

**HARVEYS LAKE BOROUGH  
LUZERNE COUNTY  
REGULAR COUNCIL MEETING  
October 20, 2009**

The Regular Meeting of the Harveys Lake Borough Council was held on Tuesday, October 20, 2009 at 7:30 P.M. at the Harveys Lake General Municipal Building, Route 415, Sunset, Harveys Lake, PA.

Council President Lucarino called the meeting to order and asked everyone to join him in the Pledge of Allegiance.

President Lucarino announced the meeting tonight was being tape-recorded and if anyone in the audience had a recorder to please advise Council at this point. There was no response from the audience.

**Roll call:**

Richard Boice	Mayor	Present
Lawrence Lucarino	President	Present
Diane Dwyer	Vice President	Present
Edward Kelly	Council Member	Present
Clarence Hogan	Council Member	Present
Charles Musial	Council Member	Absent
Carole Samson	Council Member	Present
Betty Jane West	Council Member	Present
Charles McCormick	Attorney	Present
Susan R. Sutton	Borough Secretary	Present

**\*\*Indicates motions made.**

**\*\*Councilman Kelly made the motion to waive the reading of the minutes and accept the Minutes of the September 15, 2009 Public Works Session, the Minutes of the Public Hearing of September 15, 2009 and the Minutes of the September 15, 2009 Regular Council meeting, seconded by Councilwoman West. The motion carried unanimously.**

**OPPORTUNITY FOR CITIZENS TO BE HEARD**

**President Lucarino** asked if there was anyone wishing to address council to please state their name and address and limit their comments to three minutes please.

**Bob Cook**, resident, stated that he has been working on permits since October 2009. He has gotten his DEP and Penn Dot permit, and now wants to move forward with a home on the lake. The new zoning ordinance passed on May 20, 2009 won't allow it. He asked that council grandfather his request since the permitting and preliminary plan work was already being done.

**Solicitor McCormick** stated that procedurally that could not be done this evening. That Mr. Cook needs to submit an application to the zoning officer. When it is denied or approved, he would need to move to the next step then.

**Attorney Dingle** clarified the process with McCormick concerned about a time limit. McCormick stated that since the process has not yet begun, there is no time limit.

**Michelle Boice** asked how the budget was. She wanted to know, that in light of the refunds from the assessments being lowered, were we going to have problems meeting our bills?

**President Lucarino** stated that we are financially in the black and didn't perceive any problems with paying the bills this year. Over the year the borough has been careful with expenditures.

**John Halbing** spoke including that he was here regarding questions with the new zoning ordinance. He feels that the new definitions have narrowed what is allowed in the new ordinance. He wanted to know why council changed the ordinance. Why does council care about height. The residents who own the property pay the taxes on the "view".

**President Lucarino** stated the main reason was to clarify the definition of a boathouse and a cabana. Residents are concerned with losing the view of the lake.

**Mr. Halbing** wanted to know why they would not allow a bathroom in the boathouse. Are the residents who don't own property down at the lake the ones who are upset with the way things are being done? What is the problem with the way boathouses are being built today?

**Betty Jane West** stated that she does not own lakefront property, but she is a resident and she would like to see the lake.

**Mr. Halbing** stated the she doesn't own the view.

**Betty Jane West** stated that this is not a battle between lakefront owners, and non lakefront owners.

**Mr Halbing** said he just wants to know, why did they changed the ordinance.

**Councilwoman West** stated that they needed to define what a boathouse is. Because people are building boathouses that do not house boats, that are residences, so they had to distinguish that. It has always been the intention of Zoning to restrict building on the water to Boathouses. It just needed to be defined. The State regulates living over water.

**Lynn Banta**, resident, stated that she had some concerns as well. Including that she has been away taking care of her sick parents and didn't realize things had changed. She

feels that the new ordinance has diminished the value of her lakefront property. You are taking away her use. If you as a council, want to take it away, then you (council) need to pay for it. She feels she has the right to redress what was done. She pays the taxes, and bought it. What difference does it make if you have a kitchen or a boat in it. She feels that you need to balance the interests of the residents, with the interests of the homeowners that are paying for what they have.

