

Somerset Borough Council Meeting
June 28, 2010 – 7:30 p.m.

Meeting of the Somerset Borough Council was called to order by President, Ruby Miller.

Present: Ruby Miller, Frank Koval, Hank Parke, Fred Rosemeyer, Wanda Miller, Scott Walker, Council Members. Brett Peters, Director of Finance; Michele Enos, Assistant to the Borough Manager; John J. Dirienzo, Jr., Borough Solicitor; Benedict G. Vinzani, Jr., Borough Manager; George Svirsko, Director of Public Works, Randy Cox, Chief of Police, William Meyer, Mayor, Tom Reilly, Borough Engineer. (Sign-in sheet is on file.)

Meeting opened with recitation of the Pledge to the Flag.

Previous Meeting

Minutes of the May 24, 2010 Public Hearing and Council Meeting were approved on motion of Mr. Koval, seconded by Mr. Rosemeyer.

Unanimously Carried.

Opening of Bids

The Manager said we agreed to be the applicant for the Hospital's Park Project. Bid tabulations were received, and they recommend the lowest responsive bidder, E&A Contractors.

Mr. Parke moved to award the bid to E&A Contractors of Somerset, in the amount of \$156,200.00 - motion seconded by Mr. Walker.

Motion Carried

(Mr. Rosemeyer abstained)

General Public Comments

Jim Atchinson

Regarding a proposed dog park at the Cannel Drive Playground, Mr. Atchinson has established a non-profit status, bylaws, and has over 50 members. He said he spoke with the School Board and public Borough officials and has received donations totaling \$729.00. They can produce insurance from Mosholders for one million dollars liability.

He produced an objective cost sheet predicting the yearly budget and applied for a grant to begin a fund raising campaign. Solicitor Dirienzo said we have the deed for the property which contains a "reverter" deeded from the School District to the Borough in January 19, 1968, conditioned upon development of a playground within four years of the deed and continuation of the playground. He pointed out *"if it ceases to be used and occupied as a public playground, then in any of such events the premises shall revert to the grantor, its successors and assigns, and the grantor, its successors and assigns shall have the right of immediate entry for condition broken and in any such event the grantee, its successors and assigns may execute and deliver a reconveyance of the premises"*.

He said he received unofficial word that we could expect to receive an official request to sign a deed of reconveyance back to the School District and advised waiting until we get the reverter; it may contain the notion that if it ever goes back from the School to the Borough, the condition may be that the Borough should be directly involved in the operation of the facility. There was some indication that the School District does not think it has sufficient latitude to get involved in the operation of a park, or lease surplus land to anyone to be used as a dog park.

Mr. Atchinson said they told him that they want to draw up the deed and it to be done all at once, that the school has no use for the property. Mrs. R. Miller said this will be tabled until we hear from the School Board at their July meeting.

Tom Kielbasinski

Mr. Kielbasinski asked the Police Department about vehicle drug searches. Chief Cox explained that an officer can search a vehicle only in one of three conditions - an emergency; if presented with an application of probable cause to a district judge; and with consent of the owner. He said it is not a matter of course to search every vehicle that is stopped, and advised him of the process for voicing specific complaints and keeping in compliance with bargaining unit contracts. Mr. Cox will arrange a meeting with Mr. Kielbasinski to further discuss his concerns.

Mr. Kielbasinski asked about traffic light timing. Mr. Vinzani explained that a motion detector sensor is placed at most signalized intersections that activate the cycle when motion is detected, which can account for the difference in timing.

Justin Shull

Mr. Shull spoke about the crematory that has been installed adjacent to his property. He said he feels that portions of the zoning code have been violated. Solicitor Dirienzo said the Zoning Hearing Board conducted its Hearing, operated on the facts as presented and the existing laws. He explained that Council enacted the Zoning Ordinance which is interpreted in conjunction with the municipality's Planning Code. The permits were issued as an administrative matter. The Zoning Hearing Board concluded, based on the evidence presented, that the appeal filed was filed too late beyond the 30-day period that would have given them jurisdiction. He said if a legal error is believed to have been committed, they would be advised of the procedures available, but Council is not in a position to revoke anyone's permit.

Mr. Raupauch spoke about health concerns regarding mercury emissions in close proximity of their properties, as well as the school and a nearby nursing home. They spoke about property values being lowered, affecting incoming Borough taxes.

A woman residing at 602 Tayman Avenue stated that no one told her about this and the thought of the crematory was making her sick. She stated that she cannot believe that everyone is okay with this. She stated, "Maybe it's all about the pockets".

Mr. Dirienzo said proper procedures were taken and the law has been followed. He said this might be the time to look at a tune-up for the zoning ordinance. It is difficult to define what might be considered an accessory use to the permitted use, and should be clarified. In looking at this particular zoning issue we would need input from whatever source to see if amendments to the ordinance might be appropriate.

Mr. Rosemeyer stated that he wanted to know, "what's with the pay-off comment"? The woman at 602 Tayman Avenue said, "That was me and I don't know. I just don't know how they can get away with this."

Mr. Cox mentioned that a funeral home in Ligonier with a crematorium has existed in a residential neighborhood for approximately ten years. He suggested checking on this and other towns to see if any problems have been noticed.

Payment of Bills

Mr. Koval moved to pay the following bills – motion seconded by Mr. Rosemeyer:

Check Nos. 15646 to 15817 Total: \$832,646.15

Vote: Mrs. W. Miller, yes; Mr. Parke, yes; Mr. Koval, yes; Mrs. R. Miller, yes; Mr. Rosemeyer, yes; Mr. Walker, yes

Unanimously Carried.

Old Business

Gary Thomas, Fire Chief, said four companies were contacted regarding paving, and they will compare prices. Concrete must set for 14 days and he said they cannot leave their equipment out on the street since some was previously lost, therefore paving is preferred. He said they rely on Council for help and was set back \$650,000 with the new truck. A meeting will be held with Fire Department and Council members to review where they stand at this point.

Regarding fire hydrant markers, he did not authorize contributing to the cost at this time. The Borough Public Works will install them. They discussed prices, described the flags, quantities needed, and they have applied for grants.

Snow Removal Policy/Ordinance

The Public Works Committee had discussed the idea of reviewing some Emergency Snow Removal policies from other communities. Mr. Vinzani said this will be continued until we come to a conclusion as to what should be modified, along with the Police Department's input.

Handicap Parking Space Request

Concerning a request for a handicap parking space at 1102 Orchard Avenue by Sara Steinkirchner, Chief Cox recommended that we decline this request because there is plenty of unmetered parking at this location.

Mr. Rosemeyer moved to deny this request – motion seconded by Mr. Koval.

Unanimously Carried

New Business

Terry Fitzgerald Request

Mr. Parke moved, Mr. Rosemeyer seconded to adopt the following Ordinance, as authorized:

ORDINANCE NO. 1344

AN AMENDMENT TO THE SOMERSET BOROUGH ZONING ORDINANCE, AS AMENDED, AMENDING THE ZONING DISTRICT MAP OF THE BOROUGH OF SOMERSET, PENNSYLVANIA, BY REZONING A PORTION OF AN R-2 DISTRICT TO M-1 CLASSIFICATION..

Unanimously Carried.

H.K. Realty Request

Mrs. W. Miller moved to authorize the Public Hearing on the rezoning request, to be held at 7:00 p.m. before our next Council meeting, based on the Planning Commission's recommendation – motion seconded by Mr. Walker.

Unanimously Carried.

Resolution – Tax Collection Records

Mr. Vinzani said we are waiting for specific information from our former tax collector concerning disposing tax collection records. We will then put this in the form of a resolution.

Street Closing Requests

Mr. Cox stated he has been approving various requests for closing streets, and feels that this authority (outside of an emergency) should be delegated to the Borough Manager as contact person, since he is the most logical one to collect the certificates of insurance. A new form is being provided that will address all information on one page.

Mr. Rosemeyer moved to give the Borough Manager authority to act on street closing requests – motion seconded by Mr. Koval.

Unanimously Carried.

Somerset Township Letter Re: Water

Mr. Vinzani said the Municipal Authority reviewed options for both bodies on providing water to the proposed industrial park in Somerset Township. Their recommendation was that we will abide by terms of our Intermunicipal Agreement and that we can provide water to the whole industrial park, realizing that we can only hold them contractually to the first part of that issue and not the second part.

Mr. Parke moved to offer to provide water to the entire proposed industrial park in Somerset Township – motion seconded by Mr. Walker.

Unanimously Carried.

Shade Tree Committee Appointments

Mr. Parke moved to appoint Peggy Ogle to our Shade Tree Committee, seconded by Mr. Rosemeyer.

