

**Meeting October 6, 2008**

The meeting of Mount Pleasant Borough Council was called to order by Vice President Bauer at 7:03pm in Council Chambers at 1 Etze Avenue, Mount Pleasant, PA 15666. The Pledge of Allegiance was said and there was a moment of silence for our deployed troops. Vice President Bauer directed Borough Manager Jeff Landy to take roll. Councilmen, Beranek, Crivella, Slater, Tate, Wiltout and Councilwomen Stevenson and Ruszkowski were present. Mayor Lucia and Solicitor Toohey were present. Vice President Bauer stated we have a quorum.

**Reading of Previous Minutes:**

A motion was made by Councilman Slater to dispense with the reading of the minutes of September 22, 2008. Motion seconded by Councilman Wiltout. Motion carried 8-0.

**Public Comment:** None

**Speakers:** None

**Mayor's Report:**

Mayor Lucia read the following Police Report for the month of September 2008:

Report of the Mount Pleasant Police Dept for the month of Sept08

The Department answered 423 calls during the month as follows:

Complaints	124
Requests for assistance	8
Assist Other Departments	8
Accidents investigated	13
Calls Returned	20
Assist Medic 10	10

The Dept made 34 Arrests during the month as follows:

Vehicle Code	22
Crimes Code	12

Parking Tickets issued are as follows:

\$1.00 Meter Tickets	29
\$10.00 No Parking Tickets	4
Void / Excused	2

\$1.00 Parking Tickets Paid	17	\$	17.00
\$5.00 Parking Tickets Paid	4	\$	20.00
\$10.00 Parking Tickets Paid	3	\$	40.00

Return from Magistrate Eckels	\$1,063.33
Return from Clerk of Courts	\$1,603.56
Return from Report Fees	\$ 180.00
Return from Parking Permits	\$ -
Return from Soliciting Permits	\$ -
Return from Restitution	\$ -
Total	\$ 2923.89
Meter Receipts 1 Collection	\$1,225.65
Total Receipts for the month	\$4,149.54

Mayor Lucia thanked everyone who assisted during the Glass Festival and made it such a huge success.

**Solicitor's Report:**

Solicitor Toohey said that the Borough is in the process of enacting an ordinance raising the sewage rates in the Borough in accordance with the Penn Vest Agreement with Mount Pleasant Township. Solicitor Toohey said the ordinance will be ready for consideration at the next meeting.

Solicitor Toohey said that the Mount Pleasant Planning Commission is working with Mullin and Lonergan on the Zoning Amendment which is ready to go forward as soon as Council advertises the ordinance amendment and has a public hearing.

Solicitor Toohey said that Council asked whether the Borough could finance the sale of the Borough owned property on Main St and Solicitor Toohey said that the Borough Code prohibits that and requires that payment for the property be made within 60 days. If the property has been advertised twice with no bids the Borough can enter into a private sale if an announcement has been made and 30 days has gone by. Councilman Crivella asked Solicitor Toohey if the BDA could finance the sale and Solicitor Toohey said that he believes they are bound by the same Borough Code restrictions. He would have to look at that specifically.

**Tax Collectors Report:**

Tax Collector Carol Yancosky read the following report for the month of September 2008:

Property Tax = \$944.43  
Supplemental Tax = \$107.59  
Per Capita Tax = \$2,337.30

Total = \$3,389.32

Borough Manager Landy said that he and Tax Collector Yancosky had a discussion regarding next year's Per Capita Tax. The Mount Pleasant Area School District would like the Borough to assist them in collecting the Per Capita Tax. One of the ways would be to enact an ordinance requiring the landlords to register their tenants. In the last three years collections for per capita tax have decreased approximately \$3,000. Mr. Landy feels Council should look into adopting a Landlord Ordinance not only for tenant safety, but also as a means of ensuring that Per Capita Taxes are not lost. Each year the Borough has to pass a budget with a decrease in Property and Per Capita Taxes which account for 75% of our revenue.

**President's Report:**

Vice President Bauer asked Council to look at the list of new Council Committees on their desks.

**Borough Manager's Report:**

Borough Manager Landy reported the following:

- Mr. Landy thanked all of the businesses and residents for their help and cooperation during the Glass and Ethnic Festival especially the residents on Washington Street.
- All Borough departments have Sunoco credit cards they can use in the Borough to purchase gasoline which will help while Amy Lyne's is closed after running out of gas.
- The banks that the Borough does business with are supplying letters stating that we are still insured for the amount in our accounts.
- The Frick Park Gas Well is moving ahead with reclamation and the gas line to the Central Fire Station and the Municipal Building.
- Pursuant to Borough ordinance, Mr. Landy is preparing a document to be used by recreation leagues who request monies from the gas well revenue for recreation projects. The Recreation Committee will review the documents when they are submitted.
- Mr. Landy is also working on the application for the use of our parks by recreation leagues.

