

MILLHEIM BOROUGH COUNCIL  
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(CENTRE COUNTY)

327

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REGULAR MEETING

June 13, 2017

President Alan Ilgen called the regular meeting of the Millheim Borough Council to order at 7:00 p.m. with the following persons in attendance: Patty Beckenbaugh, Ed Bowman, Alan Ilgen, David Sprowls, Leslie Warriner, Lauralee Snyder, John R. Miller, III, Sharon Heckman, Mike Lesniak, Glenn Ripka, Roy Rupert and interested citizens per attached sign-in sheet.

**CITIZEN'S INPUT:**

The attached written statement was read by Erin McCracken. This statement, a timeline of events, a right-to-know request, and a Notice to Preserve Documents were given to Council by Mr. McCracken. The following accusations/discussion occurred:

- Mr. & Mrs. McCracken are disputing the \$1,620 lien placed on the property at 117 North St. in 2013 and accuse the Borough Secretary of lying to them and using her position to carry out personal agendas against people she dislikes. They also accused Mike Lesniak, Code Enforcement Officer of targeting them because of his disagreement with their political views. The prepared statement calls for the resignation of the Borough Secretary and the Code Enforcement Officer.
- Mr. McCracken stated that the Borough Secretary told them on successive visits that the cost would be \$5,000/EDU to connect to the sewer and \$1,000 to connect the water plus a \$25 permit cost.
- In response to question on how the property was placed in Sheriff Sale without notification, the Solicitor tried to explain that the two certified letters he mailed in March and May to Mr. & Mrs. McCracken were both returned unclaimed. He also stated that the written notice mailed on July 26, 2013, when the lien was filed against the property, was sent to the owner of record in the Court House which at the time was the Church.
- Ms. Warriner explained that if there had been a mortgage the bank would have done a <sup>title</sup> deed search and the lien would have appeared.
- The question raised concerning the Houser connection will be investigated.

**HARB/CODE ENFORCEMENT:**

Tom Frank thanked Council for serving and said he appreciates what they do. He then raised the following accusations/concerns about Mike Lesniak's intimidating behavior/performance as a Code Enforcement Officer:

- Mr. Frank stated that in the lobby of the District Magistrate's office he was told by Mr. Lesniak that it was a bad idea talking on face book about the chickens.
- Mr. Frank explained that Mrs. Ilgen asked Mr. Lesniak about a snake ordinance after seeing a garter snake but she had no idea a letter would be sent. He said Mr. Lesniak was told an arrangement was worked out about the lumber pile but that Mr. Lesniak told him the issue was deeper than the snake. Mr. Frank said he interpreted that to mean he as a person was being targeted.
- Mr. Frank explained that after Mr. Lesniak told him the young forest needed to be mowed he wanted to generate a conversation with Council.
- Mr. Frank stated that nowhere in the process was he offered an opportunity to appeal to Council.
- Mr. Frank explained that he and his wife don't feel safe in their home.
- President Ilgen explained that the Code Enforcement Officer responds to complaints. Council doesn't hear appeals because the Code Enforcement has the authority to file complaints. Then if there is a dispute and a citation is filed you go to the District Magistrate.
- The Solicitor explained that the Sunshine Act deals with open meetings, etc. He stated that citations are issued by the Code Enforcement Officer. He went on to say that Council doesn't deal with citations because that is to be determined by the District Magistrate.
- In response to Mr. Frank's question if a request could be addressed to Council before a citation is issued, the Solicitor explained the Code Enforcement enforces the ordinances and it is not for Council to decide if a citation is issued.
- President Ilgen explained to Mr. Frank that Council is listening to the complaint. The Borough's representative to the Code Enforcement Agency Board will let the Agency know of the concerns. He further stated that the ordinance may need to be looked at. The issue will be referred to the Code Enforcement Agency Board and he told Mr. Frank that he would get him information about the Agency meetings.
- Mr. Frank stated that if his information had been forwarded a citation wouldn't have been issued but his request was ignored.
- Mr. Lesniak reported on the correspondence sent to Mr. Frank. He explained that the concern about the snake was that it was living in the wood pile.

