

**Mercersburg Borough Council**  
**Borough Hall, Mercersburg, PA**  
**November 25, 2013**  
**MINUTES**

**Attending:** President Elizabeth McClintick, Mayor James Zeger, Vice-President John Freeland, Tom Suddeth, Donald Stoner, Chris Frisby, Borough Manager Tammy Oberholzer, Assistant Borough Manager Dawn Scheller, Solicitor Sam Wiser, Engineer Lance Kegerreis, and Police Chief John Zechman

**Absent:** Council Persons Betty Stenger and Jeff Main

**Press:** Jordan Krom, Mercersburg Journal

**Guests:** Jon Kittredge - Mercersburg, Jeremy Jones – Mercersburg, Linda Martin – Mercersburg, Chris Ardinger – Mercersburg – Tuscarora School District, Vickie Kieffer and Lester Kieffer – 107 S. Fayette Street, Mercersburg

Meeting was called to order at 7:00 pm by President McClintick, she asked the Mayor to lead the Pledge of Allegiance.

President McClintick asked for Public Comment.

Lester Kieffer spoke first regarding the paving project along Constitution and the work to tie in his concrete paved apron along his garage located in the rear of 223 South Fayette Street. He asked that something be done to correct the 4.5” drop off located along where the concrete meets the road. Lance Kegerreis arrived at 7:02 pm. He provided pictures of the area he spoke about. Lester also provided additional pictures taken of some of the other streets that were completed.

Lance Kegerreis spoke about the paving job as a whole and reviewed that he was creating a punch list of items for the contractor to complete. He reviewed that he would take a look at the Kieffer’s concern and would speak with them and update Council at the next meeting.

Mayor mentioned that he noted 8 properties which tied into Constitution Ave and asked that Council work with the owners who have concerns.

John Freeland spoke about the work completed and noted that the Streets Committee had met and reviewed a memo from Tammy and the Streets Committee provided support in favor of having Tammy work with the property owners on a case-by-case basis.

President McClintick asked if anyone else had something for Public Comment.

John Kittredge announce that he is contesting Chris Frisby’s legitimacy to be on Council this coming election and his current held position on Council because of the residency requirements. John reviewed that he went to the County Commissioners and they said that it was on the Borough to determine if he is legitmist or not. John Kittredge noted that he asked Dawn to add him to the Agenda and also provide the Borough Solicitor with a heads up. John Kittredge asked Sam Wiser what he needed to do and how the contesting process works.

Sam Wiser explained that the Borough does not decide who is and who is not a borough resident. Sam explained that it would be a legal determination and the only action that is available to a resident or a taxpayer who wants to contest someone else’s residency is called an “Action in Quo Warranto” which is filed with the Court of Common Pleas where a judge would make the determination.

John Kittredge asked if he could get that information from Sam Wiser.

Sam Wiser suggested that John speak with an attorney to help him with the process. Sam Wiser added that John would need to complete a Petition that he would then have to file with the Court of Common Pleas.

John Kittredge stated that he first went to the County Commissioners, who said it was the Borough, then he went upstairs to the Judge's Office, and John further added that the Borough is stating that he needs to go elsewhere. He said that he felt as though he were going around in circles.

Sam Wiser stated that he is confident that the information he stated was correct.

John Kittredge asked if Chris Frisby still says that his residency is Mercersburg. Chris answered that he does. John then asked that Chris Frisby recuse himself from any voting until this has been taken care of. Chris Frisby said he would not honor that. John Kittredge then provided Chris Frisby verbal notice that he had sent him a certified letter, Chris acknowledged that he received it.

Liz McClintick asked for any other Public Comments at this time, no additional comments were made.

Liz McClintick moved on and asked if Sam Wiser had anything additional.

Sam Wiser requested an executive session later in the meeting for current and potential litigation.

President McClintick moved onto the Meeting Minutes from October 21, 2013.

Jeremy Jones asked if the Meeting was being recorded, President McClintick answered that it was.

**MOTION: to approve the October 21, 2013 Meeting Minutes was made by John Freeland, second Chris Frisby, any questions / comments, Tom asked Tammy if she was able to send flowers, Tammy said she was not and apologized, all ayes, motion carried.**

**MOTION: to approve the Treasurer's Report from October 31, 2013 was made by Donald Stoner, second by Tom Suddeth, questions/discussion, all ayes, motion carried.**

**MOTION: to approve the Invoice List was made by Donald Stoner, second by John Freeland, questions/discussion, all ayes, motion carried.**

President McClintick asked for the Mayor's Report.

Mayor Zeger reviewed that it was Holiday Season in the Borough and announced the Tree Lighting in Mercersburg noting activities of making Christmas ornaments, caroling, cookies and hot chocolate. He stated that the wreaths would be hung on the parking meters and references the candlelight ceremony at the Academy on the 15<sup>th</sup>. He stated that it is indeed a Wonderful Life in Mercersburg and it is a great time to enjoy the community.

President McClintick asked for the Police Report.

