

BELLEFONTE BOROUGH COUNCIL MEETING
August 15, 2016
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CALL TO ORDER

The regular meeting of the Bellefonte Borough Council was called to order by Council President Gay Dunne in the Bellefonte Borough Municipal Building.

Pledge of Allegiance:

Following the Pledge of Allegiance, Council remained standing for a moment of silence. It was requested that cell phones either be placed on vibrate or turned off.

ROLL CALL

Members Present: Johnson, Tosti-Vasey, Beigle, Brachbill, Brown, Clark, DeCusati, Dunne

Members Excused: Hombosky,

Officials Present: Ralph Stewart, Borough Manager
Don Holderman, Assistant Borough Manager
Mayor Wilson

Staff Present:

Guests: Alfred Jones Sr.; Debbie Hamilton; Alan Uhler, DAASBD;
Joseph Shawley, Dennis & Sharon; Bob Jacobs, Centre County
Planning; Patricia Kennedy; Doug McCall; Emma Gosalvez, Lock
Haven Express;

SPECIAL TOPIC: UNI-MART DISCUSSION – JEFF STOVER, SOLICITOR

Since this is not related to any specific agenda action item, public comments will be taken on this issue at the end of the meeting.

Mr. Stover understands the concern is what to do with a property where there has been a fire and the property is non-conforming. It's in a zone where the use was there before the fire and is not permitted in the district, even though it was established before the current zoning, so it was a valid non-conforming use. Since then there has been a fire and it has been one to two years that the property has been empty since the fire. The question is, if the owner wants to re-establish the use, does he have the right to do so under the zoning ordinance. The zoning ordinance has a provision, Article 2, that deals with nonconformity. There are two provisions of that which are pertinent

here. First, a general background is that nonconforming use has constitutional protection. It is viewed as a property right. If a person establishes a use for a property when it was legal and from changes in the ordinance it is no longer permitted, because they were established at a time when it was legal, those uses or that right continues and is considered to be constitutionally protected. The only way a municipality can force it out would be to go through eminent domain and buy the property for some other purpose. The case law says that nonconformities are protected; however, they are to be phased out as quickly as constitutionally possible, whatever that means. Now there is a situation where a property is left, the use is terminated and it is left to sit. That brings up the legal concept of abandonment, which basically says if I have a valid property line and I, through inactivity, abandon it, let it go, then I've lost the right. The question then becomes what is abandonment. The courts have wrestled with this for years. Essentially what they have come up with is a two-prong test to determine abandonment. One is actual abandonment, and the other is a more subjective intent to abandon. The courts have said you need to have an abandonment to determine that nonconforming use. Not only would I have to cease using the property in the nonconforming manner, but my intent when I do it is to cease it for all time. That becomes a very fact-specific determination in a given case as to whether both those prongs exist. It is pretty easy to see whether it has been abandoned, but the intent to abandon is much more difficult.

That brings him to Bellefonte's ordinance. Bellefonte's Ordinance puts a different light on that because they have a provision that is in many zoning ordinances that says if any use ceases for a period of twelve months then it is deemed to be abandoned. It is a common provision in zoning ordinances and that language has been dealt with by the Courts. The Courts have said that even with that language there it doesn't mean that just by the end of the twelve months you have an abandonment. What it really does is it raises a rebuttable presumption that there has been abandonment, and the owner still has the right to come to rebut that and say it may have stopped but I always intended. It goes back to the whole issue of intent. That still exists even with language in an ordinance like the Borough's, and it puts things back to that fact of specific determination of actual abandonment and intent, although it does shift the burden more to the property owner to prove those two points.

Interestingly, Bellefonte has another provision in the ordinance that probably comes to play with the property in question. It talks about a property that has been destroyed or partially destroyed. What it says is that in that specific situation where there is a reason for the cessation of the use that really had nothing to do with the owner, it's not a voluntary thing, but there was some calamity like a fire that prevented the use from continuing. Now it says there is a two-year period for the owner to come in and restore the property and put that use back into place. It sounds like the property that started this question for the Borough is still within that time period of statute. He would submit to Council that if the two years go by and it still hasn't been restored it will still go back to that same fact-specific question of actual abandonment and intent to abandon. He feels the ordinance would again shift the burden to the owner at that point.

That is a real fast, in a nutshell, summation of the law in this area. Mr. Stover wanted to talk a little bit about the procedure. The owner, at this point, would have the

ability to continue his efforts to restore, unless he is challenged. It may, under the circumstances, require a zoning permit. He will need to, at some point, get some permits from the Borough. This could end up becoming a legal issue in one of two ways. Either your zoning and code enforcement office decides they are not going to issue a permit for some reason, whether it has to do with abandonment or their efforts at getting the property rebuilt, but that may cause some sort of appeal that would come before the Zoning Hearing Board. The other possibility is that someone challenges it, and the challenger could start that process. This could either come before Council with an enforcement action of the Zoning officer or somebody applying to the Zoning Hearing Board to have a review.