- After some back and forth dialogue between Mr. Frank and Mr. Lesniak, President Ilgen explained this will be referred to the Code Enforcement Agency's full board for discussion.
- Ms. Warriner suggested a discussion about grasses that are different and President Ilgen said the ordinance may need to be looked at again.
- Mr. Phil Yanak asked Council to reconsider the ordinance to address woodlands.
- President Ilgen explained that under this existing ordinance the District Magistrate will make the decision.
- Mr. Dana Harlan from Penn Township asked if all Townships are the same. President Ilgen explained that depends on the individual ordinances.
- Mrs. Karen Yanak explained that a portion of their property is wetlands and DEP has told them they can't mow it. President Ilgen stated Council will need to look at other ordinances and before any ordinance is changed it is publically advertised.

#### **EMPLOYEE REPORTS:**

Mr. Rupert presented one proposal for a new heating system for the water filtration plant. Council requested that he get two more proposals. Mr. Kerstetter's written report was reviewed. Mr. Sprowls said there are stones needed for the bridge at Elk Race Alley.

#### **PLANNING COMMISSION REPORT:** None

#### **OLD ACTION:**

President Ilgen reported that at the May meeting there were discussions about the ordinances not being enforced. Mr. Glenn Ripka reported that Mr. Lesniak is dealing with Mr. McAllister. Mr. McAllister cleaned up the front part of the property eliminating the obnoxious odors from the dog feces and assured Mr. Lesniak this area will be kept up. Mr. McAllister has also told Mr. Lesniak he will take care of getting the back portion of the property terraced. Mr. Ripka also reported that another complaint regarding the small animal ordinance recently went through the process. The property owner was found guilty. She paid a fine and got rid of three dogs showing that the system does work.

President Ilgen reported that he spoke with Mrs. Rishel of the East Penns Valley Women's Club. He told her that Council is looking for a picnic table and their contribution would be used toward that purchase.

Mr. Sprowls explained that the Calvary Church doesn't want the light in the parking lot. The Secretary reported that there is a closing scheduled.

Ms. Warriner reported that DEP is requiring a motion from Millheim Borough stating that Council is in favor of the interconnect project with Haines Aaronsburg Municipal Authority (HAMA). The consensus of the group was to do a letter in favor of the feasibility study but not committing to providing any money for the project. Mr. Jesse Grove, a member of the HAMA Board, reported that HAMA agreed to the study but no one is committing to anything. A motion was made by Ed Bowman and seconded by Leslie Warriner authorizing a letter stating that Millheim Borough Council is willing to do a feasibility study. Motion carried.

#### **NEW ACTION:**

There was a short discussion on increasing the parking fines from \$15. Ms. Beckenbaugh said the fine in Centre Hall is \$25. A motion was made by David Sprowls and seconded by Leslie Warriner to adopt Resolution 2017-5 increasing the parking fines to \$30. Motion carried.

Mr. Sprowls reported on a meeting held in the Council Room with PennDot representatives and Mike Bloom of Centre County Planning Office to discuss coordination of the downtown line painting. PennDot has to coordinate painting the center line with another PennDot district. He explained that the center line may not change on the west side of the traffic signal but will definitely be changed on the east side to the bridge since parking will only be on the north side of Rt. 45 from Sugar Alley to the bridge. An estimate from Safety Line, LLC was reviewed. This estimate includes the cost to remove the double yellow 4" line that PennDot is responsible for because PennDot doesn't have the equipment needed to remove this painted line. PennDot representatives are looking into the possibility of reimbursing Millheim Borough from their maintenance funds for the cost to remove the yellow line. The Secretary was instructed to clarify if the \$420 line item is to paint the crosswalks or the stop lines. A motion was made by David Sprowls and seconded by Ed Bowman to approve the estimate submitted by Safety Line, LLC in the amount of \$2,270. Motion carried.

Ms. Cindy Wilson suggested that PennDot's original plan for parking on one side of Rt. 45 through the entire downtown business district would make Millheim safer. Ms. Beckenbaugh explained that another study was done that does allow parking on both sides of Rt. 45 for one block on either side of the traffic signal. Ms. Wilson stated that she has hundreds of pictures showing vehicles driving over the yellow lines. Mr. Bowman replied that there would be vehicles doing the same thing if no one was parked along the street. Ms. Warriner explained that parking along the street is a standard urban design used to slow traffic. She also stated there is no traffic data that supports Ms. Wilson's ideas. Ms. Wilson stated that she was stopped in her travel lane when a vehicle crossed the center line and smashed her mirror.

