

MINUTES
LANGHORNE MANOR BOROUGH COUNCIL
MEETING OF APRIL 30, 2024

- 1. CALL TO ORDER** – the Meeting of Langhorne Manor Borough Council was called to order in the Langhorne Manor Borough Hall, 618 Hulmeville Avenue, Langhorne, Pennsylvania on April 30, 2024, at 7:00 P.M. Daylight Savings Time by Nick Pizzola.

PERSONS PRESENT – Nick Pizzola – President, Cheryl Oessenich – Vice-President, Councilpersons: Alicia Gasparovic, Grace Judge, Sam Jennings and Bob McBeth, Solicitor: Thomas J. Profy, IV., Borough Manager: Peter Gray, Secretary-Treasurer: Bonnie McGoldrick.

PERSONS ABSENT – Mayor Robert Byrne, Police Chief John Kenney, James Niwinski, Councilperson.

- 2. THE PLEDGE OF ALLEGIANCE** – Led by Bob McBeth

- 3. RESIDENT COMMENT**

Dawn Seader, Highland Avenue. Ms. Seader presented her opinion on the selection of an engineering firm to oversee the road repairs. (comments attached)

Jay Ferraro, 402 Hill Avenue. Mr. Ferraro presented his opinion on the selection of an engineering firm to oversee the road repairs. (comments attached)

Steven Perloff, 301 Hill Avenue. Mr. Perloff voiced his comments about the selection of an engineering firm to oversee the road repairs.

Franny Domanico, 1000 Station Avenue. Ms. Domanico. commented on research she had conducted on the engineering firms that are being considered for the road repairs.

Christine Bach, 601 Station Avenue. Ms. Bach asked if there was a need for a comment request form to speak at a Council Meeting and asked that the agenda be posted earlier than 24 hours so residents would know what was being discussed.

In response to the resident comments on the selection of an engineering firm to oversee the new road repairs, Council President presented a concise and historical account of the original road repaving, the choices made at the time and the resulting issues. Council President gave his evaluation of past performance, the current proposals and stated his assessment of the selection of an engineering firm to oversee the new road repairs. Council President explained that Effective Technical Applications is a consultant for PennDOT and our roadway engineer for the original paving. The current roadway was paved using the most affordable process at the time, not the best recommended process. The difference in cost was approximately \$3M.

In response to the inquiry from Christine Bach, the Council President said the agenda always includes resident comments and a comment request form is not required to speak at that time. Council President explained that the Sunshine Law requires an agenda to be posted 24 hours before a public meeting and that he adheres to that requirement.

4. REVIEW OF LMB COUNCIL PROCEDURES FOR COMMENTS FROM RESIDENTS AND VOTING PROCEDURES WHEN LESS THAN 7 COUNCIL MEMBERS ARE PRESENT.

Council President explained that, at the last meeting, there was some disagreement over the need to allow comments from the residents during a council meeting. Mr. Profy explained that the posted agenda informs residents of the matters to be addressed and that fulfills the Sunshine Law Requirements.

Ms. Gasparovic commented that residents do not have the knowledge to make comments at the beginning of a meeting because they do not have access to the details before a decision or, later in the meeting, after a decision has been voted upon.

In a second matter, Council President stated, at the last meeting, a vote was disallowed due to the number of favorable votes. That decision was incorrect.

Mr. Profy, Borough Solicitor, explained that a Quorum is the required number of Council Members to be present to conduct business. Borough Code, section 1006 states that a 7-member Council requires 4 attending members to conduct a vote and only 3 concurring votes to approve. There are specific circumstances that require 4 votes to approve, one of those would be the hiring of a Brough Manager.

5. AMENDMENT OF RESOLUTION 2019-004 BOROUGH HALL PLACEMENT OF SIGNS AND SCHEDULING OF EVENTS.

Council President read the amendment to the resolution and asked if there were any questions, concerns or comments.

Council President called for a motion to approve the amendment to the resolution 2019-004. Ms. Oessenich made the motion as called for. Mr. McBeth seconded. Ms. Gasparovic asked if the amendment would include a restriction on the erection of structures on Borough Hall property. Mr. McBeth asked about Insurance coverage. Council President suggested this be readdressed and discussed further at the next work session.