Unanimously Carried.

Mrs. W. Miller moved to appoint Forrest Lucas to our Shade Tree Committee – seconded by Mr. Walker.

Unanimously Carried.

Municipal Authority Resignation

Mrs. W. Miller moved to consider Ralph Friedhofer's resignation from our Municipal Authority Board – seconded by Mr. Parke.

Unanimously Carried.

Mrs. W. Miller moved to send Mr. Friedhofer a letter of acceptance, with regret, and present him with a plaque for his years of service – motion seconded by Mr. Parke.

Unanimously Carried.

Letters of Interest

Mrs. W. Miller moved to authorize letters of interest for persons interested in serving on our Municipal Authority Board – motion seconded by Mr. Parke.

Unanimously Carried.

Rotary Membership

Mr. Rosemeyer said he is sponsoring the Borough Manager to become a member of the Rotary Club. Mr. Vinzani stated that he cannot guarantee attendance nor become involved in any solicitation from the community because of his position.

Mr. Rosemeyer moved to have the Rotary dues paid by the Borough for the Borough Manager – motion seconded by Mr. Parke.

Vote: Mrs. W. Miller, yes; Mr. Parke, yes; Mr. Koval, yes; Mrs. R. Miller, yes; Mr. Rosemeyer, yes. Mr. Walker abstained, stating that he does not want to place an additional commitment upon the Manager.

Motion Carried.

Red Knights Donation Request

Mr. Park moved to donate \$250.00 to the Red Knights – seconded by Mr. Walker.

Unanimously Carried.

Fire Hydrant Markers

In discussion regarding the Fire Department's need for fire hydrant markers, Mr. Svirsko described color-coded pressure markers with reflectability so that they can be seen in winter.

Mr. Parke moved to purchase up to \$500.00 worth of fire hydrant markers – seconded by Mr. Walker.

Unanimously Carried.

Laurel Arts Donation Request

This request from Laurel Arts is for \$500.00. Council reviewed the number of Borough Police assisting at Laurel Arts various functions and number of days; their hotel tax grant is used “to defray cost of hiring fire police and printing no-parking signs

for somerfest parades; and types of signs and costs, with consultation from the Finance Committee.

Mr. Rosemeyer moved to reduce the donation to \$250.00 – motion seconded by Mr. Koval.

Unanimously Carried.

Committee, Administration, Special Reports

Manager's Report

Mr. Vinzani reported the following:

- Drought Task Force Meeting June 8th – adequate water supplies are reported.
- FEMA meeting to apply for reimbursement for snow removal costs. Documents are being finalized for our signature.
- Shade Tree Committee/Safety Committee June 15 meeting. The Finance Committee met June 23 and a PA One Call System training session was held for our Public Works Department.
- The somerfest parade is scheduled for July 16. Participants are requested.

President's Report

President Miller shared a letter of thanks from the Humane Society for our donation.

Public Works/Equipment Committee

It was pointed out that the Manager's column will refer to snow emergencies and requests input and suggestions from the community.

Public Safety Committee

At their June meeting the Committee reviewed the following: Community Night-out; Hospital Police detail; Laurel Arts detail; School detail. The School Resource Officer will be moved to the Domestic Violence Program, with a state grant covering his salary.

They also spoke regarding background checks for service organizations but the Police cannot do that by law.

Finance Committee

Mr. Peters reported no red flags with the Finance Committee. They budgeted \$15,000 for snow removal costs this year. As of June, the cost was \$108,000.00 which is a difference of \$93,000.00.

Mr. Peters reported on the general/water/sewer budgets – no red flags. Mrs. R. Miller asked about buying our salt through the new process – Mr. Vinzani replied that the Borough is contractually committed for another season with the State, but when it becomes available we will make the evaluation and price comparisons.

Shade Tree Committee

Mr. Parke reported that the committee is moving forward with a grant and looking at different kinds of trees.

Somerset Inc.

Mr. Parke reported that they are working with finances and the Fire & Ice Festival.

Solicitor's Report

Mr. Dirienzo asked to schedule a meeting to discuss a zoning tune-up. Further discussion ensued concerning the crematorium issue and whether it can be considered an accessory to a funeral home. He pointed out that each application would take time, whether a conditional use, an accessory use or a special use exception. We would begin with making a list of possibilities, consult with the Planning Commission for input, and then do an amendatory ordinance if it is felt to be in order.

Mrs. R. Miller said it was suggested to take photos of where permits are placed, for better visibility. The Solicitor said the DEP has taken control over air pollution and suggested obtaining a copy of the regulations showing what is considered to be air pollution.

In discussion concerning neglected properties and the appeal request of Mr. Beeghley, Mr. Dirienzo said when Somerset County uses grant money for demolitions; they become owner of the property first then own the lot. "Entitlement communities"

which include Somerset Borough, account for approximately 70 percent of CDBG money, which benefits the property owner.

He advised that whatever we do concerning the Beeghley property needs to be uniform and predictable. A suggestion was to have the owner continue ownership of the property with the Borough placing a lien against it; therefore it never goes off the tax roll. He said there are a number of options to consider. At this time we do a case-by-case basis and we do not have a mechanism in place to enter liens.

Mrs. R. Miller suggested selling to Habitat for Humanity – the Solicitor said the only way the house can be taken is if the condition is considered a public health and safety problem whereby the only solution is to demolish it. At this point the most he is required to do is close it up.

Mayor's Report

Mr. Meyer reported that the new hire will complete the required tests next week, and all looks good.

Adjournment

Mrs. W. Miller moved to adjourn, seconded by Mr. Parke.

Unanimously Carried.
9:58 p.m.

Benedict G. Vinzani, Jr. Ph.D.
Borough Manager/Secretary

Called to order – R. Miller, president

Present: miller, koval, parke, rosemeyer, w miller, walker. Peters, enos, vinzani, dir, reilly, svirsko, cox, meyer. (sign-in sheet available on file).

Pledge

Prev mins – koval, rosemeyer – may 24, 2010 public hearing and council meeting mins

U. Carried

Opening of bids

Ben: we recvd tabulations on bids for the hospital's park project – we agreed to be the applicant for the project. They recommend lowest responsible bidder, E&A contractors in the amount of \$156,200.00. they are from smst I corresponded with them this am and she recommended this bidder.

Ruby: that is all paid by the hospital, we are applicants in name only.

MOTION

Moved by parke, seconded by walker to award to E&A Construction. Mr. rosemeyer abstained.

U. Carried.

General Public Comments

Ruby: thos who wish to speak please mention names and speak in a timely manner so all hav opportunity to speak:

Jim Atchison: re dog park – I established member based over 45 members four directors – spoke with schl board, public boro officials and donation of 729 so far – can produce a certificate of insurance from Mosholders for one billion for liability, I made an objective cost sheet predicted yearly budget, applied for a grant to start a fund raising campaign, I guess now I'm asking if we can do the sub lease for the park

Rub: where does it stand with the sch board?

Dir: as a result of a phone call today with the board solicitor, we can expect to receive official correspondence from the district re; where we are – we have the deed for the property but the deed contains what is called a 'reverter- the deed came from the sch dist to the boro jan 19, 1968. and ws conditioned upon the development of a playground within 4 years of the deed then a continuation of the playground. If it ever stops being used as a playground it says, "if it ceases to be used and occupied as a public playground, then in any of such events the premises shall revert to the grantor.(schl dist), its successors and assigns, and the grantor, its successors and assigns shall have the right of immediate entry for condition broken and in any such event the grantee(boro of smst), its successors and assigns make execute and deliver a reconveyance of the premises."

I don't recollect how long ago it was that it ceased being the playground. But that does not operate as a lapse in the reverter and the unofficial word I got was that we cld expect to receive an official request to sign a deed of reconveyance back to the sch dist.

Then and only then, if the process were going to continue for a dog park, or some such facility, would the schl possibly entertain a conveyance back to the boro with other conditions attached. But it was unclear and we'll need to wait, whether the boro wld need to b involved in the

operation of the facility or simply be allowed to lease it or sublease it. WE've known about the reverter when this gentleman first appeared and that prompted the ltr to the sch board and what they did and we are going to get this official correspondence. I hope I haven't misquoted it because I haven't seen it that's why we shld wait until we get it but I'm pretty sure it will contain the notion that if it's ever going to go back from the sch to the boro, the condition may be that the boro ought to be directly involved in the operation of the facility. What would that mean. Whether u wld even consider doing that, but right now I don't know that it's right to do much of anything else except report on what we found.

: Jack, if this reverts back to the sch dist and if it's their property again, couldn't they deal straight with the sch board?