President Ilgen suggested preparing a letter about the increased parking fines and changes in the parking so the business owners can notify their customers. Mr. Denny Beckenbaugh suggested a warning could be issued instead of a parking ticket.

**COMMITTEE REPORTS:** None

A motion was made by David Sprowls and seconded by Leslie Warriner to approve the May 9, 2017 council meeting minutes as presented. Motion carried.

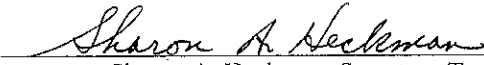
~~A motion was made by Ed Bowman and seconded by David Sprowls to approve the May 2017 financial reports as presented. Motion carried.~~

The Secretary's written report was reviewed. The Secretary reported that during a conversation with Congressman Glenn Thompson he said he will look into the problem with ambulance and EMS services not receiving adequate payment for Medicare calls. The Secretary was instructed to check with some companies about cyber security measures. A motion was made by Ed Bowman and seconded by David Sprowls to approve the Secretary's report. Motion carried.

President Ilgen, at 9:34 p.m., called an Executive Session to discuss pending litigation regarding municipal lien 2013-2923.

President Ilgen, at 10:24 p.m. recalled the meeting to order from Executive Session with the following persons present: Patty Beckenbaugh, Ed Bowman, David Sprowls, Alan Ilgen, Leslie Warriner, Lauralee Snyder, Sharon Heckman and John R. Miller, III.

A motion was made by Leslie Warriner and seconded by Ed Bowman to adjourn the meeting at 10:25 p.m. Motion carried.

  
Sharon A. Heckman, Secretary-Treasurer

TOM Frank - Millheim

SETH GORDON - MILLHEIM

Young Forest Ordinance

\* Andrea Jorick Gregg Township - Forester

andreaferich@gmail.com  
127 Hummingbird Lane  
Spring Mills 16875

Sam Stipan - Centre County Gazette

Chris Adamski - Millheim

GRACE HANEY - Millheim

Jessam HANEY - Millheim

DORRY FRANK

Tracy Frank - Millheim

Joshua McBracken - Millheim

EVAN McCracken

~~XXXXXXXXXX~~

DANA MARLAN - Coburn, PA

M. EBERT

Stephen Myers

Jesse Grove

Cindy Wilson

Lisa Bohenek

Phil Yanak

Karen Yanak

Shana Tritsch

Charles A. Boyer

Rubber Morris Lock Haven Express

Roy Morris

**WRITTEN STATEMENT OF ERIN & JOSHUA MCCRACKEN**

Before the Millheim Borough Council

June 13, 2017

Good Evening. Although I believe many of you know me, I'd like to briefly introduce myself. My name is Erin Condo McCracken. My husband Josh and I are the owners of the UpTexas Chapel at 117 North St and the Bremen Town Ballroom at 105 E. Main St, and we are part owners with Martha Hoffman of the Old Millheim School located at 113 Church St. We are also the owners of a local business called EcoVents, a company that provides services to our community in the form of community events, markets, catering, and celebrations. We are the parents of two small children, Booker and Roscoe, who live with us at the UpTexas Chapel on North Street.

We are here tonight because we are the target of unfair treatment by the Borough that has recently escalated to the point that a lien was placed against our 117 North St/UpTexas Chapel property where we live with our two young children. Because we did not know about this lien, we have not paid it, and now the Borough Council is threatening to take our home through a Sheriff's Sale.

I have a packet of documents that I will deliver to you at the end of this statement. This packet includes a number of items related to our dispute of the charge of the \$1620 fee and how we plan to move forward from this unfair charge.

First, we include a timeline of events with documentation supporting our dispute. I will not read it all right now—to save meeting time I will summarize—but I will let you know that it is imperative that you carefully read and consider this timeline with an open mind before you become more entangled in a matter where you have not allowed due process.