**Mike Vough** said that he had done some preliminary research and he questioned whether they had properly advertised the amendment to the Zoning Ordinance. He feels that you are doing spot zoning which is illegal. He also feels that since the meeting for the Public Hearing only lasted 11 minutes he felt no one was here for that meeting.

**Michelle Boice** asked what the intent of the new ordinance was. Was it to stop building, or to define the difference between a cabana and a boathouse? She also pointed out that the meetings are the same time every month. Residents have to pop their head in once in a while to find out what is going on. They are always advertised. Michelle also stated that she wants to check in to the dates that were advertised, to see if it was done properly.

**A Resident** asked for the definition of Cabana and Boathouse.

Councilman Ed Kelly read the definitions.

Boathouse - A structure which is constructed completely over a body of water, designed and used exclusively to provide shelter for water craft or for marine-related equipment.

Cabana - A lightweight tent-like structure usually made of canvas or a similar fabric that is open on a least one side, intended to provide protection from the sun. A cabana shall not be connected to any utilities and shall not be designed and/or used as living quarters.

**Ed Kelly** stated that the word exclusively, in the definition is what is causing the issue. That is why there was a meeting this evening and why all of the residents are here tonight.

A resident made several comments on the need to have bathrooms in boathouses.

**Don Mark** stated that it was important what is allowed on a dock. He doesn't want the area to look like a shanty town.

**George Andrews** stated that it seemed kind of silly to regulate the height of a boathouse when people are landscaping with trees that far exceed the building height regulations.

**Dr Silverstein** made comments including the fact that the community here is different than most lake communities. There is a road surrounding the lake. Cars speed around

that lake and kids are forced to run across the street to use the bathrooms. For the safety of the residents, bathrooms should be allowed in the boathouses.

**Councilman Lucarino** stated that they would start working on this ASAP.

**Mr. Halbing** asked if it could be advertised in both papers. Could the secretary have a list of people who are interested to be notified in addition to advertising.

**Council members** stated that there would be a town meeting style meeting that would be advertised in both papers.

**Attorney McCormick** stated that there would be a meeting ahead of that to narrow down the scope of the changes needed based on the complaints that they have received and heard this evening. With all deference, to open up the whole zoning ordinance to additional public input since there has been so much work already done on the previous ordinance. It would be best for the council, zoning and engineering to get together and narrow down some of the complaints. Council has a pretty good idea of where the concerns are. So they will narrow down the problems there are. Then they will have a public meeting where everyone will have an opportunity to present their problems and concerns. So, we hope to move forward to modify the contents to an acceptable ordinance with the general public in the next few months.

**Mr. Halbing** asked if the predominate changes in the ordinance were in the S-1 zoning district.

**Attorney McCormick** stated that there were other issues, but in the S-1, that was the predominate issue.

**Bob Cook** wanted to know if there was anyway that the web page could show all of the changes online between the old and the new ordinance.

**Attorney McCormick** stated that he would try to talk to the consultant and see if he could provide them to us.

**A resident** asked if someone could be responsible to put on the sign in front of the Borough Office when any meetings are being held.

**President Lucarino** asked if there was anyone else.

**Glen Johnson**, surveyor got up and stated that property lines extending out into the water, with an irregular shoreline are impossible to determine.

**Attorney McCormick** recommended he discuss that with the zoning officer. He also stated that zoning ordinances are ripe for litigation anyway, no matter how careful or narrow we make them. So council will try to get the general overview of the community, and the general concensus of it, and try to make the ordinances as open as

possible, but we will not be able to fine tune these things in such a way that everybody is going to be happy or that we will be able to handle all of these issues.

**Don Mark** asked about the speed limit around the lake.

**Police Chief Dan Evancho** stated that he had already contacted PennDot who is going to do a traffic study in response to his request.

**Jack Smolowitz** stated that it sounds that there may be some legality issues with the May 20 Ordinance.

**Attorney McCormick** stated that he disagreed with that assessment, but that he would review it and discuss it with council.

