



recommendation either way. Then Council makes the decision. Herman Johnson asked what Mr. Swientisky wants the building to be, a business or a residence. The answer was professional offices. Mr. Swientisky was supposed to get a letter from the railroad. They did notify the railroad that they are looking for a conditional use, they have not responded. The Planning Commission will meet in July. Herman Johnson would like to see this go back to the planning commission so that everything has been met and we can move forward. It was stated that Swientisky does not technically have to go back to the Planning Commission. Attorney Evers stated that this has been on the table for 8 years, prior to that, this community adopted a flawed zoning ordinance. Mr. Swientisky filed an appeal; Mr. Vones, Mr. Bush, and Mr. Preate came to realize that the zoning ordinance was flawed. Part of it was the way they zoned his property. We came to an agreement with Council, at that time, that let the building be zoned RP and these were the words, just come in for a conditional use as long as it looks like a residential building is what they were told. Attorney Evers continued that Mr. Swientisky has written to railroad and not received a response. The railroad doesn't respond until they need something. As part of the Conditional Use, the Planning Commission approved the conditional use. One condition of Council was that Mr. Swientisky signs a "Hold Harmless Clause" that was signed and sent to the Borough 5 years ago. Attorney Evers stated that they are ready for a vote; they satisfied council and the former solicitor decided to make it a cause. They stirred up neighbors, neighbors were not complaining before now all the adjoining neighbors have sent letters to the Borough endorsing the Conditional Use, subject to vote of Planning Commission. Attorney Evers asked Council to vote first conditional to the zoning approval to bring it to an end. All the Planning Commission can do is give you a recommendation, an opinion which they already have. He stated it is time to bring this to a vote. Herman Johnson has an issue with not receiving a letter from the railroad, because of the bank and if it slid down, this would cause a derailment. In that case who would be liable? Mr. Johnson was not comfortable until the railroad responds and that is Mr. Swientisky's job to do. Attorney Evers stated that on September 30, 2008 there was a Hold Harmless Agreement prepared by the Borough, executed by Mr. Swientisky. Attorney Evers stated that the Zoning Hearing Board is going to be looking into Mr. Swientisky's application for some setback dimensions. David Jenkins stated that Mr. Swientisky has certainly made the attempt to comply with the Borough's rules and regulations. Herman Johnson stated that the Borough has not dragged their feet and he offended by that suggestion from Attorney Evers. Herman Johnson asked if all of Mr. Swientisky's fees are up to date after these 7 years. Attorney Evers stated that there is a list of out of pocket expenses for Mr. Swientisky. He paid \$73,000 and suffered an additional \$90,000 loss as he could have sold the property. The settlement fees at this point are for \$7,000. Attorney Evers stated that Mr. Swientisky has been substantially wronged and he is not inclined to pay anything, but he did make an offer of \$1,500. The Borough Solicitor Pat Rogan and Mr. Swientisky went back and forth and finally agreed to the fee of \$3,500. The Planning Commission recommended approval, and Attorney Evers is asking Council to vote on it as the vote will only help with the Zoning issues. Attorney Evers suggested moving forward with this so this doesn't remain a stagnant building. Lori Harris, Code Enforcement Officer, in an email asked if there was a time limit involved with Council taking action. Virginia Kehoe stated that there is a time constraint but it is up to interpretation. Herman Johnson stated that he has concerns that he is doing the right thing for our community. Virginia Kehoe asked Borough Solicitor Pat Rogan to give his opinion in writing as to what the time clock is and when it starts. This will be on the agenda for July's Borough Council Meeting. Borough Solicitor Pat Rogan stated that he reviewed everything, regarding the money situation, He would recommend to Council to settle this for \$3,500. Attorney Evers also thanked Council members who came to the Sewer Authority Ground Breaking, pleased with the construction and the way things are going.

- 2014 - 2016 Police Contract: Council is scheduled to vote on the Police Contract at the July Council meeting, got a draft of the contract. Virginia Kehoe asked Council if they had any questions. Ms. Kehoe also stated that one more meeting will be set up with the union and the negotiation team.
- Request from Taylor Sheds: Virginia Kehoe stated that the Borough ordinance states that unless a shed is 100 sq ft or less, it's considered an accessory structure and it has to meet the same setbacks that any other building would. Taylor Sheds is inquiring about having a

portable shed that can be moved at any time, if this should not be considered as an accessory and therefore maxed out to a 5 ft setback. They are asking Council to consider this or ask Lori Harris, Code Enforcement Officer or Virginia Kehoe, Borough Manager, if we wanted to make a recommendation to the Planning Commission to amend an ordinance or not.