## Waste Water Treatment Report:

Councilman Tate said he has been in contact with Widmer Engineering regarding 22 properties who still have issues regarding the CSO Project. The contractor is starting work on these complaints this week.

Councilman Tate said that Widmer Engineering is assisting in the design of the new building at the WWT Plant and will be ready to advertise for bids in February 2009.

A motion was made by Councilman Tate to allow the property owners of 754 Orchard Avenue to construct a fence on the right-of-way pursuant to a revocable license agreement.

A discussion ensued regarding the above motion:

- Mayor Lucia questioned what direction the above motion would take the Borough in the future.
- Councilman Beranek asked for the difference between a right-of-way and a paper alley. Solicitor Toohey again explained that if a paper alley has not been maintained by the Borough it reverts to the property owners. But in this case the Borough has an easement because of underground sewer lines. Council has to decide how to deal with these situations. One of the issues is setting a precedent. Another issue is the rights of owners of other properties in the “plan of lots” who have a private right-of-way to that alley or street. If Council approves the revocable agreement in this case there could be opposition from other property owners in the “plan of lots” who want to use the right-of-way. Therefore, Council needs to decide how to handle these situations. The following options were presented by Solicitor Toohey:
  1. Do nothing in any of the right-of-ways or easements.
  2. Consider a revocable license agreement holding the Borough harmless and indemnify us if there is ever a problem. The Borough will never pay any liability. One of the problems with these agreements is that it is only between the one property owner and the Borough and does not include any third party who may wish to sue.
- A question regarding who maintains the paper alley when it is overgrown with weeds if the property owner has to build the fence on their property line. Council agreed that the property owners historically maintain the paper alleys.
- Councilwoman Stevenson asked what happens when the license agreement holder dies. In this case the agreement states that the property reverts back to the Borough. Councilwoman Stevenson again raised the issue of setting a precedent and stated that the Borough has already incurred costs regarding this particular issue.
- Councilman Beranek raised the issue of all the other properties who have encroachments on right-of-ways and how those will be handled. Solicitor Toohey said that is something Council will have to decide.
- Councilwoman Stevenson again questioned setting a precedent and Solicitor Toohey said that Council could not be selective in issuing any license agreements in the future.
- Councilwoman Ruszkowski asked if the paper alley would be on the property owners deed. Councilman Bauer said that in this case the property owner indicated that they would take steps for ownership and would start paying taxes on it.
- Solicitor Toohey reiterated that the paper alley must be unmaintained and unopened for 21 years. Anything less than that would be a different scenario. The Borough also has the right to condemn anyone’s property for public use.

Motion seconded by Councilman Crivella. A roll call vote was taken as follows:

Councilman Bauer	Yes
Councilman Beranek	No
Councilman Crivella	Yes
Councilman Slater	No
Councilwoman Ruszkowski	Yes
Councilwoman Stevenson	No
Councilman Tate	Yes
Councilman Wiltrout	No
President Tabita	Absent

Mayor Lucia voted no to break the tie vote. Motion failed 5-4.

Mayor Lucia asked Council to make a decision on the paper alley dispute on W. Smithfield Street. The owner of 802 W Smithfield Street would like Council to make the resident who is blocking the paper alley named Andrews Alley with a vehicle at one end and a basketball hoop at the other end.

Solicitor Toohey said we have to determine if it is public or private property. Was it laid out and opened by the Borough by ordinance or some affirmative action. Was it used by the public over the course of 21 years. If there is a public interest and it is a public road the Borough has the jurisdiction to enforce the blocking of or any other disturbance. If there is no public interest then it is private property and it is a private matter between private citizens. The police cannot enter onto private property unless it involves a criminal action. It must be determined if it is public or private property. Solicitor Toohey said that it is a named alley as part of an ordinance and that in itself shows a public interest.

Getting back to the question of whether a property owner can have a private paper alley added their deed, Solicitor Toohey said that there are ways to do that through the courts. If property owners do not go to court then it is the general understanding of law that the private paper alley is owned 50/50 by adjoining properties but does not go on the tax rolls.