6. RESOLUTION FOR THE APPROVAL FOR LICENSING AND CONDUCT SMALL GAMES OF CHANCE.

Council President read the resolution and asked if there were any questions, concerns, or comments. There were none.

Council President called for motion to approve the resolution. Ms. Judge made the motion as called for. Ms. Oessenich seconded. Ms. Gasparovic clarified that the resolution being discussed tonight was not a resolution to allow small games of chance rather council approval to allow a referendum to be placed on the ballot for the voters' approval in November. There were no objections. The motion carried.

7. STATUS OF THE PINE STREET PROJECT.

Ms. Gasparovic stated that a pre-construction meeting was held last week. The contractor advised that the material delivery will require a 5-week lead time.

We are working with BC Conservation District to extend the grant to accommodate the delays. More recent updates indicated that the contractor could possibly improve that timeframe to 2 weeks.

In a related issued, Ms. Gasparovic advised that Council President needs to research the American Rescue funds grant for \$149K.

Regarding Comly Avenue, a fence lock is still needed, and Mr. Niwinski should work with Spencer's Landscaping to mow the property.

8. SELECTION OF ENGINEERING FIRM TO OVERSEE ROAD REPAIRS.

Council President called for a motion to approve the selection of Effective Technical Applications to oversee the road repairs. Ms. Oessenich made the motion as called for. Mr. McBeth seconded. Council President asked if there were any objections. Ms. Gasparovic reiterated her numerous objections. Council President called for a vote. Mr. McBeth, Ms. Oessenich, Mr. Pizzola, Mr. Jennings voted in favor. Ms. Gasparovic and Ms. Judge voted against. The motion carried.

9. ZONING OFFICER 101

Mr. Pizzola stated that he would like to attend the Zoning Officer Training being offered by PSAB and asked if Council would approve paying \$150 for the training program. Council voted to approve the expense.

10. COMMENTS FROM RESIDENTS AND VISITORS.

Mr. Chris Croteau, 608 Station Avenue, asked how to resolve a problem with dogs running loose in the borough. Mr. Pizzola advised him to speak with the police chief.

Resident Dave, last name and address unknown, commented that someone is trapping our foxes, he would like to know who and why. The council was not aware that this was being done. Mr. Pizzola recommended that the Police Chief be advised.

Unidentified Resident commented that submitting a request to speak is hard to do when the agenda is posted so late. Council President stated that a formal request to speak at a meeting is no longer necessary.

Another Unidentified Resident expressed his gratitude for the council members' participation in a system that wouldn't work if they didn't do what they volunteered to do.

11. ADJOURN TO WORKING SESSION EFFECTIVE PROCEDURES & ENFORCEMENT OF VIOLATIONS OF BOROUGH CODES & ORDINANCES.

The Council President called for a motion to adjourn the meeting and conduct a work session. Mr. McBeth made the motion as called for. Mr. Jennings seconded. There were no objections. The motion carried.

12. NEXT MEETING – May 14, 2024

Respectfully Submitted

Bonnie McGoldrick

Secretary/Treasurer

Attachment 1: comments from Dawn Seader

Thank you Mr. President. I'm here to comment on the engineering firm that will be voted on tonight to repair and maintain the roads. At the last meeting, twice Mr. Pizzola mentioned that it was not the "fault" of the engineering firm that the roads were in disrepair but rather the asphalt company. I'd like to remind Mr. Pizzola that when this discussion was brought up several years ago he and Jason Snyder argued that the roads had a normal 1% failure and was overall in good condition. That information was provided to the borough in Mr. Snyder's Technical Assistance memo dated 5/12/23. At that point council voted not to pursue any further action against the asphalt company and instead hire an independent engineering firm to provide guidance regarding a road maintenance program. Council agreed that it was best not to use ETS as Jason Snyder had been involved in the original project and there seemed to be some issues such as the fact Mr. Snyder did not sign off on the finished project and he could not produce the load tickets that substantiated the final bill. Since that Technical Assistance memo, there have been many more road fails.

I'd also like to comment on Mr. Niwinski's comments from last meeting that his vote was based on including all the requirements that have been discussed into the engineer's contract. All those requirements were actually in General Asphalt's contract including insurance coverage and bond requirements but again council did not want to pursue action against General Asphalt.