Mr. DeCusati asked for an example of someone challenging it. Mr. Stover said if there is somebody that would be affected by the use, typically a neighboring property, somebody who is close enough to be deemed to have standing. They feel that the new use is either a different use than what was nonconforming, or there was an abandonment that they want to challenge. They could either appeal the Zoning officer's determination or upon their own seek a review before the Zoning Hearing Board on the issue. If someone should do that, there is a possibility that the burden of proof could then be shifted to the property owner in terms of whether this has been abandoned or not. Ms. Tosti-Vasey said there have been emails and people coming to Council that are neighbors across the street. What is their process for making their appeal? Mr. Stover suggests they seek legal counsel. It should not be the municipality giving them that advice. He doesn't feel Council should say much more to them than that. He said code enforcement will do what they think is appropriate, but if the property owner feels that their property is threatened in some way, they should seek legal counsel. Mrs. Dunne is curious about the interaction or cross reaction between those two provisions. Now there is a different property owner. If the real estate transaction went through they no longer have the original property owner so there would be no interpretation that the new property owner would have two years in which to restore. Mr. Stover said not two additional years. He said that is a good question. He said the problem goes with the property. The ownership does not matter. If it's a nonconforming use it's a nonconforming use. We don't regulate ownership. They regulate use. The owner at the time of the fire can sell it to a new owner and they step into the same shoes and have the same rights and obligations. It's from the time the use stopped, not the time of purchase. The new property owner is responsible to do their research and know what they are coming in to. They don't get a benefit for coming in late, nor are they penalized for coming in late. Mr. DeCusati said the nonconforming use is one thing, but he believes the ordinance says if a structure has sustained over 30% damage for whatever reason then it has to be rebuilt or reconstructed according to current codes. This has been more than 30%. Any business owner, current or future, has to come in and put that business in according to all the current codes, setbacks, etc. Mr. Stover said that is correct. Mr. Stewart said except for nonconforming issues. The nonconforming use is not affected by that and if the property is nonconforming as a setback, he believes they are entitled to build it on the same footprint. Mr. DeCusati feels the nonconformance pertains to having a gas facility close to a water body. In terms of the building and everything else he knows it has to be built up to code. Mr. Stover said if it was nonconforming as to being too close to a water body that would probably be something

that they would have the right to continue. Mr. Stewart stated if they sold gas there before, which is a nonconforming use; they can sell gas there again as long as there has been no abandonment. Mr. DeCusati said there are current rules regarding how long a tank can be in service. Mr. Stewart said that is through the state DEP, not the Borough. Ms. Tosti-Vasey had an environmental question – if DEP told them they had to remove it because they were sitting vacant and there are current laws about the water safety and the clean water act and all that, does putting those back in have to meet the old issue or the new issue based on this. Mr. Stover said do not confuse environmental laws with zoning. All the issues of nonconformity and abandonment has to go with zoning. DEP has their own regulations and environmental laws are different. Even though they may have all kinds of rights for the zoning, they still may have to do certain upgrades to satisfy DEP. It is a complex issue and remains complex. Mr. Stewart understands that the tanks were tested and approved. Mr. DeCusati requested that a letter be sent to DEP to verify that. Mr. Clark said that can be verified online. Mr. Stover will share an email that verifies that and the email will be sent to Council members. Mr. Stover said there is a note that says the prospective buyers had the technician test the lines on the tanks and they passed. The technician tested the corrosion protection on the tanks and found that it must be upgraded prior to placing them back into service. The tanks are empty and can remain empty for up to three years before an owner has to remove them, place them back into service, or obtain an extension from the department. After they are put into place, they have to be tested after the first year and then every three years after that.

Mr. Stover was thanked for coming to the meeting.

CONSENT AGENDA

(The following items listed on the Consent Agenda are considered to be routine and will be acted upon by a single motion. There will be no separate discussion of these items unless members of Council request specific items to be removed for separate action.)

- Minutes - Approval of August 1, 2016 Meeting Minutes
- Communications – Letter request from the Church of the Good Shepherd
- Finance - Stover McGlaughlin Invoice
- Finance – Voucher Summary July 2016: \$767,470.01

Mr. Brachbill made a motion to approve the Consent Agenda. Mr. Beigle seconded the motion. Ms. Tosti-Vasey requested the minutes be removed for a typo. A voice vote was unanimous.

Ms. Tosti-Vasey noted under the Mayor's report, page 5, first full paragraph, it says she attended a workshop by the University of Belles Centre and it should be Felles Center.

Ms. Tosti-Vasey made a motion to approve the minutes as corrected. Mr. DeCusati seconded the motion. A voice vote was unanimous.