Solicitor Toohey said there is a process where the Borough can vacate the public interest in a paper alley.

Councilman Wiltrout suggested to Council that we look at 10 or 15 paper alleys a year and determine whether there is a public interest in those alleys and either claim them or vacate them.

Council agreed to review the situation on W. Smithfield Street and address it at a future council meeting.

Councilman Slater asked for an update on the problem on Jordan Alley where our WWT Personnel repaired a problem that may have been caused by the contractor for the CSO Project. Glenn Wolfe of Widmer Engineering replied that it is not a clear-cut issue. There is a 20-inch terra cotta pipe parallel to the new sanitary pipe that was installed. A sinkhole developed 9 months to a year after work was completed. Mr. Wolfe does not know the position the contractor is taking, but it is starting to get to the point that is past reasonable. Mr. Landy said there has been no discussion yet with the contractor past the point where they were shown the hole by WWT Personnel. The Borough's position is that the sinkhole was there when the contractor black topped over it during the project. Councilman Tate said that he was told by WWT Supervisor Stout that the contractor said they will go over all of the lines that they put in that area that run parallel to our storm sewers and we will go out to camera all of those storm sewers to see if any are damaged. But as far as this instance is concerned the contractor has not taken responsibility or agreed to pay for the damages.

### **Public Safety Zoning and Ordinance Report:**

Vice President Bauer read the following Medic 10 Report for the month of September 2008:

Total calls for the month	149
Medical	115
MVA	13
Fire	7
Transfer	1
Standby	13
In Town	85
Out of Town	64
Members per call	3.6

Councilman Bauer read the following Fire Report for the month of September 2008:

Total Calls	42
In Town	13
Out of Town	29
10-45's	14
Fires	8
AFA's	15

Public Service	3
Ambulance Asst	2
Total Men Answering	542
Avg. Member Per Call	12
Total Hours	283.5

Councilman Bauer said that during the meeting with Keystate Publishing regarding ordinance re-codification, the new ordinances that were recommended were the Shade Tree Ordinance, a Sex Offender Ordinance, a new Sign Ordinance, a Graffiti Ordinance, and a Dog and Noise Ordinance. Keystate sent sample of the above ordinances and Councilman Bauer said the committee will review them.

Councilman Bauer said he received a letter from a resident on Mullin Ave regarding a neighbor who has a yard sale almost every weekend. The Borough does not have an ordinance regarding yard sales, but Councilman Bauer said he believes the PA Dept of Revenue says that if you have more than 3 per year it is considered a business. The Ordinance Committee will look into an ordinance regarding yard sales and get back to Council.

Councilman Bauer asked Councilman Slater and his committee to look into complaints he is receiving about people pulling out past the white line at National City Bank and drivers on Mulling Avenue not being able to make the turn. Perhaps Council can request that National City Bank put up a stop sign.

Councilman Bauer said he has received complaints about people running the stop sign at Ramsey Terrace on Joseph Street down around the island. Councilman Bauer said he will speak to the Police Chief about patrolling that area.

Borough Manager Landy said that Council should have Solicitor Toohey look into the yard sale issue because he is also getting complaints regarding the property on Mullin Avenue.

Councilman Bauer said grass at a property on Diamond is too high again. The property owners were cited and cut the grass, but it is high again.

Councilman Bauer said the ordinance re-codification is on schedule to be completed after the first of the year and accessible on the Internet.

Councilman Bauer said that he has not gotten a chance to meet with the committee regarding Mr. Davis who is having problem pulling out of his driveway on Orchard Hill Drive, but will try to have a solution before the next meeting.

**Street Parks and Recreation Report:**

Councilman Slater said that the new Street Department employee is working out well.

Councilman Bauer said it will be important to get a list of alleys and streets that need paved so that we can bid it out in January 2009.

Councilman Bauer said that Jack Bobbs Park needs some attention. The see saw has never been repaired and other improvements should be made to honor the memory of the soldier it is named after who died in Korea.

Mr. Landy said that he received a letter from Kriebel Resources regarding the scoreboard at Frick Park. They would like to use the Borough logo and would like Council’s approval before they begin. They need to know where to deliver the scoreboard and when we would like it erected.

**Finance Report:**

Councilwoman Ruszkowski reported that the Borough has received confirmation from the Steelworkers Union but still need to finalize the change in hospitalization to a deductible plan with the Police.