Chief Zechman reviewed that the Police Department had the following activity for October; 104 complaints and service calls, 0 Borough Ordinance Violations, 15 Crimes Investigated, 6 Criminal Arrests, 3 Accident Investigations, 13 Traffic Citations, 64 Parking Tickets, and 0 Right to Know requests. Chief Zechman provided information about two different types and costs related to the purchase of Police Cameras. Chief said that he would review both companies products and costs associated he will have a recommendation to Council at the December 9<sup>th</sup> meeting.

John Kittredge said that he felt the cost of the cameras was high.

It was explained that the cameras need to meet a certain standard for court and when initially recommended from the Police and Safety Committee that funding might be raised for this purchase from community businesses. It was discussed that the Committee thought the purchase of the first camera would start the movement forward to get cameras for all three vehicles.

Chief requested the purchase of a new Taser for the department in the amount of \$1,010.00

**MOTION: to approve the purchase of a new Taser for the Police Department in the amount of \$1,010.00 to be paid from the Police Equipment Fund 2013 budget was made by Dusty Stoner, second by Chris Frisby, all ayes, motion carried.**

President McClintick asked for the Solicitor's Report.

Sam Wiser provided Council with an update about the Small Games of Chance and reviewed that he would keep Council updated on the information.

President McClintick asked for the Engineer's Report.

Lance Kegerreis reviewed that he is in the process of compiling a punch list for the Contractor and noted that his firm is processing the Pay Requests received from them and as soon as they will forward the Pay Requests per the agreement. Sam Wiser spoke that they are working with the Senator's Office to assist with the Borough receiving the funds.

President McClintick asked for the Manager's Report.

Tammy Oberholzer reviewed information about the Columbia Gas Project coordination. Tammy commented that working with Columbia Gas is going quite smoothly. She reviewed that the office received their portion of West California and Constitution Ave and that she has been in contact with them to discuss their plans for 2014 in early January. Lance and Sam reviewed information about the 2014 plans and made recommendations as to how to move forward.

Tammy reviewed that the office received the Lease Agreement back from the County signed.

**MOTION: to authorize and direct Council President McClintick to execute the Lease Agreement and direct the Borough Manager to prepare a Resolution memorializing the same was made by Tom Suddeth, second by Donald Stoner, all ayes, motion carried.**

Tammy Oberholzer reviewed that no information was received to access the security cameras. Tammy Oberholzer asked Sam to review information about the Intergovernmental Agreement with the County. Sam reviewed that after suggested adjustments all parties are satisfied with the Agreement and it is his recommendation for the support and approval of the Agreement.

**MOTION: to support and approve the presented Intergovernmental Agreement with the County was made by Donald Stoner, second by John Freeland, all ayes, motion carried.**

Tammy reviewed information about the Tax Board Budget and requested a motion for her to vote in support of the proposed budget.

**MOTION: to direct Borough Manager to vote in support of the Wage Tax Board 2014 Budget was made by Chris Frisby, second by John Freeland, all ayes, motion carried.**

Tammy reviewed the annual luncheon and asked for Council's support to allow the staff to organize this function to occur on December 17<sup>th</sup>. No one opposed.

President McClintick asked for the Secretary's Report.

Dawn Scheller reviewed that there was one land use permit for October and the A&S Excavating invoice was attached with the Special Invoices for Approval and had been approved with the invoices. Dawn reviewed that the Public Works Department received the equipment approved. Dawn Scheller provided Council with information regarding recommended improvements on the Borough Building and reviewed that the Property Committee did not meet. She provided Council with two estimates and asked if Council wished the information to go thru the Committee or if they wished to approve the lower estimate.

**MOTION: to accept and authorize Corey Atherton Construction to perform the work on Windows and Clock Tower to be paid from the Reserve Fund for the amount of \$2,381.47 was made by John Freeland, second by Donald Stoner, Tom Suddeth Opposed, remaining ayes, motion carried.**

Dawn also reviewed that she would advertise the Re-organization Meeting for January 6, 2014 as required by law and would advertise the remaining meeting dates once the Committees were decided.

President McClintick reviewed the Public Works Department Report was included for everyone's review.

President McClintick moved on to Committee Reports.

There was nothing to report for the Fire Board.

Personnel Committee recommended to Council the following all of which were supported by the Finance Committee; 1.5% increase to all Borough Employees for the 2013 COLA not received last year, 1.5% increase for COLA for 2014, and 1.5% increase to all Borough Employees for merit with a score of 80% or better on year end evaluations. It was also recommended to Council that Officer Wertz be offered a promotion with a base pay of his 2014 Salary plus a \$2,080 increase for Sergeant Pay for his total base pay, plus overtime. Tammy provided Council with information from the Chief to describe the duties associated with Sergeant. Donald Stoner also reviewed that the Personnel Policy Manual is always being updated and it was requested that Salary information be determined for each position which would include a beginning, middle, and top range. Chief reviewed why the promotion of Officer Wertz would be beneficial to the department.

Sam Wisner recommended that the Salary and Promotion be made into two separate motions as the Salary may be determined with the Budget discussion.

