

Jermyn Borough

Council Minutes

January 12, 2017

The Jermyn Borough Council held a council meeting on January 12, 2017 at 7:00 p.m. at the Jermyn Community Center, 440 Jefferson Avenue, Jermyn, PA in the Council Chambers.

On roll call present were: Messrs. Frank Kulick, Robert Parks, John Mark, Dan Markey, Kevin Napoli, Joseph Smith, and JoAnne Wilson. Absent were: Evan Samuelsen; Junior Councilman. Also present were Mayor Bruce Smallacombe, Dennis Kutch, KBA, Fire Chief Ray Rood, Zoning Officer Robert Chase, Atty. Larry Moran Jr. & Dylan Reeves; Junior Councilman.

MINUTES:

A motion was made by Mr. Markey to accept the January 5, 2017 minutes, seconded by Mr. Parks; all in favor, motion carried.

RUSHBROOK CREEK PROJECT PRESENTATION:

Jonathan Conville; Project Coordinator, Andy Malene; Senior Project Designer & Jeff Hartranft; Water Program Specialist from DEP presented information in regards to the Rushbrook Creek Project.

Mr. Conville began by giving an overview of the project throughout the past several years. In 2002 there was 4.5 million allocated to the project and 3.7 million was released. In 2003 after severe flooding the Borough requested DEP to do a feasibility study. The project selected was a concrete U-channel. In 2006 an additional \$1 million dollars of base construction release was put forward, which brought us to 4.75 million dollars. At the same time period they began working with regulatory agencies. They ran into some resistance and realized they were going to have some hurdles with the concrete U- channel. There were 9 alternatives that were developed. One of the alternatives was a hybrid system that was selected. The project will be concrete walls and the invert of the channel will be a natural stream channel. Since 2009, DEP has been working on the final design documents and regulatory agencies to move the project towards construction.

The three main components that will be involved will be DGS, DEP & the Borough of Jermyn. DGS is the funding agency, DEP is the project designer and Jermyn is the project sponsor. DGS is responsible for the legal aspects and the acquisition of easements. They also review and approve the construction plans. They request the budget to release funds for the project. DEP designs the project. They also assist sponsor in coordinating utility relocations. They would transfer the permit to the Borough

after the project is completed. Throughout the entire construction period, DEP will have an inspection staff present. At the end of project construction they would also provide the Borough with calculations and as built drawings and all documents we need if we chose to go forward to work with FEMA to request a letter of map revision to revise the flood maps. Mr. Conville said when the project construction is over; DEP does not walk away from the project. They still participate in annual inspections and do rehab projects to prepare projects for when they reach their end of life aid which is typically about 15 years.

The Borough has to obtain easements for construction and maintenance. DGS issued a work order and had a lot of easements developed. That process is 95% complete; there were some title issues and corrections that need to be made. They are in process of getting those corrections made. Very shortly, DGS attorneys will be contacting our solicitor to start working out the details of getting all those easements documents signed for the project. The Borough is also required to establish a maintenance escrow deposit. This is money that the Borough would keep in an account to make sure we have funds available to operate and maintain the project for minor repairs.

Andy Malene presented information regarding the final design phase. In 2009 the Borough signed the sponsorship agreement. Once they got the agreement, they began to go forward to work on the final design. They developed contract drawings. There were some unidentified parcels that the solicitor had to do a lot of digging to turn up. They had to come up with a mitigation solution. They believe they have a good mitigation solution.

Timeline:

Submit Final Permit Documentation: Fall 2017

Receive Final Permits: Winter 2017

Construction Contract Bidding Phase: Winter 2018

Project Construction Phase: Summer 2019 through Fall 2020

DGS will not bid a project until all the easements are signed and in their hands.