A motion was made by Councilwoman Ruszkowski to transfer monies from Recreation Bank Account totaling \$1,905.73 to Holiday Lighting Bank Account. Motion seconded by Councilman Beranek. Motion carried 8-0.

Borough Manager Landy explained that the money has been dormant in the Recreation Account and can be better used in Holiday Lighting.

Mr. Landy said that a preliminary 2009 budget may be ready by the next council meeting.

#### **Property Report:**

A motion was made by Councilman Beranek to open sealed bids for the sale of the property at 211 Main Street. Mr. Landy said there were no bids.

A motion was made by Councilman Beranek to re-advertise for bids for the sale of property at 211 Main Street. Motion seconded by Councilman Wiltrout. Motion carried 8-0.

Councilman Beranek said that he will give Borough Manager Landy the total cost of the materials for the sign at Veterans Park and the address where to send the check. The Recreation Committee will have to decide what they want on the sign.

The work on the Premoshis Christmas Displays has begun for Christmas this year. Councilman Bauer said that a decision needs to be made about what to do with the old Christmas displays that we were unable to sell. They need to be gotten out of the Synagogue to free up some space. Solicitor Toohey said that the Borough could donate the decorations to another municipality.

#### **Community Eco-Green Report:**

Councilman Wiltrout reported that the Westmoreland Cleanways 12<sup>th</sup> Annual Household Hazardous Waste Collection will be held on Saturday October 11, 2009 from 9am to 2pm at the Westmoreland County Fairgrounds and Mount Pleasant Borough is participating this year therefore there is no fee for borough residents. Residents can go to their web site at [www.westmorelandcleanways.org](http://www.westmorelandcleanways.org) for the list of acceptable items.

Councilman Wiltrout said that the recycling program in the Borough is doing well and we are still moving toward curbside recycling in January 2009.

Councilman Slater said that the recycling bin at the basketball court is filling up and people are leaving material on the ground.

#### **Human Resource/Employee Contracts:**

Councilwoman Stevenson thanked everyone who stopped at the Historical Society Log Cabin during the Glass Festival. The Historical Society is grateful to be able to participate in the Glass Festival. A special thanks to Irene Castellano for all of her hard work.

Councilwoman Stevenson said that there has been progress on recruiting volunteers to deal with the cat problem in the Borough.

#### **Community and Economic Development/Grants Report:** None

**New Business:** None

#### **Reading of Communications:**

Borough Manager Landy read the following communications:

- There will be a seminar on Best Practices to Revitalize Pennsylvania's Communities and Mr. Landy suggested that he and Councilman Crivella attend the seminar on October 23, 2008 at the Greensburg Garden & Civic Center.
- Council received a copy of the BDA 2009 budget to be discussed at the next work session.
- Council received a copy of the 2007 Financial Statement for the Library and the borough office will be mailing them the check for the 2008 Library Contribution.

- A request from the Mount Pleasant Historical Society for assistance from the Street Department in digging the foundation for the new log cabin being erected.
- The calendar of events for the Laurel Highlands Chamber of Commerce.
- The 19<sup>th</sup> Annual DAR Festival of Lights will be on November 29 and 30<sup>th</sup> and December 5<sup>th</sup> to the 7<sup>th</sup>.
- The Westmoreland County Borough Association monthly meeting will be October 23, 2008 at the Westmoreland County Transit Authority Office at 41 Bell Way in Greensburg.

Mayor Lucia announced that Trick or Treat will be held in the Borough on October 26<sup>th</sup> from 2pm to 4pm and the Halloween Parade that is sponsored by the Mount Pleasant VFD will be October 29<sup>th</sup> at 7pm.

A motion was made by Councilman Beranek to suspend the rules for the purpose of a motion to close Main Street from Braddock Road Avenue to Center Avenue on October 29, 2008 from 6:30pm to 8pm for the Halloween parade. Motion seconded by Councilman Crivella. Motion carried 8-0.

A motion was made by Councilman Beranek to close Main Street from Braddock Road Avenue to Center Avenue on October 29, 2008. Motion seconded by Councilman Crivella. Motion carried 8-0.

Mr. Landy showed Council what the catch up bill for sewage billing generated by the Municipal Authority of Westmoreland Co will look like. A letter explaining the billing and where residents can pay their sewage bills etc will be included. The catch up bill will bring Mount Pleasant Sewage customers billing up to date with the water billing.

**Discussion and Payment of Bills:**

A motion was made by Councilman Beranek to pay all authorized and approved bills. Motion seconded by Councilman Wiltout. Motion carried 8-0.