Dir: that's what I thought was going to happen – following the first mtg. but apparently it didn't quite take that path but I got some indication the the schl dist doesn't think that it has sufficient latitude to either begin to get involved in the operation of a park or lease out surplus land to somebody else to be used as a dog park. They think if either municipality has latitude to do that, it wld b the boro and not the sch dist but I'm not convinced that even the boro cld do that.

Ruby: so did they give u an idea of when they'll respond?

(soon)

Atchison he told me that the most hat I can do is to facilitate that the boro and the schl does the paperwork drawn up right – as far as just being the sublease

Dir: perhaps u misunderstood it

Atchison: he told me he wanted to do the deed and draw it up and do everything at once, that was what he told me, that the schol has no use for the property – if they ever expand on that it wld go on that direction. As far as the park they have no they don't care about that at all. In fact he told me is a green light except for the paperwork.

Ruby: I guess we'll have to wait.

Atchison: shld I call him again?

Dir: call whoever u want to call.

Ruby: they meet second tues of the mo.

Dir: I think the board already took what action they were going to take. I think were just waiting for the board solicitor to send out the ltr nd the ltr is going to be, 'here's the deed, we want the property back, exercising the reverter and then anything beyond that cld include a re-conveyance with new conditions for a different use is up in the air. That would require the initiation of that by the boro if the boro is going to take up the project as a boro project or if not as a boro project, whether u wld take the deed back upon the notion that something else wld happen w the property that cld include leasing it out, that's the part im not clear on, which of those 2 or possibly both.

Ruby: I guess we wait to the july mtg.

:cld the schl bd just lease it out?

Dir: that's for them to decide. The notion I got was they don't thing htat was something that the sch code authorized for surplus schl property. They thot if there was latitude to do it, it wld likely exist more so in the boro code than schl code. I don't know that to b the case but I believe that was the rationale in their thot process.

Ruby: sorry we'll have to table u til july.

Atchison: ok

Dir: hav u ever seen the deed? Here's an extra copy. U can see the language we're dealing with.

Ruby: we'll move on to Mr. Kielbasinski.

Kielbasinski: re motion detectors I don't want to act like I hav a personal issue but I don't know what the police officer's problem is but they got to straighten their act up because they are supposed to represent this boro in a characteristic manner and when I call them for a response it shouldn't be taken as a joke. When it comes to noise disturbances, etc. – people got to sleep, get up for work and I'm not sitting here trying to complain. I like it here in smst but I have a few questions about the police. When you give them info about drugs, etc. and they want to get drugs off the street, don't sit there and laugh at me, and act like, well, it's no big deal, etc. – why sen me on these wild goose chases, etc. I saw a cop pull 2 people over that were in to this drug ring stuff in town over by the Reese motel within the boro. They didn't even bother searching the vehicle, they put their hands on the vehicle then they went on their way. Now what type of search is that, I'm just questioning this, but aren't you supposed to search the vehicle?

Cox: the only time an officer can search a vehicle is in one of 3 conditions. One, an emergency – second time is if they present an application of probably cause to a district judge which they have to produce that probably cause, and third instance wld be with consent of the owner. but if I

cld dispel one of the things that we did say, it's certainly not a matter of course to search every vehicle that's stopped. That wld be inappropriate action on part of the plc officer.

: ok I had a couple of other things – people in this alleyway – I watch it every day – there's 2 of them walking across the street – they put the sign, 'watch children' – they speed down that alleyway - how many times do I have to voice my opinion – I've written articles for numerous different papers and I think a couple of your plc officers are ticked off at me because I said something. Mr. Pile and Mr . . .

Cox: (re: question) now I'd like to ask you one thing. If u want to voice a complaint about a specific officer, there is a process for that and I'd be glad to – in a public setting it is not appro nor fair to the officer, nor the boro keeping in compliance with the bargaining unit contract to mention any officers names in a public meeting. May I offer u this. I know u contacted me before and I sent things out to you and never received anything back from U.

: really – because they told me at the front desk and this is a copy of it and I can give it to you right now.

Cox: If U wld want to take the time to objectively write down your concerns, one by one – just stop in tomorrow morning I'll receive it personally from you and I'll make a copy so we both hav a copy and give me the opportunity to adress them.

: it kind of baffles me that I've made phone calls.

Cox: I have made phone calls too and tried ot return those but I don't get an answer.

: Ok

Cox: all I'm saying is I've never gotten anything . . .

: my father personally didn't want to come here tonight because he's upset with this younger officer because

Cox: again, if u come in tomorrow anytime after 8 a.m. I'll be out of the station probably by 10. I'll be there at least 'til 10 o'clock I'm trying to offer u an opportunity to deal with this - if tomorrow isn't good we can set up another time.

: ok I just can't understand why u didn't receive it in the mailbox. I even got a follow up call and he said it was in the mailbox.

Cox: that wld have been the first week I came back from vacation. But if it was the 14th of June, not that much time has been lost and I'll be glad to sit down and talk with U

: it's already in writing

Cox; also understand that when I sit down with you, understand that I may not b able to address each one when I see u, it may take me some time to look into it and investigate it, but I'll do that.

: Ok, and one other thing – we've been discussing about the traffic – I wanted to just let U know, I did research on a traffic light up here and it' screwed up. on minute it will turn red to green with 45 seconds than another time it will be 25 seconds. Then the green to yellow will be 2 to four seconds. My question is, why is it fluctuating like that.

Ben: there is a motion detector sensor at most of these signalized intersections.

intersections, once that detector senses motion it puts the cycle into effect so if there's no cars coming U might have clocked it two different times where there is a different traffic pattern going on each side of the intersection. So that cld account for the difference in timing.

: because there is a lot of cars that are going thru red lights. Thru north and south center avenue, thos lights have improved. But this one down here somebody is going to end up shooting thru a red light.

Ben: I'll wait for your email and if it lists specifics as to what you observed I can give those to penndot for them to investigate what is believed to be a problem.

Cox: if it's even inconvenient for u to come in, my email is on my car. If u do email them I will send u a return email telling u I got them. It doesn't surprise me to hear that ben didn't get the email because the boro' firewall security system has some pretty high settings, if it doesn't recognize your email address it can throw it into . . .

: thank you.

Who is next

Justin Shaw, re crematory

: my name is Justin Shaw and I'm a resident of 535 tayman avenue – some of u read the pprs about the situation regarding the crematory that has been installed adjacent to my property at miller funeral home. I want to show u so all are aware of what is happening and give u some photos. These were taken from my back yard. The hearing board decided to deny my case bsed on the merit of the time issue and I

understand I was supposed to be 30 days from the time I was notified of the which I was only notified, anyway it was thrown out of the hearing and the board refused to hear it. my concern is this: I have – with the zoning code numerous times and portions of the code here have been grievously violated including council being by-passed. My question is how are we going to deal with this and go forward these types of violations with the zoning board being bypassed also the hearing board was bypassed too – if there is to be a determination of whether or not it was a conforming or non conforming use of building - so kind of a complicated issue for everyone to bring this to council's attention.

Dir: I'm not sure I can agree with this gentleman's characterization about who got bypassed by whom by what. I believe when the zoning hearing board conducted its hearing they operated on the facts as presented and the laws that exist. As a result I don't see any bypassing that went on. Beyond that I don't have much to comment.

: if I can venture back – we actually didn't have a chance to talk about the merits of the case because it was shut down before the case could be opened. We didn't get to discuss what was bypassed or not. and so that is my concern. Can it be an injustice that is done by somebody and can it go uninvestigated by the council, that is my question, a possible injustice.

Dir: if you've studied the code and the law, you would recognize that the borough council doesn't have much of a role in things as they occurred. Council from a long time ago, enacted the zoning ordinance and that is the ordinance that is in place and it is interpreted in conjunction with state law called the municipality's planning code and between those two laws the borough ordinance and the state law, the procedure that happened the other night was the correct procedure. The permit was issued as an administrative matter, actually there were 3 permits, the third came from the Pennsylvania DEP, those are administrative things that occur – borough council does not issue permits, they are issued by the permitted administrative officers and then appeals from the issuance of permits are conducted by the zoning hearing board which is the board seated up here and they concluded, based on the evidence presented, that the appeal filed was filed too late beyond the 30 day period that would have given them jurisdiction, and as such, without the jurisdiction to hear it, they determined that there was nothing to hear because there was nothing they could do about it either.

You had the benefit of legal council there and I'm sure if Mr. – believes that there was legal error committed he'll advise you of the procedures available to take the matter further but beyond that I would have to advise this council that they are not in a position to revoke anyone's permit because the procedure for doing that was what was followed the other night.