REGULAR AGENDA

COMMUNICATIONS

WRITTEN

- A letter from the Department of Community and Economic Development (DCED) regarding CDBG – the letter states that the Borough will be receiving approximately \$99,000.00 in grant funds for upcoming projects.

Ms. Tosti-Vasey requested to know what the \$99,000.00 will be used for. Mr. Holderman is the administrator of this. The funding has already been programmed for upcoming projects. Mr. Holderman said the 2015 funding has been targeted towards fire prevention and sprinkler systems. This is a project they have been trying to get through DCED for several years. The Planning Office has been very helpful with this and following up on the numerous questions from DCED that were received a few years ago. He feels this could be a good use of CDBG funds for the next five to ten years.

There will be a Public Hearing Tuesday, August 16, for the 2016 funds.

- Information is in the packet regarding the Fall 2016 Leadership Conference through the Boroughs Association. It will be October 14 – 16, 2016, and will be held in Gettysburg.

- At the table is an email that was received from a resident in relation to parking on South Thomas Street, specifically during special events. There is overflow parking issues that affect South Thomas Street. Mrs. Dunne referred this to the Streets Committee for review and recommendation.

- The County and other nonprofits invited Council to a mental health awareness gathering at the Courthouse steps from 12:00 noon to 12:30 p.m. on Tuesday, September 6.

ORAL

- Debbie Hamilton reminded Council that the Bellefonte Arts & Crafts Fair was held this past weekend. She and the Bellefonte Arts & Crafts Fair Committee thanked Council and all the staff that helped with the fair. The grounds were very nice. The Police Department and all the Borough employees all stepped up and anticipated anything she needed and asked what she needed before she actually knew she needed it. Everything went off without a hitch. The employees are fabulous. Borough residents need to be very proud of what Bellefonte has.

Ms. Tosti-Vasey thanked EMS for being there with the really hot, miserable weather. They were there on top of everything that needed to be done.

- Joseph Shawley, a Junior Committee member of the DuBois All American Soap Box Derby. As has been previously discussed with Council, half the racers with the DuBois Soap Box Derby are from Centre County. As such, they are working to return Soap Box Derby Racing to Bellefonte. First of all he thanked the Bellefonte Cruise Committee, HBI, Inc. and Bellefonte Borough for their support in allowing them to participate in the Bellefonte Cruise. On Friday night they had a demo race and had

more experienced drivers that went down the hill. A lot of kids were interested in it. On Saturday they set up a course in an alley and allowed the kids to ride in the cars. For safety for them they had helmets, pipes along the road with hay bales and hay bales at the end of the road in case they couldn't stop. They would like to invite Bellefonte Borough Council and their families to a fund-raising Soap Box Derby sponsored cookout lunch on Sunday, October 2. They had hoped to hold the race on Allegheny Street, as the race director discussed with the Borough manager. In preparation to request permission from the Borough Council, they contacted the Episcopal Church pastor first and as he is not familiar with Soap Box Derby racing and has concerns, they decided they do not want to upset the church; therefore, they are planning to hold the race on the dead end of old route #220 in the village of Mount Eagle. It won't be a cut throat competition, but will be a fun race. They will have all three of the stocks – stock, junior stock and masters – in it. They will hand trophies out to first, second and third. The age limit is 7 – 18 years old. There is super kids cars, which is a car that can have two drivers, one experienced and one a mentally or physically challenged person that cannot drive themselves.

Looking to the future, in the Spring of 2017 they would like to hold a Soap Box Derby rally on Allegheny Street. This would be a two-day event that will include not only racers, but racers from other race cities in Pennsylvania and some from surrounding states.

Ms. Tosti-Vasey asked when they would like to do this in 2017. Mr. Uhler said late April or early May. They are coordinating their schedule with a couple of the other local soapbox derby organizations to see if they would like to travel to Bellefonte and join them for a rally. Ms. Tosti-Vasey asked if the Allegheny Street hill by the Cadillac Building would be cleared by that time. She was informed that they are talking about the other end of Allegheny Street, beginning just above the traffic light near the elementary school with the finish line being in front of Mrs. Dunne's home. The telephone building parking lot would be used as a staging area. The kids are very anxious to try that hill. Mrs. Brown said there would need to be a letter written in order to get approval for Allegheny Street since it is a state road. Mr. Uhler said when there is a date closer to Spring, he would provide a letter in plenty of time.

Mr. Alan Uhler reiterated that they appreciated all the support, particularly from the Bellefonte Cruise Committee and HBI, Inc. The opportunity they had on Friday evening was fantastic. They gained a lot of attention and a lot of visibility. They were unprepared for the number of spectators watching. He really encouraged Council to stop at their picnic on Sunday, October 2, on Route #220. Mr. Stewart asked them to send an email that he would share.