**MOTION: to support the offer of a promotion to Officer Wertz to Sergeant was made by Donald Stoner, second by John Freeland, Tom Suddeth opposed, remaining ayes, motion carried.**

John Freeland reviewed the Streets Committee Meeting information. He provided an observation that Council needs to continue the Streets Committees work and start early in 2014. He recommended that they involve the community on an ongoing basis and consider the manpower that the Borough has available before committing them to a large project. John said that he expects the process to be less frustrating next year.

**MOTION: to enter into Executive Session at 8:25 pm about current and possible litigation with action to be taken was made by John Freeland, second by Tom Suddeth, all ayes, motion carried.**

Regular session resumed at 8:38 pm.

Sam Wiser discussed information regarding the filing of a Civil Action complaint against Malik's International Inc. Sam Wiser reviewed that they have come to a possible settlement for this matter and authorize to accept the settlement of \$2700.00.

**MOTION: to authorize Council President to execute the release settlement Agreement between the Borough and Malik's International Inc. / Brother Mutual Company where the Borough would receive \$2700.00 in exchange for releasing any claims that may have against Malik's International / Brother Mutual Company was made by Donald Stoner, second by Chris Frisby, all ayes, motion carried.**

President McClintick moved onto New Business.

She briefly reviewed the budget process and how the proposed budget is reviewed line by line, how Borough Council receives a copy in October and is asked to contact Amy with any questions or concerns, and how Council needs to first authorize the Proposed Budget to be Advertised and then adopted at the December meeting. It was reviewed that no additional information was provided by the Library.

A continued discussion occurred with if Council ever thought of making cuts to the budget from public who were present at the meeting. John Freeland spoke about the Streets in the Borough needing attention and when the budget process started that Council reviewed all the places they could to make it happen. Council credited the Streets Committee Members, Council Members, Engineer and all who assisted this process as it was a huge undertaking. John said that he welcomes people to become more active in the community and take more interest in things. President McClintick also credited past Council who had set aside funding. Mayor spoke that 1 mill was set aside for 2013 with the understanding that 1 mill would be needed to be added to the 2014 year. Mayor said that the Committee did a good job by looking for other paving alternatives and that this Council has done an excellent job with saving the Borough money.

**MOTION: to support the 2014 Proposed Budget with the 1.25 mill increase for advertisement was made by John Freeland, second by Donald Stoner, Tom Suddeth opposed, remaining ayes, motion carried.**

Sam Wiser spoke that the 2013 tax levy ordinance was adopted on December 10, 2012. The ordinance stated that the total millage rate for the 2013 tax year would be established at 24.2 mills. This is also the millage rate that was certified to the County. However, the advertisement for the proposed tax levy ordinance stated that the total millage rate of 23.95 mills would be imposed 2013. The minutes reflect that 23.95 mills is the rate Council intended to adopt. The result is a .25 mill overpayment in 2013. The difference in the advertised millage rate and the rate established by the executed ordinance, based on the January 1, 2013 tax base would have been a total overage of \$3,216. After consultation with the County assessment office on the best way to provide a rebate for the overage in 2014, we have reached the following solution: if the total millage rate of 23.7 mills is used as the base millage rate and is assessed against the projected adjusted tax base for 2014 (the base less exclusions) the result is a projected 2014 tax income of \$304,747. If this amount is subtracted from the January 2013 tax base at what was assessment should have been (23.95 mills for a total of \$308,070) the difference (credit back) is \$3,323. Therefore, the general purpose mill rate should be established at the base rate of 20.56 mills for the 2014 tax year, so that the prior overage will be credited back in the 2014 tax year.

**MOTION: to approve the proposed Tax Ordinance 2-26 for advertisement with the following A tax is hereby levied on all real property within the Borough of Mercersburg subject to taxation for the year 2014 as follows: Tax rate for general purposes, the sum of 20.56 mills on each dollar of assessed valuation, Tax rate for fire protection purposes, the sum of 1.2 mills on each dollar of assessed valuation, Tax rate for library purposes, the sum of 0.8 mills on each dollar of assessed valuation, Tax rate for emergency ambulance service, the sum of 0.4 mills on each dollar of assessed valuation, Tax rate for special road fund tax, the sum of 2.0 mills on each dollar of assessed valuation, This ordinance establishes a total tax rate for all Borough purposes of 24.96 mills for the year 2014 was made by Donald Stoner, second by John Freeland, Tom Suddeth opposed, remaining ayes, motion carried.**

**MOTION: to accept the resignation of Officer John Hanner was made by Donald Stoner, second by John Freeland, all ayes motion carried.**

President McClintick reviewed the Correspondence.

**MOTION: to adjourn at 9:10 pm was made by Donald Stoner, second by John Freeland, all ayes, motion carried.**

*These meeting minutes were transcribed with the use of the recording and notes by Dawn L. Scheller and have been respectfully submitted for approval.*

*Date Approved:* \_\_\_\_\_ *Motion Made By:* \_\_\_\_\_ *Second By:* \_\_\_\_\_