- Ordinance 2013-02 and 2013-03: Two ordinances have been advertised. The first Ordinance was for the Police Contract and the second concerns the Neighborhood Preservation Ordinance. David Jenkins and Herman Johnson had some input on this ordinance. Patty Lawler also discussed this with Lori Harris the Code Enforcement Officer. Patty Lawler stated that Herman Johnson wanted to include the EMA under "hazardous conditions". Mr. Johnson stated that he wanted to include the "Safety Committee" so they are aware of what hazards are in the Borough. The Police, Fire and DPW and EMA officer should be aware if there is a hazardous condition. Patty Lawler stated that concerning Section #4, General Provisions and Nuisance, that she has gotten calls about the concert that was held at the Borough in June. She has also received a call about a fire pit being too close to a neighbor's porch. Ms. Lawler stated that these situations are what she is worried about the police getting involved when it should be more neighbor to neighbor. Virginia Kehoe stated that all complaints must be put in writing with the name of the complainant involved. Also, this ordinance is more for police calls where people are not following the ordinances. If it is legal than it can be done, only illegal if it exceeds the ordinance. If police get a continuing string of complaints at a property, they can use this tool to site the owner of the property. Herman Johnson asked about fire pits, different types, is you need a permit to burn, the permit tells what you can and cannot burn. Herman Johnson is concerned about complaints in writing, wanted to make sure that this isn't a deterrent, and that there should be a mechanism in place so the Borough can track it. Solicitor Pat Rogan stated that this ordinance as it is written now may be overly broad. Council is viewing this as a starting point for them to review and make additional comments on. This will be available for public input in July 2013.
- Building use policy: David Jenkins recommended the Borough implement at least a \$100 depot if there is any damage or if something happened where the group did not pay. Virginia Kehoe also stated that this space is only available for use by nonprofits. The fees can be waived but Council needs to be it can be waived it needs to be very specific. Based on the number of people may be an idea. Herman Johnson asked about \$100 deposit, saying that needs to be re-worked. He thinks that the contract is a little confusing and it needs to be reworked, suggested a committee to fine tune it. Patty Lawler suggested that the area must be reserved in advanced and should the groups come before Council, Virginia Kehoe stated that this puts too much on Council, it is best left to her to make the call on that. Herman Johnson suggested that this should go to the Borough Manager and if she is not available for any reason, it can go to the Chairman of the Building and Plant Committee. Security should be at the discretion of the Police Department. Herman Johnson suggested that maybe the Chairman of the Building and Plant Committee can be involved with the Police Chief to approve the security. Virginia Kehoe asked what verbiage would be appropriate so it is clear as to what security is needed. Number of attendees needs to be determined as well as what the capacity is at the Borough Building. A recommendation from the Chairman of Building and Plant and Police Chief. Refundable security deposit of \$100 as long as no damage is incurred. Council questioned what the situation at the Fire Station is when it comes to security for events. David Jenkins was not sure of that answer. Let it go until the next work session which should be at the end of July.
- Bid openings – paving, EMA vehicle, Summit Ave property: Virginia Kehoe stated that the bids for the paving project were opened, the Borough is looking at doing ½ of the paving this year ½ next year. The winning bid came in from American Asphalt in the amount of \$473,983, Bob Naegele is checking to make sure everything is in order. Council can vote at July Council meeting. Herman Johnson suggested that someone from the Borough keep an

eye on the work being done by American Asphalt. Virginia Kehoe stated that she will have someone monitor the work, to make sure everything is going right. Virginia Kehoe stated that this is PennDOT approved paving which means this is Super pave is being used and it does come with a one year warranty. Ms. Kehoe continued that by using liquid fuels money to pay for this, we have to use Super pave. Ms. Kehoe stated that the Borough ran advertisements for the Summit Avenue property and the EMA vehicle. No bids came in. Can we go through a realtor for the Summit Avenue property? Pat Rogan would check to see what is legal. Look at the Borough Code, what is the next legal step. David Jenkins asked Virginia to call PennDOT to do something with the intersection of State Street and Gove Street. Herman Johnson asked how many streets are being paved exactly; Ms. Kehoe stated that she would send an email with that answer. If Council accepts American Asphalt's bid, they have two weeks to get the necessary paperwork in and Ms. Kehoe can write a notice to proceed, they have 30 days to start the project. Bob Naegele put in a 60 day completion. David Jenkins asked about the property at 1000 W. Grove Street. They need to be cited and the Borough will hire a company to cut the grass. Council asked about the DPW cutting the grass instead of hiring a private company. Virginia Kehoe stated that if the DPW performs that service, there should be a charge or a lien for the cost and is this in writing? Herman Johnson is concerned with the property when it comes to safety and health issues and it needs to be documented for that purpose. Virginia Kehoe stated that she will discuss the legal issues with Solicitor Pat Rogan. Ms. Kehoe suggested have a specific bill from an outside company, so you know what the cost is, as it depends on the lot size and amount of work that needs to be done. Virginia Kehoe stated that she sent an email on July 12, 2013 to Council members concerning renewing the insurance policy. Ms. Kehoe stated that she was asking Council if the Borough want 3<sup>rd</sup> party coverage, whereby if a 3<sup>rd</sup> party not employed by the Borough, were suing for slander, the Borough is not covered for that. Also the Bare Labor Standards Act Supplementary is available to the Borough also. That states, if someone sued The Borough stating that they were discriminated against under the FLSA Act which is the ability to obtain a job or the terms of employment. David Jenkins thinks we should be covered with both. Herman Johnson disagreed stating that he agrees that we need the Bare Labor Standards Act Supplementary. Virginia Kehoe stated she would also get Pat Rogan's recommendation and get back to insurance company.

**3. REVIEW OF JULY 2, 2013 AGENDA**

Council discussed putting on the agenda, a discussion for the next step with EMA Vehicle and Summit Ave. David Jenkins suggested checking with other EMA's in the area. Virginia Kehoe will call the county to see if it is needed. Pat Rogan will look into the next step with the Summit Avenue property.

**4. ADJOURN:**

**President Carey**

These meeting's minutes are respectfully submitted by Borough Secretary Jennifer Schmidt.