: but it's good for them to be aware of what's happening though, because as you said council did help write the zoning code and in the zoning code it actually states that if it is a non conforming use, the board is supposed to get together, notices supposed to be made in the newspaper and the public is supposed to be notified and there is supposed to be meetings about this. That never happened. If it is a conditional use, then that is basically getting grandfathered in. if there is a question of whether there is a non conforming use or not, there needs to be a meeting regarding that issue, with a public notice and hearing board meetings then it goes to vote. If it's not that and it goes to a conditional use which is the only portion of the code that refers to crematoriums, non conditional use, that goes before simply borough council then it goes forward from that, then again public notice and meetings. It's not just something that is just taken out.

So that's why I come as a concerned citizen and concerned parent. I do believe that the proper protocol was not followed in this situation.

: and I just want to voice my concerns, say that I am a mother of the children that play in the playground that you can see there. This is 36 feet from our property. About 90 feet from where my children play. 90 feet from three children under 3 years old, where they play. We have witnessed this thing running and I want to tell you first of all, the noise is absolutely ridiculous. It sounds like a jet in my back yard. If you'll notice the glowing orange stack. That is what we have to see from our home. What do I say to my children, how can this happen. I cannot take my children in the back yard without thinking that that is going to be turned on, then what do I say. Example, 3 nights ago, three kids in the back yard having a grand old time, I see Mr. Miller walking to the crematory two times. What do I do as a parent, I have to remove my children from that situation and take them into the house on a beautiful night because I do not want to be confronted with this running. This is a residential neighborhood – residential neighborhood. Do you all feel that that belongs in a residential neighborhood? 36 feet from my property line and 90 feet from where my children play. That's what I want to ask you all.

W. Miller: is that residential?

Dir: I've said all I can say. You folks have heard what these people have to say and I must advise you that at this point you don't have anything to do with it. the law has been followed and the proper procedure. If there are assertions of procedural error or factual discrepancy, there are legal procedures for that.

: and we will proceed with legal procedures. This does not belong here and as a tax paying citizen I can voice my opinion. I grew up in this town and moved away for many years, came back here, brought my family back here because I thought what a great place to raise a family. The sad thing is, I'm being kicked out of here!

Ruby: any council member have any remarks? I know you're going to pursue it. I'd rather not quote anything at this time.

:my name is --- and I also live in the boro. On Thursday I attempted to file an appeal when I found out about it within 30 days – nobody was here. I came back on Friday, Mr. Vinzani and Tom Jury said they are not accepting any more appeals anymore. If I would have known when I bought my house 3 years ago with a crematory 50 yards from my house, I wouldn't have bought my house. We have a 15 month old and don't want her playing in the back yard. U look thru all the cases and all u have to do is look online – see crematory emissions – mercury is one of the things –it doesn't take much mercury, it's the third largest chemical that is the most hazardous, the first 5 years of life and older people are the ones that are affected the most. Next door neighbor have a 3 year old and a one month old. We have the Patriot Manor with older folks and the school there. And it should not be in a residential area. I want to know why they wont accept my petition, everything was iwthin 30 days. The day I found out about it was when they gave me the paperwork saying they are going to have the meeting. the community's comments are welcome they say. We weren't able to say anything. Our property values can drop and if they drop I'm not going to pay all the taxes. Every one I talked to, I'd say 95% of the people from my direct neighborhood have a petition going around. How can an incinerator be included in a neighborhood and nobody knows about it.

I wouldn't have known anything if Justin hadn't told me. I don't want my child to be breathing anything that comes out of there. Do the research on line. He can't guarantee that what he's putting out, just a small amount of mercury, and as he said in the newspapers, cremation is going to go up. while in the 70's, that's when all the they say you're going to have a mercury issue with crematoriums.

They say just in Oregon alone just the crematoriums in Oregon can contaminate over a thousand lakes and that's just one state, an awful lot of pollution going out. Historically they have been out of town. San Francisco do not allow them in a town. I can't see how being in a residential area and we didn't know about it. He said in the newspaper he feels their doing their job during the day, so he's putting all that stuff in the air, I don't want to take the chance with my child. I moved to Somerset because I thought it was a nice town, I have a question about some of the zoning things, especially when nobody knows about it.

The other thing is, they won't accept my petition to go in front of the hearing board. There's a lot of things that just don't add up. Right in the zoning documents it says for the safety of the community.

:and to protect property values. Talk to any realtor and they're going to say the prices could go down and this is in a bad economy to begin with. Our property going down affects the tax coming into the borough. There's no way that this incinerator should have been put that close to the schools, which affects everybody that goes to that school. I have to go to Kooser state park to let my kids play now and we don't even know when he's firing it.

: Jack, can EPA put times of when these things can run and not run?

Dir: they probably could

:It's still putting – depends on how they do it, just putting it in the air.

: and the bid concern, they say there's no proven effects of the mercury but proven so what they're saying is, we need a test – we need to say if some children get weird ailments, cancer, learning disabilities, let's see if this test bed will work then we can use this community as an example, etc. so right now unfortunately we're trapped in our homes because our homes are of a size . . .probably no other person would want to to keep up with the house, it's too big for a single person, and it's designed really for family, there's been one of the playgrounds we have near a house has been there for 50 years and it's a family style house and u say the pictures of that playground with that thing behind it. Really now it's a test bed, unfortunately. And it makes me extremely sad and I don't know who wld buy my house and I purchased my house from Miller and nothing was ever said. We figured there wld be not chance that a crematorium would be installed. So now we're the closest test bed to this thing and the rest of our community is too. So there are the health aspects too.

: these people have all been talking and they have healthy children. My neighbor's property is down on Tayman, directly across from Millers. They have a child who for the past year, he was 11 years old when diagnosed. He has leukemia – he has gone thru chemo, radiation, is now 12 years old and still not well and this parent is worried about what might be happening to this child in his condition, not to mention what might be happening to health children.

: I'm at 632 Tayman Avenue and the thing that is burning me up is, I don't understand why nobody told us or we weren't asked about it. I thought you had to get a variance. So I thought it would be a nice place to raise a family. I can't handle it – the crematory is totally making me sick and I can't believe that everybody is agreeing with it. I don't understand it. and I just found out myself when I got my letter from the boro. Then why only did certain people get letters from the boro and not everybody else.

: within 100 feet.

: well, I don't understand why you're doing it.

Ruby: Jack, is there anything they can do legally, or anything? I mean, we can't do anything

Dir: I can advise council that at this point there's nothing council can do. now they believe legal things can happen to them, they should have their own counsel.

: why would the zoning hearing board not accept the application? Ben came out and said I'm sorry I can't do it.

Dir: if the one that was heard and decided the other night was already adjudicated to be too late. Anything filed after that – I'm trying to explain to you why that wld be – now if u believe that that is an incorrect position, u shld see a lawyer and take it from there.

: I have one. I just wanted to let it be known that the first time I found out about it, I went on line and even after I talked to my lawyer, 30 days from the time I found out about it, so I filed within a week and I was told 'we'll see u in court' more or less. That's really protecting the public. And I intend to move out of this town. I chose Somerset over another place, now we're just pulling our hair out. It doesn't sound good for the boro when u walk around the neighborhood and ask when they found out about it and they found out the day after the hearing from the front page of the papers. The only communication, especially something this value, peoples' health and property values.

Ruby: so Jack, it won't pay U to file with the zoning board – it won't pay you to file with the zoning board because that wld be a waste of his money at that point.- for u to come to the zoning board and do the same thing he did the other night.

: I just wanted to make know that I attempted, with all the stipulations, with the zoning and everything and I was refused.

Ruby: but if u went thru the zoning thing again that wld be an unnecessary cost to him, right?

: I'll pay the cost! You cld probably get \$10,000 if they had that meeting. there's people fired up about it. The cost for my son's health, there's no price to put on that! and how he can make a profit on it, potentially causing health problems for all these people, if he's firing it off during business hours, all football players, track runners, they're going to be ingesting stuff even more because their heart rate is up. It's just not in an appropriate place and should not be in a residential area.

: I'm . . . live at 540 west sanner – I can see – house from my bathroom. My son is best friends with her little boy. I just want to bring this up, that one day the snow had cleared and we were outside for the first time, I had never noticed it before, the building of this at all. I looked up and there it was, and I asked Jen, what is that, and she said it was a crematorium. Nobody ever knew and I think this is very underhanded, such an injustice. And my little boy too, is not far away from that incinerator. I'm just so upset and even hwo the meeting went down the other night, no one said a word, it was just like, 'shut your mouth'. Just because the people would not even let us speak, as tax paying citizens – we pay to live here and everything being done right now, was done under the table! It is a great injustice, not just to this family but to the full community in Somerset borough. It makes our community look really if something is not done about it. It's terrible.