SPECIAL COMMITTEE REPORTS

- Draft Safety Committee meeting minutes from August 10, 2016, were in the packets for review.

- Draft IDA meeting minutes from August 10, 2016, were in the packets for review.

- Mr. Brachbill said protection working with the chlorine at the pump house has been corrected. There are now masks with hoods for the workers. They are working on some additional training.

MAYOR'S REPORT

- Mayor Wilson commended the Arts Festival Committee for their hard work. The weather was not cooperative and a few bands had to be cancelled at the end because of lightening. He also thanked the people that attended this year and in the past.

- At the request of Chief Weaver, he cautioned that on August 22 there will be a number of media vehicles around the Courthouse on Allegheny Street.

- Mayor Wilson received an email regarding the speeding on Howard Street. He cautioned the public that efforts will be increased to control the speeding. He thanked residents for not speeding in the Borough.

- There is a police report at the table.

Mr. Beigle made a motion to approve the ticket exonerations. Mr. DeCusati seconded the motion. A voice vote was unanimous.

OFFICE OF COMMUNITY AFFAIRS

ZONING/PLANNING

- Centre Crest meeting with residents held on Thursday, August 4. Several Council members attended the meeting. Mr. Holderman, Mr. Brachbill and Mr. Clark attended the meeting. Mr. Brachbill reported there were residents there and his main concern was to hear what their concerns were in relation to the parking. The County gave their representation of what their goal was to have the parking put in. Leaning towards residential needs, they want some confidence that somebody is going to stand behind them and they aren't going to be flooded out once this is built. They want some conditions put in the agreement, if there is an easement put in, that they want something in writing. Mr. Holderman said it was well attended by the residents in the area. The ones that are going to be directly impacted stood up and expressed some concern, but they weren't opposed to the project. He feels those concerns will be alleviated based on the County and Centre Crest letting them know there would be a negotiated agreement for an easement on the two impacted parcels of property. Mr. Holderman felt it was a fairly positive meeting. He feels the County and Centre Crest did a good job of presenting it to the residents. Council had requested that meeting to make sure the residents were informed and had an opportunity to express any opposition. That transpired and there wasn't any opposition to the proposal.

Ms. Tosti-Vasey wasn't there but in the packet it talked about changing to a Village zoning for that and she asked if there was any discussion about that. Mr. Holderman said it was all on rezoning from R2 to R4. Ms. Dainty said the Village issue

was off the table because there were some issues with it. It is strictly taking that lot for the parking and making it R4 so they could do the parking.

Mr. Holderman said currently Council has it tabled. He felt they could bring it back off the table if they choose and give Ms. Dainty the opportunity to begin the process to make the change in the zoning ordinance, but he suggested that if that is what is done that the condition be added that it is not fully executed until any agreement or easement is worked out with the property owners. Mr. Clark said there is a storm water issue at the one property that connects into the Borough system. He feels some investigative work needs to be done so the Borough is ready for the County to connect to the system. There have been some historic problems there in the past that need dealt with. Mr. Holderman said it is the storm drain that runs underneath the back road to Centre Crest right on the corner of Danny Anderson's property. When you get those large storm run-offs you get a lot of sediment buildup in the 24" storm drain. Mr. Holderman said the way they are proposing this is that it would be a covered system, which would minimize the sediment running down there. It was felt that the sediment may come from the High Street area.

Ms. Tosti-Vasey asked if Council should request a Civil Engineering review of that before a consideration is made to change the zoning. Mr. Stewart asked if it is just a matter of a larger pipe. Mr. Brachbill said the concern is moving it down the street more to where it becomes a concern on Howard Street.

Ms. Tosti-Vasey made a motion to get a Storm Water Civil Engineer or the proper investigatory person review before any changes are made to the zoning. Mrs. Dunne stated there is a storm water plan from the consolidation of the parcels. Mr. Clark feels Borough employees need to examine the system in place to see if it is adequate relative to the discharge the county is anticipating. He and Mr. Johnson can discuss that with the Streets Committee. Mrs. Brown seconded the motion. A voice vote was unanimous.

Al Jones, a member of the Centre Care Board, said he has been after this for approximately eight months. When the work session was held many Council members were present. The engineer from PennTerra presented a sketch that had a preliminary drawing of how the storm water run-off was going to be addressed. Mr. Franson, the Borough storm water engineer, participated in the preliminary plan. He saw it and has no problem with what the County is proposing. What has been mentioned, which Mr. Pierce raises, and he guesses probably is something that Mr. Franson must also be aware of. If Centre Crest is to go forward they will have to commission PennTerra to do a much more elaborate and detailed plan, which gets back before Council again in a land development review and must also get approval from people that really know what they are talking about with storm water. With all of that pending, he is not sure what Council just decided to do before they can take up the rezoning. He asked Mr. Stewart if Mr. Franson is going to look at what he has already looked at. Mr. Stewart is not sure Mr. Franson has looked at the driveway and the pipeline under the driveway. He did look at the plan. Mrs. Dunne feels Mr. Clark brought up something that is somewhat cautionary but not altogether irrelevant. Mr. Clark wants to move this forward so when Centre Crest connects to the system there isn't a problem. Personally he doesn't have a problem right now with moving forward with the rezoning. Mr. Brachbill agrees. He said the County still has several hoops that they have to get through. To get the