The floor was closed.

### **INCOMING CORRESPONDENCE**

**Penn Dot** Liquid Fuels sent a letter with the 2010 allocation estimate of \$60,160.07.

**DEP** sent a letter of extension for the Growing Greener Grant to December 31, 2009.

#### **Web Statistics**

Last month the Borough Website had 271 unique visitors visiting 327 times.

### **REPORTS FROM APPOINTED OFFICIALS AND SPECIAL COMMITTEES**

The Tax Collector's report is available on the back table.

The Borough Secretary reported that during the month of August we received \$10,334.81 from Berkheimer.

### **REPORTS FROM APPOINTED OFFICIALS AND SPECIAL COMMITTEES**

**Finance:** Councilwoman Samson gave the financial report including: Total available cash is \$436,462.10; total restricted money is \$204,062.47; total cash of \$640,524.57. The current balance in the Harveys Lake Homecoming Account is still \$4,862.67. All of the borough departments are still under budget.

**Police:** Chief Dan Evancho gave a verbal report on the floor, including that there were 10 Criminal arrests, 8 Traffic Citations, and 0 Non-Traffic Citations. There were a total of \$442.73 collected in fines and fees. A total of 6,901 miles were driven in 3 cars with a cost of \$978.12 in fuel. And Police responded to 247 total complaints.

**Roads:** Councilwoman Dwyer gave her report including that the road dept. cleaned and repaired ditches on borough roads, fixed and maintained police cars, dug out and

blacktopped swales on Casterline Road, and Old Lake Rd. and paved holes on Marina Drive. Assisted the Sewer Authority with sealing manholes around the lake. Pumped out basins around the lake, plus many numerous jobs that are too numerous to report. She stated that the Borough is very fortunate to have such a well managed and industrious road crew.

**EAC:** There was no report.

**Zoning Officers Report:** There was no report.

**Sewer Authority Report:** The Liaison was not in attendance so Mayor Richard Boice gave the report including that Sewer Authority employees continue to repair and search for leaks in the system. There are 600 manholes. They are in the sunset area. They are preparing for the H2O Grant for wastewater improvements was received in the amount of \$550,000. This could help update sections and remove infiltration.

**\*\*Councilman Kelly made the motion to accept the reports from Special Committees, Elected Officials and Appointed Officials, seconded by Councilwoman West. The motion carried unanimously.**

### **NEW BUSINESS**

**\*\*Councilman Kelly made a motion sell the Stone Roller to Bernie Saylor for \$100, the only bid we received, seconded by Councilwoman West. The motion carried unanimously.**

**\*\*Councilman Kelly made a motion to have Jack Varaly of Pasonick Engineering advertise the Public hearing on the updated Subdivision and Land Ordinance to be held on November 17, 2009 at 7:00 pm. Following the hearing, Borough Council will consider passing the revised Subdivision and Land Ordinance at the Next regular Council Meeting. Seconded by Councilwoman Dwyer. The motion carried unanimously.**

**\*\*Councilman Kelly made a motion to accept the windmill application of Kevin Carty with a letter provided by him that if any problem noise exists, he will disable the windmill, seconded by Councilwoman Dwyer. The motion carried unanimously.**

### **OLD BUSINESS**

**President Lucarino** asked if anyone on Council had any old business they wished to discuss. There was no response.

**\*\*Councilwoman Samson made a motion to pay the bills and Payroll in the amount of \$94,333.54 seconded by Councilwoman Samson. The motion carried unanimously.**

**Councilman Lucarino** asked if anyone on Council had any upcoming Community

Events.

**Councilman Kelly** announced that in October the Fire Company will be having their annual Haunted House on Friday, Saturday, and Sunday at the Luzerne County Fair Grounds. He encouraged the Community to please lend their support by attending.

**\*\*Councilman Kelly made a motion to adjourn, seconded by Councilwoman Samson. The motion carried unanimously.**

The meeting adjourned at 8:25 P.M.

Respectfully submitted by

Susan R. Sutton, Borough Secretary