Ruby: I wish I had the right words to say to you.

: I know that. I just am so angry, because of the pain they're going thru. All of us feel that, because we have young children.

: when I was off working I'm trying to stay awake to try to find out what else I can do.

Ruby: At this point council can't . . .

: well we're not going to go away – maybe things have to be changed – some things put in more than 100 feet be more appropriate . . . if something goes in like this, it should make the news, it's going to affect the v alues of our houses.

Ruby: I appreciate your comments but council can't do anything tonight. Please pursue what u have to pursue and I'm sure council is in agreement that we will re-look at everything and all procedures to make sure something like this never happens again.,

: there was one comment made about payoff or something

: that was me – I just can't understand how they got away with doing this and not letting any of us know.

: what payoff do you mean?

: I don't know – just didn't know, even as neighbors, I mean if you call to put a fence up or something - everybody agrees to it – what happened to that? that's what I don't understand.

: I understand that Wally has a business to run. I know he's done a great deal of work but I think he is, because of what he does, a bit desensitized by what he does – it may not seem like a big deal to him because he does it for a living, but to us, it's a huge deal. Because when u do that every day you are desensitized to things.

: and the two other ones, pretty soon they're going to be doing this too, I mean, there's money in cremation.

: Thank you for listening. Mr. Mayor, do you have any thoughts on this tonight, were U aware of it happening? I'm coming to U guys for help.

Mayer: everything goes thru the boro offices over here – I'm over ther ewith the plc department which is my main concern in the Borough of Somerset

: if it had come thru to your notice would it have surprised you?

Meyer: would it have surprised me – no, if he wld have followed the proper permits and has them all in order and putting this in, I wouldn't have been surprised, no.

: In a residential area?

Meyer: I lived at the other corner down there, I lived at 505 Tayman for 26 years and I raised my family down there of course there was no crematory there at the time, it was a great neighborhood. I've known the Millers were there long before I got there and it didn't bother me about buying in that neighborhood.

: Yes we think it's a great neighborhood

: that's why we're here

: it didn't bother us either

: it didn't bother me either when we bought the house. I'd now never buy it there

Meyer: the funeral business is evolving and cremation is becoming bigger and bigger. Evidently to do this he evidently had to get permits from the EPA and who alla else I have no idea

: no, the EPA has nothing to do with this, he says it does, it does not, the DEP does.

Meyer: as I say, I'm not privy to all that goes thru the boro ofc.

: Well again, we just want to be sure that council is aware of all that has happened and the ways we've been treated.

: Jack, is there nothing else that we can do?

Dir: at this particular point, it's a done deal unless at a higher level the court directs something to be done, and if that direction would occur I don't think it's going to come back to boro council because council really had no role in the process. The permit was issued as an administrative matter and the appeal was heard and decided by the zoning hearing board.

Now, later on when it was my turn to talk I was going to mention to you that if we think we want to do things with the zoning ordinance – we're supposed to have a turn-up period every 5 years or so, now might be the time to start doing that, for example, it was discovered at least by me and maybe others that a mortuary or a funeral home or whatever name u want to call it is not actually listed as a permitted use, anywhere, in the boro. That's one of those things that doesn't exist as a permitted use. Because it is not listed as a permitted use, it's hard to define what might be considered as an accessory use to the permitted use, and whether or not the other kind of uses, zoning is use regulations, and there are other uses like special use exceptions and conditional uses and things like that. it might be something to tune that up a bit, and clarify the issue.

But in this particular case, the facility pre-dated the zoning ordinance and as such, occupied the status of prior non conforming use which is yet one more use.

You folks have had an opportunity at length to address the issue and hopefully u knew full well that council couldn't do anything about it anyhow. They ask me a question now and I'm trying to give them my input on that.

So if we want to look at that particular zoning issue, or other issues that may have come up over a period of time, we'd almost have to get input from whatever source they are, to see if amendments to the ordinance might be something that is appropriate. The ordinance can be amended, in fact, that particular type of thing is going to come before you tonight on a map change, further down in the agenda, because at one instance it is to the stage where it is time to adopt the amending ordinance to change the zoning classification and in the second instance somebody else is asking for you to start the process at another place.

So amendments to the zoning ordinance can occur, there is a procedure for that – matters like that are referred to your planning commission which is one more body that needs to become involved in the process. So procedures are there for these things to occur.

Right now, and obviously these folks are upset but I have to tell u that there is nothing u can do about that.

: It's a morality issue. These people are suffering, and there's nothing you can do.

: legality and morality don't always blend.

Scott : when was the last time the zoning ordinances were revised or amended that you are aware of? I guess more appropriately my question shld be when was the last time zoning ordinances were taken a look at for possible . . . ?

Dir: not within my recollection.

Ruby: so we have plenty of work to do on the zoning ordinances.

: thank you for listening to our side. We just wanted to be sure that everyone on council knew.

Ruby: I really appreciate your time

Cox: this will only take like 30 seconds. Before I came here I was the chief of police in Ligonier and b efore I left Ligonier a funeral home down there in a residential neighborhood, placed a crematorium. The only reason I mention that to you is because even for encouragement or

information, if you'd want to check over there and see – (it's been there for at least ten years) and at some place U cld check to see if there were any ill effects. It could give u information to use. I'm throwing that out through a neutral position.

: also a funeral home in Mt. Pleasant had one for 20 years.

Ruby: so why don't u check with those towns and see. Ok, we will move on then, thank you.

Communications none

Payment of Bills

Moved by Koval, sec by rosemeier to pay the following:

XXXX

Vote: W. Miller, hanke, frank, miller, rosemeier, walker

U. Carried.

Gary thomas, fire chief: regarding paving, contacted 4 companies, mtg with first on tomorrow, talked with new enterprise, dan blough, (working up prices,) b&b paving, and Keystone lime. I will meet with all 4 of them this week and come back with prices. I talked with some of the membership – council members said at their mtg they wld pay for the job and take it out of grant money. Some c mbrs said felt we shld talking to people that are dealing with pavement, no less than 4 inches, no less than 9 inches in concrete. The problem with concrete is u can't run on it for 14 days – u have to do one day every 14 days – and I can't leave that equipment out on the street because they will walk away – they've walked away sometimes at fires – we've lost a ladder already. The paving is going to be the best way ok?

We're trying to help u out but with us being volunteers we rely on council for helping us out with money situations – we just bought that new fire truck, that set us back 650,000 so we're trying our best to try to keep our head above wtr. we bought 6,000 worth of fire hose, we needed air ... - we're struggling like you are – nobody gets paid and it seems like my job as chief gets harder – I retired and they think I shld be there full time and I can't do that. I'm relying on council to help us out on getting some things taken care of.

Ruby: u don't have any price.

: at the beginning of the week. I'll get ahold of Ben and if u want to sit down with fire dept mbrs and council on a short mtg to find out where we stand at this point in time. But it's a lot of work for volunteers U guys expect a lot out of us – we're class 4, there's a chance we may even go to a class 3 with our ISO rating coming up o help commercial structures in town with our equipment, training, etc. Just to let u know where we stood.

: oh, another thing – back in here it says fire hydrant markers – it says the fire department contributing 15% or 50%?? of the cost - I did not authorize that. whenever I asked for that to come out of your budget because we just blew our budget with purchase of this new truck

And if u cld do this as a courtesy 50 or 100 we just can't do it at this time.

Ruby: we're going to install them, right?

Ben: let's go with that

: it's say 2995 is the cost for these.

Ben: that's roughly it, yes.

: Does that include the installation cost?

Ben: No

Ruby: our guys do that

: that seemed a little high. I found two places, one for 1499 a piece and one for 16.95

: when we put them together they were 22.00

Ben: did that include flags?

Yes

: U gave me the bill for the last ones

Ben: it depends on the quantity too.

: the 14.99 ones was in quantities of 5 – they offered that price

Ruby: cld u give us the critical fire hydrants that need them

Ben: we have that – what we'll do, whatever number is authorized, we'll get with you and u can pick out the ones to prioritize – I think u have 125 listed.

: I did have 125

Ben: and we can get with u on where u want them to be installed.

Ruby: maybe we can.

Ben: we'll get the best deal.

: I just want to let u know – we put in for some grants.

Ruby: ok.

Old Business

Snow Emergency Policy Update

: we talked at our committee meeting and came back to Ben and George with the idea of sitting down and reviewing some policies from other communities coming back to us with suggestions on what will work in smst boro. That's the report.