planning started they require Council approval to take it to the zoning. They need this step as much as Council needs to look at what they are dumping in to. He said yes, the residents have a concern, but they aren't opposed to it. Mr. Brachbill is comfortable with having them move it forward because if it doesn't, they will be sitting here having the same discussion and not having any more answers because nobody has done anything. Mrs. Dunne doesn't feel any of the delays so far have circled around storm water. Mr. Jones feels if he were Franson he would like to have a lot more specific information about what will be constructed and flows and all that and that won't be done until the more expensive plan is done. He said they will not spend the money on an expensive plan until they get the rezoning. Mr. Brachbill said the retention pond retains the water. It's not rushing down and running in to the pipeline, but you still have to take into consideration what is being added to what is already there. Mr. Stewart said the whole land development plan including the storm water plan will go through the Planning Commission and come back to Council. If Council isn't satisfied, they don't have to approve it. They will have the opportunity to review any issues with storm run-off before issuing approval. He feels it is okay to move forward with changing the zoning. That will take a couple months. It will also take a couple months to get the final plans done, go through the planning process and come back to Council.

Mr. Beigle made a motion to approve starting the process to change zoning from R2 to R4. Mr. Clark seconded the motion. Mr. Beigle made a motion to take the zoning change request off the table. Mr. Clark seconded the motion. A voice vote was unanimous. Mr. Clark suggested leaving the easement part out. It will be up to them to come back with a design that meets the requirements of Council. Mr. Clark said they have to have an agreement with the property owners. What that agreement is isn't conditioned right now. Mr. Jones said the first time the drawing was produced PennTerra and he met with the two property owners and showed them what the idea was. At that meeting they said it would be better if you didn't have the pipe go between these two houses and have it come out and go between these two houses. It is still very, very preliminary. When the engineer gets in there and does survey work and grading they may think where the pipe is shown on the drawing now might not work. Mr. Holderman clarified that it wasn't just an easement on where the storm drain went. The neighbors had concern about their property values and things like that. Unless you get some type of assessment on the property prior to and afterwards and things like that, those are the things they wanted to work out. Mr. Stewart said Borough Council does the rezoning. They will begin the process administratively. There are advertising requirements and it will come back for public hearing. Ms. Tosti-Vasey said what the residents are asking for is some kind of covenant that says something to the effect of if this gets screwed up and my property gets messed up – is that part of zoning. Mr. Holderman said they will work that out. By asking Council to approve, the only thing starting is the process. It won't have to be approved unless all that gets done. Mr. Stewart said when it comes back if there is no negative comment it means they worked out the agreement. Mr. Beigle said the onus is going to fall on the County to work with the property owners. If Council doesn't see that they don't have to approve the rezoning. Ms. Tosti-Vasey asked if a yes vote negates the motion that was just made. Mrs. Dunne stated that is a separate issue. Mrs. Brown would like her thinking cleared. Once it goes from R2 to R4, is it correct that you could actually build on that property.

Mr. Jones said sure, but Council would have to see a land development plan, and Council would have the option to deny it. Mr. Jones said this project is approximately \$250,000.00 to gain 65 parking spaces. Most of that lot will be taken up by the storm water piece of it, and an easement has to be established under this storm water protocol that will sort of determine. That will always be a \$125,000.00 storm water retention basin. Theoretically, something else could be built there within the R4 uses. They are 100 parking spaces under what should be there. Anything else that would be built there would have to provide at least 100 parking spaces and the most he can do with his project is 65. Mr. Brachbill asked what changed now and was informed that the ordinance changed. Mr. Brachbill said the Monroe side of that is R4. Mr. Jones said Wilson Street and High Street are the two residential and Howard and Monroe are R4. Some of the parking is visitors. Most of the parking is staff and volunteers. They are now at capacity as far as residents are concerned. They added 100 staff since Centre Care took over the operations. They don't all work on the same shift. They work out arrangements with some of the churches, but they try to keep parking available for residents and volunteers. Some people are parking on the lot where they're not supposed to. It shouldn't change the influx of traffic on Howard or High Street depending on which way they exit the building. A voice vote was unanimous.

- Centre Region Code Statistics Reports for May 2016 – Mr. Holderman said this was in response from Councilman Johnson's request. The reports will be in the packets on a monthly basis.