I remember previous discussions that using General Asphalt again would not be in the borough's best interest. I believe that should also hold true for the engineer that was involved in the original project and utilizing a company that was not involved is in the community's best interest. The slight difference in price is negligible to ensure confidence in the repair work.

In closing I would implore council to use the same thought process in regards to ETS that has already been used with General Asphalt and also recommend Mr. Pizzola recuse himself from the vote due to his friendship with Mr. Snyder and what could be construed as a conflict of ethics. Thank you for the opportunity to comment.

Attachment 2: comments from Jay Ferraro

Good evening my name is Jay Ferraro I live at 402 hill Ave. Langhorne PA.

My comments this evening are in regard to the roads proposals that are currently before the council. But before I start with my comments, I want to begin by saying that my comments are intended to merely share my concerns and my thoughts based on my personal and professional experience.

Some here in attendance may already know, but I feel it important to state my professional experience in this matter. I currently serve as the Vice President of one of the more notable construction management firms in Philadelphia. Our multi-billion-dollar portfolio spans all sectors of the construction industry, including roads. I also served as the Vice President of Pennsbury Excavating and Paving, who at one time on the past was contracted by Langhorne manor for road patching. Am I an engineer? no, but it is part of my overall responsibilities to evaluate and negotiate contracts with clients, design professionals and vendors as well as to ensure that our company complies with all design documentation, codes and standards.

With that backdrop, I have a several concerns with the council voting to engage ETA, Inc as our roads engineer.

First, it is an industry standard that when you have a project that exhibits some type of failure, and I agree that our roads in general are not failing, but there are areas of failure as admitted to by General Asphalt the contractor who paved our roads, you would contract with an alternative contractor and engineer for repair and oversee that process. This helps to ensure that the work that has being done is performed without any concern of impropriety.

Second, it was stated at the last council meeting that Jason was on site during the roads project every day, and if Jason wasn't on site, Nick would be. I have different recollection of that process as I specifically remember 3 incidents that I contacted Nick about issues and Jason was not on site . At which time Nick's response was either thank you for bringing this to my attention or I'm on my way and I'll check it out. Well Mr. Pizzola, some time ago during a conversation about the roads you stated in front of this council that I am not an engineer and that you're going to take Jason's word over mine. Well, you are in fact correct, I am not an engineer, however neither are you and moreover you have no professional experience in road paving or maintenance. But are we to accept you or anyone else in this room as a viable substitute for Jason when he's not on site? I would say no.

3rd, Carol engineering has always performed to an exemplary level and has provided full time consistent oversight for our projects without failure. Most recently the Cairn project that we agreed to allow Middletown Township to take lead on with Langhorne Mannor's joint oversight. Carroll engineering provided a dedicated professional inspector for that project that never missed a milestone.

4th and last, it was insinuated at the last meeting that the original roads contract that was in place did not include sufficient or proper insurance coverage for this council to be satisfied to, "as it was stated" "hold the contractor's feet to the fire". Well again, leaning on my professional experience you do not rely on insurance coverage to hold a contractor's feet to the fire, that's what the terms of a contractor for. And the terms, insurance, and bonding within the original contract were sufficient for holding General Asphalt responsible in breach of contract. However, this council decided not to

do that but instead to move forward with approving a maintenance program. I for one have no confidence that this council will hold any contractor responsible for failure to perform under a contract . And the notion that you would use E&O insurance as leverage for performance is irresponsible . E&O (Errors and Omissions) insurance at best will pay out to the total sum of the ETA contract value period , and only for proven errors and omissions. That in itself is not sufficient and not a prudent direction in managing the terms of the contract .

In closing , I'm aware that there are at least some if not many in this room today that remember I was part of the council who voted to have these roads paved in the way that they were. At the time this paving fabric process was new in the industry. And although I have experience in the application of geotechnical fabrics, the use of them in paving was new to us all except Jason. Since that time, I was told by the owner of General Asphalt that they warned you Mr. Pizzola prior to executing any work that this process would not hold up. If I knew then, what I know now about this process, based on the performance of our roads and the subsequent years of negotiating contracts where this type of process is prohibited , I never would have voted yes. Now, would we be having the failures if General Asphalt applied the required 1.5" of compacted wearing course as specified? I guess we'll never know.