Ben: We'll have it as a continuing business until we come to a conclusion as to what we want modified.

Cox: if I could say – I'm not asking to be involved in the process but at some point I would appreciate looking at that.

Ben: yes, u will be part of the process.

Handicap Parking Space Request

Cox: I'm going to recommend that u do not approve this for several reasons. We have approved a couple of these in the past and usually the neighborhoods where u have approve it is that parking spaces are at a premium and high demand, it's tough for people to get them close to the house. This situation doesn't exist

Ben: Orchard and Hugus.

Ruby : 1102 Orchard Avenue

Cox: So that's one reason, I just don't think the density of parking justifies the placement of the sign. The other thing, this is nothing more than a neighborhood/family feud. The only reason this request is coming in is that the one side of the family feels that they can deprive the other side of the family who looks across Orchard from them, of a parking space. We've been down there on disturbance calls over this family two sides fighting over parking and a variety of other things, and for you to approve this all you're going to be doing is feeding into the battle. My recommendation would be that U decline it, based on the lack of a parking density situation. You'd just be feeding into some real dysfunctional behavior thinking down there.

There's plenty of parking, unmetered.

Meyer: the next reason is everybody with one of those cards is going to be coming in.

Moved by Mr. Rosemeyer to deny the request, seconded by Mr. Koval.

U. Carried.

New Business

Terry Fitzgerald Request

Moved by parke, seconded by rosemeyer to adopt the following zoning map change Ordinance, rezoning a portion of an R-2 District to M-1, as authorized.

ORDINANCE NO. 1344

AN AMENDMENT TO THE SOMERSET BOROUGH ZONING ORDINANCE, AS AMENDED, AMENDING THE ZONING DISTRICT MAP OF BOROUGH OF SOMERSET, PENNSYLVANIA, BY REZONING A PORTION OF AN R-2 DISTRICT TO M-1 CLASSIFICATION

U. Carried.

HK Realty Request

To authorize a pblc hearing based on the recommendation of our planning commission

Ben: u saw a copy of the request ltr and ltr from out plann comm recommending that we approve the rezoning, which sets the next procedural issues in place where council holds a public hearing on the rezoning request but it has been reviewed by our planning comm and they recommend that council we can do that at our next council mtg at 7 p.m

Moved by Mrs. W. Miller to authorize a pblc hearing at 7 p.m. before out next council meeting based on the plann comm's recommendation, seconded by scott walker.

U. Carried.

Resolution – tax collection records.

Ben: we have not recvd the specifics from our former tax collector Mrs. Gnagey we called her indicating that she needs to be specific on which records she has to dispose once we get that we will put it in form of a resolution, then council can act.

Moved by Mrs. W Miller (Ben: we didn't get the info from her yet.)

Street Closing Requests

Procedures on closing streets n the Borough of Somerset

Cox: I had suggested to ben to put this on the agenda – peoples' request to close streeets, whether coming from the chamber, smst inc. an auctioneer or someone who wants to close an alley because they want to put new siding on their house, sometimes they come to the plc dept sometimes to pblc works. Usually they are reasonable requests. Since I've been here I follow in steps of my predessors and just approve them, make the arrangements, etc. and it occurs to be that I don't think it's the chief of police, I hve the authority outside of an emergency to close the street, etc. but here's the other part of it, once the boro condones or even assists in closing the street especially when we put boro materials or supplies out there to do it, I think we buy into the liability of it because if something happens we permitted it.

So what we've been doing is telling people that I approve their request but ask that they provide a cert of insurance naming the boro as an additional insured and in talking with Ben, I feel the most appro entity for those is council but that's not feasible because someone cld come in tomorrow with a request before your next meeting and they shouldn't be told they couldn't do it because u didn't do it in a timely manner but I think the most appropriate entity to funnel all those requests thru, would be the boro mgr as opposed to chief of police because he's the closest one to u in that chain of authority and the most logical one to delegate that authority to approve those things while collecting the certificates of insurance and everything and we came out with a new form that makes it collect all the information needed, one page, very simple but that's what we're looking for tonight, for council to delegate that authority into ben's hands to deal with those requests and keep the boro safe.

Mov

Moved by rosemeyer, sec by koval to give ben the authority to act for roads, alleys, shutting roads for special events. (Ben to be the contact person)

U. Carried.

Somerset Twp Letter

Providing wtr to the proposed industrial prk in smst two. Ben: the action our mun auth took on this issue, reviewing the options for both bodies to consider, their recommendation was that we will abide by terms of our intermunicipal agreement an additionally offer that we can provide wtr to the whole industrial park as well, realizing that we can only hold them contractually to the first part of that issue and not the second. That is what is before us tonight and what our authority acted on.

Moved by parke to provide water to the proposed entire industrial park and smst township. (sewer is not a prt of the request) motion seconded by scott walker.

U. Carried.

Shade Tree Committee appointment

Moved by parke, sec by rosemeyet to appoint peggy ogle to our shade tree committee.

U. Carried.

Shade Tree Committee appointment

Moved by Mrs. W. Miller to appoint Forest Lucas to our Shade Tree Committee, seconded by scott Walker

U. Carried.

Municipal authority resignation

Mrs. W. Miller moved to consider Ralph Friedhofer's resignation from our Municipal Authority Board, seconded by Mr. parke.

U. Carried.

Ben: we will get him a plaque with his years of service. Ralph wa a gentlemen's gentleman

Moved by W. Miller, sec by parke to accept with regret.

U. Carried

Letters of Interest for serving on mun auth board

Mrs. W. Miller moved to authorize letters of interest for person interested in serving on our mun. auth board, motion seconded by Parke.

U. Carried.

Rotary Membership

Rosemeyer: I'm sponsoring . . . to be a member of the rotary, made up of all the business men and women in smst, an ideal place for the boro mgr to be.

Moved by rosemeyer to have the dues paid by the boro for the boro mgr, seconded by Parke.

They spoke about his schedule – friday is generally a hectic day but he will make every effort to attend. I can't promise every Friday.

One is wednesd and one is Friday.

Motion seconded by hank parke

Vote: wanda, yes; hank, yes, frank, yes r. miller, yes; fred rosemeyer, yes, Scott Walker, abstains, just not sure about ben's schedule, feels uncomfortable placing this commitment on his shoulder.

Motion carried.

Rotary do international events, district rotary, cover things for many local communities, our rotary does things for the local community. Discussed working on service projects. Ben: Shld go on record also that I can't guarantee attendance. Can get involved in selling, can't solicit from the community because of my position.

Red Knights request for donation

250 was recommended.

Moved by park, seconded by scott walker to donate \$20 to the Red Knights.

U. Carried.

Fire Hydrant markers

We can go with a certain dollar amount if council authorizes. Hank Parke: growing up at Hidden Valley we used to mark things with bicycle flags relatively inexpensive, would that work? Worked well – fiberglass rods?

Svirsko: these are fiberglass rods, the only thing different, Hank, is there is a spring on the bottom – we tried the permanent ones and kids wld snap them off and these they can grab and they will just spring back in place. There is a marker that goes on top that like a 4 inch square that tells u the pressure on that. Ben: a color coded pressure. Reflectivity

Svirsko: in winter u cant see the caps

Meyer: u actually approved 25 because u were expecting the fire dept to pay for half of those.

Ben: yes, that's what we were lead to believe.

: so u want to make it a flat 500 dollars?

Motion by park to buy 500 dollars worth of fire hydrant markers, seconded by rosemeyer.

U. Carried.

(we are putting them up)

Laurel Arts Request for donation

Rosemeyer: I think 500 dollars is too much.

: what did we do last year, we sent them a bill for police so they got more than 500 last year, so they're probably expecting u to wash again this year.

: I don't think we paid anything to them – I'd have to check.

Cox: whether it's th concert or actual summerfest, they ask for 2 o3 of our officers down there then they pay the full rate. So last year that was set up before they requested a donation and I thought it was easier last yr rather than for us to send them a bill and them to write us a check and then u folks to write them a check, I just thought it was easier to send the bill then forgive the payment. If I recall it will be higher this year because the wages have gone up. so it was more than 500 dollars but less than 600.

: has the finance committee looked at this?

Ben: it came in on Friday and we met on Wednesday.

Meyer: they've asked for 2 officers the night of the concert and 3 officers ea night of summerfest itself.

Ruby: so it wld be the 11 and u wld have four days of plc officers.

: isn't there a grant for a parade?

: there is a hotel tax grant to cover marketing for concert and summerfest but that can't be used for those kinds of things.