**Miscellaneous and Adjournment:**

A motion was made by Councilman Beranek to adjourn the meeting. Motion seconded by Councilman Slater. Motion carried 8-0.

Meeting adjourned 8:46pm.

## Motion from October 6, 2008 Meeting

A motion was made by Councilman Slater to dispense with the reading of the minutes of September 22, 2008. Motion seconded by Councilman Wilttrout. Motion carried 8-0.

A motion was made by Councilman Tate to allow the property owners of 754 Orchard Avenue to construct a fence on the right-of-way pursuant to a revocable license agreement.

A discussion ensued regarding the above motion:

- Mayor Lucia questioned what direction the above motion would take the Borough in the future.
- Councilman Beranek asked for the difference between a right-of-way and a paper alley. Solicitor Toohey again explained that if a paper alley has not been maintained by the Borough it reverts to the property owners. But in this case the Borough has an easement because of underground sewer lines. Council has to decide how to deal with these situations. One of the issues is setting a precedent. Another issue is the rights of owners of other properties in the “plan of lots” who have a private right-of-way to that alley or street. If Council approves the revocable agreement in this case there could be opposition from other property owners in the “plan of lots” who want to use the right-of-way. Therefore, Council needs to decide how to handle these situations. The following options were presented by Solicitor Toohey:
  1. Do nothing in any of the right-of-ways or easements.
  2. Consider a revocable license agreement holding the Borough harmless and indemnify us if there is ever a problem. The Borough will never pay any liability. One of the problems with these agreements is that it is only between the one property owner and the Borough and does not include any third party who may wish to sue.
- A question regarding who maintains the paper alley when it is overgrown with weeds if the property owner has to build the fence on their property line. Council agreed that the property owners historically maintain the paper alleys.
- Councilwoman Stevenson asked what happens when the license agreement holder dies. In this case the agreement states that the property reverts back to the Borough. Councilwoman Stevenson again raised the issue of setting a precedent and she stated that the Borough has already incurred costs regarding this particular issue.
- Councilman Beranek raised the issue of all the other properties who have encroachments on right-of-ways and how those will be handled. Solicitor Toohey said that is something Council will have to decide.
- Councilwoman Stevenson again questioned setting a precedent and Solicitor Toohey said that Council could not be selective in issuing any license agreements in the future.
- Councilwoman Ruszkowski if the paper alley would be on the property owners deed. Councilman Bauer said that in this case the property owner indicated that they would take steps for ownership and would start paying taxes on it.
- Solicitor Toohey reiterated that the paper alley must be unmaintained and unopened for 21 years. Anything less than that would be a different scenario. The Borough also has the right to condemn anyone’s property for public use so that if we would ever determine that any paper alley or right-of-way is necessary we can go through the process of paying the landowner for taking their property.

Motion seconded by Councilman Crivella. A roll call vote was taken as follows:

Councilman Bauer	Yes
Councilman Beranek	No
Councilman Crivella	Yes
Councilman Slater	No
Councilwoman Ruszkowski	Yes
Councilwoman Stevenson	No
Councilman Tate	Yes
Councilman Wilttrout	No
President Tabita	Absent

Mayor Lucia voted no to break the tie vote. Motion failed 5-4.

A motion was made by Councilwoman Ruszkowski to transfer monies from Recreation Bank Account totaling \$1,905.73 to Holiday Lighting Bank Account. Motion seconded by Councilman Beranek. Motion carried 8-0.

A motion was made by Councilman Beranek to open sealed bids for the sale of the property at 211 Main Street. Mr. Landy said there were no bids.

A motion was made by Councilman Beranek to re-advertise for bids for the sale of property at 211 Main Street. Motion seconded by Councilman Wiltout. Motion carried 8-0.

A motion was made by Councilman Beranek to suspend the rules for the purpose of a motion to close Main Street from Braddock Road Avenue to Center Avenue on October 29, 2008 from 6:30pm to 8pm for the Halloween parade. Motion seconded by Councilman Crivella. Motion carried 8-0.

A motion was made by Councilman Beranek to close Main Street from Braddock Road Avenue to Center Avenue on October 29, 2008. Motion seconded by Councilman Crivella. Motion carried 8-0.

A motion was made by Councilman Beranek to pay all authorized and approved bills. Motion seconded by Councilman Wiltout. Motion carried 8-0.

A motion was made by Councilman Beranek to adjourn the meeting. Motion seconded by Councilman Slater. Motion carried 8-0.