' property update (43 Church St.)**—Wiggins' have assured Craig that the illegal vehicle is now off their property & the trailer that is there is now legal.
- **Nuisance Ordinance 2021-03**—the Nuisance Ordinance 2010-4 was amended to include these changes:
 - Restrictions on consumer fireworks which are now prohibited after 10pm
 - Serving violation notices via Certified Mail & U.S. Mail only

- One minor typographical error.

Mrs. Bloom made a motion to approve Nuisance Ordinance 2021-03; Ms. Almony seconded. All were in favor; motion carried.

- **Final Subdivision Plan for Ogden Investments (John Huenke)**—John had wanted to present cash to the Borough as surety for the development, but Craig suggested another form of payment as the Borough does not accept cash for bond/surety. John has now submitted surety & once signed by Council members, can get his plan recorded.
7. **Engineer's Report**—Jason Brenneman reported the following:
- **Jason met with the Streets & Roads Committee to determine what Borough roads need to be repaired this year.** Jason distributed a list for Council's review which he arranged in the order of those needing the most attention. Ira also mentioned that Free Street is in poor condition & although it's not included on Jason's list, that street will be considered also. A few items on the list were Stormwater projects, which cannot be paid with Liquid Fuels money, but do need to be addressed this year, the most important being Springwood Avenue, behind 15 & 17 Springwood. Jason estimates the material cost for this repair to be approx. \$7,300. Borough staff can complete the work.
Mr. Burkins made a motion to spend up to \$10,000 and move forward with the Stormwater repair on Springwood Avenue; Ms. Kreiss seconded. All were in favor; motion carried.
Mrs. Bloom made a motion for Streets & Roads Committee to prioritize the street repair list & spend up to \$200,000 of Liquid Fuels money to repair those they view to be in the worst condition or those that make the most sense to tend to right now. Ms. Almony seconded. All were in favor; motion carried.
 - **Cross-connection program is taking place through the Authority**—just making Borough Council aware that the Authority is handling that.
8. **Sewer & Water Supervisor Report**—Ira Walker, Jr. submitted his report. All expenses have been or will be presented to the Authority for approval.
9. **President/Vice-President Report**—Mr. Wisnom stated the Snow Removal Contract with Kunkle's expires this year. From 2016-2020, the Borough spent approx. \$109,000 in snow removal & salt; to date in 2021, \$20,796 was spent. Does Council want to talk to Hopewell Township about snow removal for the Borough? Craig is not aware of an exception to bid should the township agree to do it, so it may still need to be bid. Council consensus was to see if the township is agreeable to plow Borough roads; more discussion to come.
10. **Mayor's Report**—Mayor Kurtz reported:
- March Police Report—43 reportable incidents in the Borough—include, but not limited to the following: traffic (1), assault (1), alarm (1), public assistance (3), harassment (3), highway-related (3), non-criminal auto (1), non-criminal person (3), sex offense (1), & warrants (3).
 - Wednesday, May 5th @ 7p.m.—next Police Commission Meeting to be held at Shrewsbury Borough.
 - One Police Sergeant is suffering from cancer. Well wishes for him & his family!
 - The Borough Office sign is very faded & he knows of someone willing to refurbish it for approx. \$200-300. Ms. Kreiss made a motion to authorize spending up to \$450 to refurbish the sign; Mrs. Bloom seconded. All were in favor; motion carried.
11. **Treasurer's Report**—Stacy Myers reported:
- Fire Police Requests for Red Lion Borough, Winterstown Borough & Fawn Grove Borough—Ms. Almony made a motion to approve the requests; Mrs. Bloom seconded. All were in favor; motion carried.
 - Research contractors to conduct asbestos removal from the movie theater. Funds aren't available through the Land Bank/Blight Program for remediation, only demolition, so the Borough would be responsible for that cost unless other grant money is available for it.

12. **Adjournment**—With no further business before the Council, Ms. Almony made a motion to adjourn the meeting @ 8:45p.m. Motion carried, meeting adjourned.

Respectfully submitted by:

Stacy Myers, Recording Secretary