HARB

CERTIFICATES OF APPROPRIATENESS

1) 137 West High Street - Signage

Ms. Tosti-Vasey made a motion to approve the Certificate of Appropriateness for 137 West High Street. Mr. DeCusati seconded the motion. Mr. Brachbill mentioned on the status it says this building is not a contributing factor to the Historic District. Ms. Dainty said it probably just slipped past her because it is a contributing factor to the Historic District. A voice vote was unanimous.

- Draft meeting minutes from the August 9, 2016, HARB meeting are in the packet for review.

BUILDING AND PROPERTY – Mr. DeCusati thanked Mr. Stewart for inviting Mr. Stover in so they could discuss the issue with the Uni-Mart since a legal opinion was requested.

- There will be a Building and Property Committee meeting with the owners of the Gamble Mill property on Monday, August 29, at 6:00 p.m. They will be discussing the questions and opportunities the new owners have with the Gamble Mill.

FINANCE AND GOVERNMENT PERFORMANCE – Mrs. Brown reported Council had the Financial Director's reports. Any questions should be directed to Ms. Walker.

- Mr. Stewart reported the Treasurer's report is at the table.

- Mrs. Dunne questioned the auditor's report update. Mr. Holderman reported there were some changes to legislation so the auditors were waiting to hear from them to provide the report. Ms. Walker has received some letters from the DCED wanting those. She is working hard to have the auditors finalize the report. As soon as it is received it will be placed in the packets. Mr. Holderman understands that the auditors were holding up the report based on some change in legislation and they were waiting until that was finalized. As it turns out now they don't have to do anything.

- Mrs. Brown will be attending a PSAB Budget workshop.

PARK AND RECREATION – Ms. Tosti-Vasey reported one issue that was discussed at the last meeting regarding the high population of ducks. There was a conversation with the USDA. They wanted to come in and do an Avian Flu testing.

Ms. Tosti-Vasey made a motion to accept the USDA project to test for Avian Flu and to reduce the duck population at a cost of \$1,149.21. They will manage the damage caused by the population of duck by removing up to 50% of the ducks in Talleyrand Park, targeting domestic and hybrid ducks over several visits. They will capture, crate and relocate or, if necessary, humanely remove it. Mr. Beigle seconded the motion. A voice vote was unanimous.

- Mr. Brachbill said signage needs put in the park and other signage needs taken out. Mr. Stewart reported they are working on getting signs ordered for new areas and existing areas. Mr. Brachbill drove past the walkway last night and there were four fisherman on the wall. Mr. Stewart reported the police officers are going to inform the residents if they are doing something wrong. Ms. Tosti-Vasey was at the BHCA Preservation Committee meeting last Thursday. Fishing off the sidewalk was mentioned. Some residents thought you were able to fish from the sidewalk of the new Waterfront area. She explained to them that the ordinance clearly states that you have to get into the stream in order fish. You can fish from the Water Street side but that isn't particularly safe. Mrs. Brown said an ADA person in a wheelchair asked about fishing. He cannot go in the water. Mr. Stewart said reasonable accommodations could be made.

- Mr. Johnson commented on the memo from Anthony Roland. On the second paragraph it says they highly recommend that the Borough take steps to keep the duck population from increasing by enforcing a no feeding policy. He asked if that ordinance is going to be reconsidered. Ms. Tosti-Vasey said what they discussed was when it got changed they were going to monitor what was happening and if there seems to be a need for it they will revisit it. Less than three weeks after changing it is too soon to do that. Mr. Stewart said the feeder at the park is to feed the fish. If the winter is harsh approximately 50% of the ducks will migrate. If the winter is mild they stay. Feeding the ducks is not good for the ducks, and it increases the population of the ducks. It's not enforced because it is a popular thing for families to come to the park and feed the

ducks. Mayor Wilson agrees that feeding the ducks is not a good thing. He would like to see the Parks Committee initiate a plan that the policemen or ambassadors to the park go to the people that are feeding the ducks bread with a card that says in Bellefonte we love our ducks. If you are going to feed them...please feed them...and give them suggestions of things that could be fed to the ducks. Just say you are hurting these ducks by feeding them bread. There are some things that can be done in a gentler way. Mayor Wilson said they need to get serious about the problem. He feels the effort should be spearheaded by the Parks Department.

- Mrs. Brown said the businesses that came to the park for the Arts & Craft Fair was very well attended on the Bellefonte side. There were eleven businesses that came down to join the fair and they were very happy with that. Ms. Tosti-Vasey said there was also a voter registration booth. People were changing their addresses and their party affiliations. There were a few that were new registrants.

HUMAN RESOURCES – No report.

SAFETY – No report.

WATER/SANITATION – Mr. Beigle encouraged residents to keep using water.