: didn't they say to buy no parking signs? Ben: . . . 'to help defray cost of hiring fire police and printing of no parking signs for the summerfest parades'

: the only problem I have with it, according to our fire police, we never got anything last year or any year prior to that.

: it's who they deal with. This could be different because the parade is under different leadership this year. Sienna always did in previous years, go through the Somerset fire police association.

: also, Somerset has not had a fire police.

W. Miller: I think we not make a donation because we are going to have police officers there.

: but nobody for the parade.

; this is particularly for the parade.

: we put officers extra at the parade but they're not billed for. But they also bring in fire police at different intersections. We don't man every intersection.

: I recommend we reduce the amount of 500 dollars to whatever council feels is appropriate.

Ruby: we had \$11,000 at the annual budget for our donations.

: maybe the finance committee should sit down and look at it.

Ruby: well the parade is going to happen before . . .

W. Miller: how much would it cost just to print those no parking signs?

: they're expensive

: we'd have to get the official no parking signs

Cox: it's not the type of thing you can run off on a copiers, they have to be larger size, and printed on card in case it rains.

Ben: it's a plastic – a weather resistant.

Cox: we use plastic ones. I don't know that their needs are and what our stock is

What do we do year to year - color – plastic material - it's not like the parade isn't bringing any money to Laurel Arts, not like a fundraiser or any other non profit event.

: how much did we spend?

Peters: of our 11,800.00 budget we spend 23,028.00 – 19.7 percent through May of this year

: who buys the trophies? Best fire co, that sort of stuff?

Who pays for them for the parade?

: I think that all comes out of the entry fee

Wanda: do we pay an entry fee? For the summerfest parade?

: I think the first unit is free and every unit after that costs money

Ruby: the motion is on the floor for 250.00 to use towards their parking signs and fire police maybe they should be told to keep their signs from year to year.

Motion seconded by Rosemeyer, (for the 250 dollars)

Comment: even tho the finance committee hasn't met on this, Brett said it shld not be an issue.

Peter: \$250 isn't going to kill the boro budget, but at the same time we had the winter storm event we are overbudgeted in that particular line item administration and public works and at the same time we're all trying to cut back where we can to save the general fund, so we're trying to make cuts where we can. And civic affairs is one place where the finance committee is trying to limit – we've cut a lot of donations in half and that's basically what u suggested here and that wld be consistent. And we're watching where we can and that's one line item where we can control.

Discussion about whether to abstain. Dir

Vote: W. Miller, yes; walker, yes; rosemeyer, yes; R. Miller, yes; Parke, yes; Koval, yes.
Walker, yes – Rosemeyer, yes – ruby, yes – koval, yes – hank (shouldn't we be abstaining?0 –
Then I withdraw my motion

Dirienzo: I don't think you have to abstain.

W. Miller, yes – Parke, yes. (\$250 for fire police and no parking signs)
U. Carried.

Committee, Administration, Special Reports

Manager's Report

Cox: may I ask a question, just to make life simple? When I bill them for police services should I just indicate on the bill the deduction plus 250?

Ruby: Did the board hear that? when he bills them for police services he will show the 250 has been paid to them, that will come off his bill

Cox: we'll just reduce the bill by 250.

Ben:

drought task force mtg june 8 – everyone reported adequate water supplies

- may 29 I delivered some remarks at the flite 93 chapel when dedication of the four freedoms quilt
- Geo and I met with FEMA to go over application for reimbursement for snow removal costs. We hope to have everything finalized by them and documents for us to sign then we will know exactly what we are going to get and when
- Shade tree committee and safety committee met june 15, finance committee met on 23 of june. Also on 23 of june we had a pa one call system training session here for our public works dept on proper techniques for turning in pa one calls. For those of us arent too familiar, it's a system where before u dig u have to call, for private as well as public contractors, a refresher course.
- July 16th is the summerfest parade in the evening this year, if u are able to go with us, let me know, to ride with us.

President's Report

Ruby: ok I'll b brief. Humane society thanks for the 250 dollars. "words alone cannot express our gratitude for your gift. We want u to know how thankful we are for your help. The doors of our shelter are always open to all in need and we provide a safe haven, nourishing food and relief from pain. For many it is the first time these dog – is the fist time they've had food and rest – our goal is to make them well and to give them a second chance of life that they truly deserve. Without your help and other compassionate friends, we would not be able to do what we do."

Engineer's Report

Public works committee

We went over this – snow emergency ordinance, in our column, inside smst – we did talk about before snow emergencies, in ben's column, to ask for suggestions. On the other hand people who have lived in other communities have had a policy that has worked. So if we get input from the community it may be somewhat easier sell. We talked about just minimum amount of patching.

Public Safety Committee

Met June 23 at the public safety bldg. talked about community nite out. About the hospital which is from or the twp coverage for the state police. No action needs to be taken at this time, possibly a – issue. Talked about the hospital detail from 3 pm to 3 am we still have an officer there. Talked about laurel arts details, there will be two at the concert and 3 at summerfest. Talked about schl detail, always had an officer at the schl. The sch is also in serious financial concerns and there will not be an officer for summerfest schl detail. Using that officer, The chief wants to take a look at possibility of an officer for domestic violence.

Cox: just want to update U – that is ready to go, so it will probably be a pretty seamless transition from being the sch resource officer to being a domestic violence officer. The amount of money that the schl reimburses to have an officer, the schl resource officer, unfortunately that is ending, but we're going to move that officer to the domestic violence program which is a state grant that we have coming covering that amount of his salary, just a different function. Sorry to see the schl resource officer go.

Then I asked about background checks for service organizations and they cannot do that by law so that was basically everything. (re: service organizations, the Eagles we want to get new members coming in, to have them pay for their own background check, find a way to do that.

Ruby: a new policy needs to be put in place – members. Discussed various background checks needed.

Final issue, chief is constantly looking at his budget, about 42% right now and always looking for ways to reduce and is much appreciated by the finance committee. So that was our meeting.

Finance Committee

Rosemeyer: I think we pretty much hit the highlights. We did meet last week went over general water/sewer fund budgets. No red flags. Just to give the highlights thru May 31 which is 42% of the year – we received 61 percent of our budgeted revenue and spent 41% of our annual budget so even with those overages that we saw with snow removal we kind of, at least at this point of the year, kind of made up for that.

The snow removal costs, we budgeted 15,000 for snow removal costs this year as of June 30th I took a sneak peak at the June financial. (Brett talking?) thru June we spent 108,000 and that's 93,000 over budget, without any reimbursement from FEMA

Ruby: on a normal year what would we have spent? Historically we would have spent – only \$15,000?

(yes)

So if we get 40 some thousand from FEMA – that deficit we would have to make up, would be 50,000 dollars and we are kind of doing that now - thru June we only spent 48% of our general fund budget but it is an ongoing process because we will have snow removal expenses at the end of the year.

Ben: it will adjust historic . . . it will adjust

Ruby: and I asked Ben to check about getting salt thru that new process that is going to go in – get our name in the pot, remember?

Ben: yes, once that becomes available to the public we can do that. right now the boro we are committed contractually for another season with the state after that we're free to not join them. We'll make that evaluation when we get info on what the prices would be compared to what we're paying now.

Shade Tree Committee

: we are moving forward on the grant and taking a look at a couple kinds of trees for the boro – inching forward. (Dir mentions tree falling onto car at street of supply – limb fell) was storming – discussed)

We voted for those couple new members.

Somerset Inc.

Parke: trying to figure out finances.

: are they going to do anything with the elephant at the arts?

: I don't think Somerset Inc is moving it. Ruby: Barb has authority to put it at the fountain.

: I don't have a clue as to who is to get it there.

Ruby: she has a camera on it for security.

Solicitor's Report

Dir: the zoning tuneup thing I mentioned earlier, I think we should consider doing that but before we do it, we need to have a meeting - different things you might want to consider in the process. You're all welcome to read down thru the ordinance but if there are problems that you have become aware of during the passage of time, that might be something that you'd consider in a zoning tuneup, I think we ought to have a website or something that somebody, as you think of them, you could send them in then get together with the planning commission and talk about some of the things and see what else you might do. for example, this thing about a mortuary.

Ruby: they really shld hav been told.

Dir: that's certainly one point of view, but under the current scheme of things, that wasn't contemplated – it was a mortuary that isn't a permitted use anywhere in town.

Ruby: that we need to change.

Dir: we probably ought to do that. and in the process of doing that u decide whether or not a crematory incinerator is an accessory use of a mortuary or not and if so, under what circumstances. We prob never had that happen before because nobody ever came in to get a bld permit for a funeral home, they've been declining in number rather than expanding.