In the timeline we clearly illustrate that the Borough Secretary repeatedly misled my Husband and me both verbally and in writing concerning the fee that eventually led to the lien against our property, and that Penns Valley Code Enforcement Officer Mike Lesniak, on behalf of the Millheim Borough has been targeting my family since January of this year due to his disagreement with our political views (and parenting choices) and exercise of our First Amendment Rights. Indeed, he clearly stated, and I quote:

"Well you should know that I've been nice to you so far, but I won't be anymore."

With this statement, he clearly communicates that he has the discretion to target us, and that he would be targeting us from then on. We believe the threat to take away our family's home (along with other actions by Lesniak and the Borough Council since then) is directly related to this threat and we believe and have been advised that this strong legal link can and will be made.

The timeline also details how the Borough Council put a lien on the property after denying (by omission) due process to dispute the charges against us and that not one person thought to tell us.

I would like to state for the record that not one person on this elected Borough Council thought it necessary or appropriate to notify us that an action had been taken against our property that could lead to a Sheriff Sale.

Unfortunately, due to the events noted in the timeline, we've lost faith in this Council's ability for fairness, so we are not here to beg you this evening for the fairness that we deserve. The money you allege we owe, which we were told on numerous occasions was not owed by us, and which upon information and belief is not charged to other similarly situated residents is already in escrow as an act of good faith on our part, waiting to be paid to you should you decide after reviewing the timeline that you are justified to take it.

We do have specific questions about how it came to be that our home was almost placed into Sheriff's Sale without notice to me, but instead of addressing those questions to the Borough in this setting, We look forward to the borough's complete answer to our formal Right To Know request that we are presenting as the second part of the documents we will provide to you.

This Right To Know request is designed to be the first step towards uncovering the details about how the Borough Council and the Borough representatives can justify charging my family for getting water service to our property when they do not charge other people for the same service. Our request seeks evidence and documentation as to how, why, and by whom this decision was made and documentation about how the Borough has handled similar matters involving other residents in the past.

We are here today to formally provide this elected Council and members of our community information about a pattern of serious misconduct and unfair treatment on the part of Borough Representatives that has fundamentally violated our rights.

This matter has escalated to this point for one reason and one reason only. Representatives of our local government repeatedly and purposefully misled us. Our concerns related to this matter include but are not limited to the following:

1. As you'll see in our timeline, the Borough Secretary misrepresented the facts regarding our property and the Borough process to us on numerous occasions. In fact, it was the Borough Secretary's repeated misrepresentations and omissions that led us to the point where we were subject to penalties for nonpayment of the fees. Our experience with the Borough Secretary reveals that she uses her position within the Borough to carry out personal agendas against people she mistrusts or dislikes due to their differing political views or lifestyles. We have learned that we are not alone, many of our fellow residents have confided that they have had similar experiences with the Borough Secretary and many have refused to speak up because they fear further politically motivated reprisals.
2. The Borough Secretary has been using her position in a manner that not only reflects poorly on this Borough but also constitutes a violation of Due Process of residents and an egregious abuse of power. The Borough Secretary is in the position of a public servant, but she uses her position to serve only those members of the public with whom she personally gets along and politically agrees. The Borough Secretary benefits from creating a hostile environment that creates doubt, confusion, fear, and instability that allows her to discriminate against citizens and ensures that certain citizens feel especially unwelcome.
3. This unfair targeting, abuse of power, and denial of due process must come to an end. It is within the power of this Council to ensure that our public servants and representatives of the Borough carry out their roles in a manner consistent with the requirement of fairness and at a minimum within the requirements of the law. It is our sincere hope that the Borough Secretary and Penns Valley Code Enforcement will choose to take the important first step

in remedying the is situation by tendering their resignations to the Borough at the earliest opportunity. However, if they fail to do so, we call upon this Borough Council to immediately conduct a thorough review of the complaints we have made and the complaints of our fellow Borough residents and take appropriate action so that our Borough can once again be in compliance with the requirements of fairness and Due Process for all of its residents and property owners.

4. Finally, be advised that we are currently exploring all remedies available to us under the law for the treatment we have been subjected to by representatives of the Borough including, but not limited to, civil legal action against the Borough, Borough Council, and any officials or representatives involved in the decisions to unfairly target us for harassment by the Borough and to place a lien against our property without notice to us. In anticipation of litigation of the claims related to this matter, I am also delivering to the Borough this evening a letter instructing the preservation of any relevant documents.