- Mr. Beigle said they began the cover replacement at the Big Spring. Mr. Stewart said the cover is off at this moment if you want to stop in and get some pictures. The liner in the fountain will be replaced also. It will take approximately a week to replace the cover. Some parts need to be ordered for the fountain.

STREETS – Mr. Johnson reported the drainage project on School Street is moving. It is approximately 50% complete. It is hoped that it will be completed before school begins. The project should be completed August 26. School begins August 29.

- Mr. Stewart called PennDOT to see if the permitting process could begin for the flashing light project on North Thomas Street. Earlier there was approval, and they did the markings and the new signage. In the emails they were saying some time should be given to see how it works. Mr. Stewart said that was not the intent of the Borough. They definitely want to go with the flashing light. He has a call in to see what needs to be done to proceed before an engineer is brought in to begin the process.

- Mr. Johnson attended the ribbon cutting ceremony and it was a wonderful ceremony. It was very well done and very well attended. Mr. Holderman did a wonderful job setting things up. Mr. Brachbill gave kudos to the committees and all the people that were involved in that. It was nice to see some local newspapers there, but there were some missing. He was disappointed that coverage on a major development like that in Bellefonte did not get coverage from the local paper. Mrs. Dunne stated there were some letters to the editor that echoed that concern. Mayor Wilson commended Emma for a great job that was very well done. She made her husband go down there and tape it. It was a great article in the Lock Haven Express.

ENERGY & ENVIRONMENTAL CONSERVATION – Mr. Clark reported they heard from Penn State and they will be sending two teams of students in September to begin the design process for the mulch and composting facility and some other things that were discussed at the landfill. Mr. Clark and Mr. Holderman will be the contact people for the Borough.

OLD BUSINESS

- Council is following Mayor Wilson's request to have a Rapid Response Team that would be geared to answer Economic Development questions. Mayor Wilson said this was initially discussed approximately a year ago. At times it behooves Council to have some incentives prepared, general incentives to developers and to the CBICC and to those particular forces that are working in Bellefonte's behalf to bring economic development and new business into Bellefonte. He thinks it is to the benefit of Council to have a small team instead of waiting for a Council meeting. He recommends picking three representatives made up of Council and/or staff to be able to make some decisions on behalf of Council to get businesses and initiatives into town to see what Bellefonte has to offer. Tonight he would like a format picked for this, such as how many on the team and what length of time should they serve in that capacity. He feels Ralph and/or Don should be a member of that team and two Council people. Mrs. Dunne said this would be mainly in response to requests from CBICC rather than another situation. It would be a restricted role. Ms. Tosti-Vasey asked why we need CBICC when we have Bellefonte Intervalley Chamber of Commerce. Mr. Stewart said the CBICC has been acting as the County contact for Economic Development Incentives Programs for companies looking at this area. They have been the ones in contact with the Governor's Action Team in Harrisburg for quite a few years. Mr. Holderman said the last three requests the Borough has had have come from CBICC over the last two years. Mr. Stewart said those requests are fast turnarounds. They have to have information within 24 hours and there is no time to wait for a Council meeting. Mr. Stewart said you also need someone from the Water/Sewer Authority. The plan put into place would depend on the entity looking at the area. Mrs. Brown has a concern that if they are discussing monetary, then finance needs to know so it's within the budget. They might want something like a deduction in the water or sewer bill. This is the type of things CBICC requests and they want to turn things around quickly. Mr. Stewart said they could go over past incentives that were developed for a past entity that was looking at coming in to the Borough. It would be something that would be coming in to the Borough. The list that was developed would come back to Council for approval. Mayor Wilson said this is how business is being done. You can do nothing and hope someone will come to Bellefonte and build something; or you can be proactive and do business. You can't be penny wise and pound foolish. You have to spend money to make money. If you want to grow the economic development of this community, you have to play the game. You have to hang the carrot out there. Ms. Tosti-Vasey thinks what she is hearing Mrs. Brown say is there is a history of having incentives and Council would like to know, so the public will know, that these types of incentives may or may not happen and here's a list, like a checklist. She feels if that

could be presented to Council at the next meeting so everyone knows then everyone would be much more comfortable about what is being talked about. The list may vary according to the company and needs to be flexible. Mr. Beigle feels the plan has been in place and now they are trying to get the guidelines down.

Mrs. Dunne feels the guidelines could be discussed. She suggested it be comprised of someone from the Authority and three Council members. Mrs. Dunne suggested if a Council member is very interested and available they should email her. It would be an ad-hoc committee.

This will be on the next agenda.

NEW BUSINESS

- Mr. Stewart mentioned there is a list of upcoming webinars from the Boroughs Association at the table for Council members to review. If they want to signed up for any they, should contact the Borough office.

- If Council members are interested in attending the Fall Conference they should let the Borough office know. The Borough will cover the cost for one conference a year.