: generally people don't come to a mtg unless it's something that affects them directly. They don't spend time listening what's happening to zoning, boro council, or anything. I mentioned this before, about the sno removal ord. why don't we ask people for their input on this, because these people are saying nobody wanted to hear me. I understand what the ord says, but this wld be a way to say in your article, go to our site and click on to whatever and if there's a concern that u have, voice it.

Cox: Frank is already setting up an anonymous tip function for our website, so

: we may be putting our best foot forward, we may get some wacky stuff.

Dir: you're bound to, but u got to collect somehow.

: and I'm not sure how much all of us, how much you're going to collect just from this group.

: Jack, shld we not mess with that ord until they are in the court? Because if we make changes that might add to their case.

Dir: good thought, except that it is what it is and was what it was at the time that it occurred. The only way they are going to be successful is if somewhere along the line the court wld order wally's permit be revoked. I think they asked too late, but there was nothing underhanded about it as far as I know, and there is a principal involved that wally got his permits, he relied upon the permits he got, he spent the money on the reliance of those permits. and there is something called an astopple? There. We're a party to those proceedings and I will continue to appear as necessary and represent the boro but we cant do much of anything except say they applied for the permit, it appeared to meet the requirements and the permit was issued. We have not done anything wrong, they have not done anything wrong.

: I don't thing the boro would have passed that – I would not have passed that to be in a boro residential area.

Dir: what u might want to do then is consider a crematorium, for example, whether it is an accessory used to a funeral home or as a stand alone – u might want to consider it in a list of conditional uses that aren't really permitted anywhere but technically they cld be permitted everywhere if the applicant comes to council and council approve the conditional use. And there are already a long list of things like that in the ordinance, for example, a school. A school is not a permitted use in any particular district but if somebody wants to build a school, they have to pick a site, then depending upon what zone it is in, ask for a conditional use to build a schl in that zone.

That's fine, but remember what you're setting yourself up for, because each one of those applications you are going to need to consider and take the time. That's something that u got to consider when u make it a conditional use instead of a permitted use in certain districts or an accessory use to a permitted use in a particular district or a special use exception that somehow goes to the zoning hearing board. It's an intricate thing the way the zoning ordinances work. But if u see something that u think needs looked at, that's what we have to start with, is making a collection of those possibilities then consulting with the plann comm and possibly with the county plann comm, getting as much input as u can get, then do an amendatory ordinance if it looks like that is what is in order.

Ruby: we did suggest that tom take pictures of where the permit is, the placard is placed, because some people that are building things, I really have to search for that building permit and it shld be visible. He said he is going to issue a placard for when u put a fence up to know that u have come to the boro and ask whether u had to pay anything or not.

Dir: remember that in this particular case tho, Ruby, it was only because wally decided he wanted to make the bldg bigger and he even had to come get a bldg permit. The permit for the crematory incinerator he had to get back in dec. according to the uniform construction code that was just like asking for a permit for a big furnace, which is what he applied for. And it's not an outdoor furnace

: the one thing too, it says specifically that this must be operated in such a manner as to not cause air pollution. They talk about it but really don't specifically get in to what they consider air pollution.

Dir: but there are limits on it. they are in the dep regs on air sources.

Wanda: it says they need to check it every time they use it.

: I think we ought to get a copy of the regs that show what they consider to be air pollution.

Dir: municipalities, we do not have our own battery of experts to force that kind of air pollution permits. The dep probably a principle – they have exhausted the field. They have taken control over air pollution from that kind of source so even if we decided that we want to have our own regs, I'm not so sure we cld change.

: I'm not saying we wld want to have our own regs, we'd just want to know what it is.

Dir: I think I can get them thru lexus nexus –

the other thing is, we prevailed over Mr. Beeghley in court – he w as fined he had taken his appeal, 200 dollars in each of two instances plus the cost which was another couple hundred dollars a piece – he was there with council and atty Kline representing him this time. At the same time we have ltrs that had gone out for the same places that he hasn't fixed het, so we're urging him to fix them without the need for further prosecution.

: so chances are, on those other ones, the appeal isn't going to fly either?

Dir: no. two properties, the appeal. And the same two are up again. I do everything I can to try to urge him to go do something rather than fight with us all the time because it takes up our time. Next time it may be up to 300 dollars and that's the maximum. But there we are. Related to that is the issue of demolition liens because he has applied to do that. ben sent him correspondence from the co redevelopment authority which is where our cdbg money comes from which is what we wld use for that. I talked to the red auth and here's the thing on that: if we want to enter liens for block grants that are expended we can do that but we need to have predictability and uniformity associated with that, which means we wouldn't pick and choose each time, which wld mean we're picking favorites. Smst county, when it uses the same grant money for a demolition, insist on becoming the owner of the property first. Then when they demolish it they own the lot. That is different from entering liens but he said that of the, and there are 5 communities in our county that he calls 'entitlement communities' – somerset boro is one of them Jennerstown twp, smst twp, conemaugh twp, windber boro – of those 5 entitlement communities that account for about 70% of the cdbg money, nobody even enters a lien when properties are demolished – they just seem to b happy to be rid of the property. And there's no getting around it, it looks like it benefits the property owner.

: U can understand in a particular situation where – not these guys that just do this again and again – buy more property at a sheriff's sale. There are other situations that it might make sense to . . .

Dir: here's the bottom line. we can do it if we want, but what we do do, needs to be uniform and predictable. We can try and carve out exceptions – if we become the owner like the county becomes the owner, that's off the tax rolls until somebody comes and buys it.

: I'm not sure that's a step we want to take.

: how wld we have to sell the property?

: the highest bid, like we do like any other

Dir: we wld prob set a reserve price.

: I think we're a lot better off having the owner continue ownership of the property but we place a lien against it. that way it never goes off the tax roll.

Dir: it may never go off the tax rolls but there may never be another dime of tax pay. Because even if it comes up for tax sale, unless somebody wants to buy it for back taxes and the lien, nobody is even going to bid and there's properties up there right now that are that way. There's no easy way out of this, there are a number of options for u to consider.

: one easy way to me is, u don't let these guys buy any more property at sheriff's sales.it just keeps perpetuating itself and it isn't going to go away quickly.

Dir: each one of your options has good features; it also has bad features. U get to pick which way u want to go with it. right now we use it on a case by case basis and we don't enter liens because we don't have a mechanism in place to do that.

: what does the county do to dispose of the property that they acquire. They do a decent number of these every year, you'd think they'd have to start selling

Ruby: did u ever think habitat for humanity wld prob buy at low rate? Be happy to buy in smst boro, but they don't have a lot of money to pay big prices for property, so if the boro owned it and u sold it for a couple thousand dollars then you'd be further ahead and it wld go back on the tax rolls.

: from looking around for real estate, either a house or property, I don't think boro ownership is such a bad idea because this boro is so devloped it's really tough to find a vacant lot in the boro. I think u cld prob recoup some of your costs involved and still sell at a reasonable price.

: but when u have a situation like Beeghley

Dir: He's not going to give it to you. And the only way u can take it from him is that if the condition of the house is suc a public health and safety problem that the only solution is to demolish it. His stuff right now, I don't think, is in that condition.

When we go after him it's because windows and doors are broken out. We got pictures of open windows, etc. but neither of those houses, from what I can tell, wld be eligible for us to condemn them as public safeties that can't be remedied by something less than a teardown. The one with a partial fire, we wld need to get an examiner in there to see if it's fixable or not

Dir: the most he has to do is close it up, because that's what we're after him now for – failure to secure. If it has windows/doors that are secure, even if it's a wreck inside, all u can do is make him close it up.

: Johnstown takes the property because they have a lot of them, then turn around and sell them.

: well, probably if it's a public hazard.

Dir: it's a matter of condition

: than they can take the property. Youre also looking at the difference in codes too. A lot of things that we don't have.

Dir: we have our things that we can and can't do. the cdbg is – if all we're looking to do is to get rid of the bad property thru a teardown, u use that money and get the guy to agree that u can tear his place down and he ends up owning the lot. It's still on the tax rolls but on as a vacant lot. If he sells it, he gets the money because there's no lien against it, but if your primary goal is to get rid of that get rid of that. so those are your options, what's available.

Mayor's Report

The only thing I have to say is the person that we got permission to hire, on the basis that he passes all his tests, etc., hadn't worked in pa for over two years so he hd to retest. He passed that last Thursday. I think he has his psychological and physical next week then we'll be doing the background check. Things are looking good.

Cox: if I cld just tag in – I don't know whether u know mr. (gilbison??) – I will give every bit of attention due his confidence.

Adjournment

Moved by W. Miller to adjourn, seconded by Scott Walker.

U. Carried.

fall.