- In regard to the Police and the Civil Service Committee that doesn't have to be brought together until actually looking at testing. Mr. Stewart said it is all through the Civil Service Commission. They oversee the testing procedure and process, and they prepare the list. The list comes to Council and at that point the commission is out of it. That will be started for the full-time position. Nothing has to be done until they start advertising. There is a whole set of procedures and policies for the commission.

PUBLIC COMMENTS

- Doug McCall addressed Council. He felt it was fantastic that Mr. Stover attended Council to provide an overview. He would like this question passed on to Mr. Stover; he was curious about the intent to abandon comment. He would be very curious if effectively not doing anything on the property and selling it would in itself indicate an intent to abandon the use of that. Mr. Stewart did zoning years ago and read a lot of the case law. He knew this was an abandonment issue. A lot of the case laws looked at examples. One specifically was a race track. The owner had it on the market for seven years and they had a very similar ordinance that Bellefonte has that says after a year or two you lose the right, and it is abandoned. They went to court and the owner won because even though it was on the market for seven years and there was nothing being done it was determined by the courts that is not abandonment. What abandonment is they go in and demolish the building or take something out completely. They actually physically did something to show abandonment. That is more of the weight for abandonment than just no use whatsoever. Mr. DeCusati had a conversation with Mr. Schneider, the Code Enforcement Official, and he said the same thing. He knows what the Borough Ordinance is but state law, the Court precedent, says it has to be more. There has to be an action that the property owner has taken. Mr. McCall knows you have to pick your battles, and this may not be one that the Borough wants to

get involved in, but he feels it could potentially be one of the few opportunities the Borough has collectively as a community to clean up this location. With the beautiful waterfront to have this business, which is very problematic. He hasn't complained about it in the nine years that he has lived here. He constantly has trash in his yard. There are all kinds of illegal activity happening. Kids broke in and stole food and went to Talleyrand Park to hang out. He feels like with the extension of the Waterfront and the Park there is this larger feeling of community to bring your families and spend time here to hang out and that Uni-Mart is almost repulsing people away with the kind of clientele that it brings and the behaviors that he has seen over the years. It is atrocious. It is difficult raising small boys there with the fights and the cursing and with people just sitting there in the parking lot at 10:30 at night. His house is vibrating from the sub-woofers in these cars. He and his neighbor who moved years ago would go out routinely and ask people to turn it down. He has not had this problem since it has been closed. He feels it would be an opportunity to bring in a different business that would be an improvement. He feels the worst thing it could be would be a Laundromat, but he would take that over a gas station. Mr. DeCusati said in Mr. Stover's comments he said that residents in the area who would be pertinent to the building could raise a challenge to the zoning person. He suggests that Mr. McCall and other residents get together and investigate that route. Council can't just go dictate to the owner what kind of business could be there. Council has to remain completely bi-partisan. Council cannot identify a business as not being good for the area. Mr. DeCusati said there are Council members who are concerned about this also. He suggests if the public is concerned that they exercise their rights to speak about it and raise their concerns. Mr. Stover suggested neighbors obtain legal counsel. Mr. Stewart said there is potential that a developer would come in and want to purchase that property.

The process for requesting escalated police presence in that area would be an email or phone call to Mayor Wilson. If something illegal is going on, Mr. McCall should call the police department.

Pat Kennedy talked with Dr. Singh. She talked to him gently as a neighbor and she felt, just from her conversation, that he didn't seem willing to work with the neighbors at all. No one had ever charged for parking before in that lot. They always mowed the grass, trimmed the trees and took care of that lot. They thinned the wooded section out to keep the kids from partying in there. He said he intends to charge for parking there. She asked him to place a "no loitering" sign out front. He said the most he would do would be put cameras out front. She asked him to put cameras out back to keep people from relieving themselves there. Those cars have been broken into and tires have been slashed. Dr. Singh seemed to have no sympathy. She was surprised with his attitude that he didn't want to work with the neighbors a little bit more. Mr. DeCusati said Council in the last few years has brought in Centre County Code Enforcement to bring better code enforcement to our area and that has forced a lot of property owners to have to change and improve their property substantially. He is optimistic. When whatever goes in there begins attracting more negative behavior then Council will have to be more vigilant. Mayor Wilson said the police can have a presence there but if nobody is breaking the law, there isn't anything they can do. Mayor Wilson said when you have a convenience store close to your house people are

going to throw cups in your yard. Mr. Johnson said it isn't the Uni-Mart doing that. It is the people.

Mr. McCall asked if Council knows when they will be getting the new signs in the Park and Waterfront? He feels they need to be installed as soon as possible. Mr. Stewart said it will be soon.

ADJOURNMENT

- With no other business to come before Council Ms. Tosti-Vasey made a motion to adjourn the Council Meeting of August 15, 2016, at 9:28 p.m. Mrs. Brown seconded the motion. A voice vote was unanimous.

DRAFT