The channel will be 22ft wide, 7ft high with a natural stream bed invert. They will be replacing all culverts at Lincoln, Jefferson, Madison Johnson Ct. & Washington. The Borough originally wanted one at Mellow and Shields Ct. but it was too costly. They will be putting in a "trash rack," to capture large debris, to prevent them from coming down and blocking the culvert. The whole way down they followed the existing stream channel to lessen the impacts on all the properties and to keep in an alignment with the culverts and bridges. They will also be putting in 4ft. chain link fence along the entire length of the block walls. Some of the properties may gain a little property and others may lose a

little bit, depending on the alignments but they tried to stay close to the existing alignment.

What's next?

The Borough will assess all local costs to sponsor the project.

The Borough will obtain signatures on easement documents

DEP continues to obtain permits and necessary approvals for project construction

DEP continues finalizing drawings, specifications and cost estimate.

Senator Blake:

This process is long and hard. The sponsor adjustments are not state subsidized. (Relocation utilities) The contract that was originally awarded is 2-3 years old now, at least two. We want to make sure we are monitoring the expiration on the contract. Mr. Blake said we have to get an extension request from the Borough. The original estimates that drove the ask for the money are dated now. Mr. Blake said he is concerned that the dollars that were allocated to us are sufficient to cover the costs we must bear for the sponsor adjustments. We need to take a close look at that and work with the County and DGS to guarantee we have an understanding on the estimates of the costs that have to be worded by the Borough. If we find that the dollars that are in the "bank" in combination with our own, DPW, engineer and solicitor; if everything is ok and we can still pay for everything then we will progress and keep going until we satisfy the requirements of DGS. If we find we are short, then Mr. Blake will work with the Borough to help fill that gap. Mr. Blake said another request for state funding and he will be an advocate to bring additional dollars to the Borough. We can go back to the same source because it is for the same project that we have not exhausted. We might have cooperation with the public utilities to help out to defer some of the burden on the community and tax payers. Mr. Blake said the urgent thing is to get an extension on our contract with DCED and see if we can get a clear understanding on the estimates of costs to the Borough to make sure we understand if we are in a comfort zone or not. Mr. Blake thanked DEP with their work involved in the project.

Mr. Ron Mroczka 1006 Heart Lake Rd. asked where the beginning of the project is. Mr. Malene explained the area; under RT6 Bridge is the beginning of the concrete walls. Mr. Mroczka asked if it was upstream near his property. A long the left bank there is a big erosion bank. They are going to protect that slope with stone.

How much is Jermyn's obligation? The award is \$385,000. We are hoping that covers the obligation costs. Will there be 5 bridges involved and what work will be involved? They will be replacing the existing structures with a pre cast box culvert. For environment issues they had to build an extra foot of height into the culverts. Will there be a natural stream bed? Yes. Now that FEMA is redrawing the flood plan maps do you

know if this project would satisfy the requirements of an accredited levy? Their design standards are such that they attempt to design to FEMA's requirements. It's a channel; all documents will be given to the Borough so that they can make application to start that process to get the structure accredited on the flood maps.

Ray Rood asked if they are doing anything upstream in regards to the trees and boulders. A lot is caused by what happens upstream. No, they did take a look at it and identified one area. The problem is how far they chase it. Mr. Rood said the whole part of the road on 107 was washed out, are you doing anything upstream to help us out downstream? They realized there is an issue but they cannot clear cut the trees that will be the point of the "trash rack." Will we need a permit from DEP to go into the "trash rack" to clean it out? No. The maintenance would be within the project area. We would be able to remove debris in the area of the trash rack. The permit would not cover going in upstream to remove debris. The trash rack will not be in Jermyn Borough. They have identified the property owners in that area and we will have an access to it and responsible for cleaning out that area.

Lou Demarco asked if the \$385,000 is that the borough's all in for solicitor's costs and engineers? No that grant is for the utility relocations and for the acquisitions. Do we have the funds to make this go forward? Mr. Markey said when we passed the 2017 budget we added an account specifically for the Rushbrook Creek. We are opening a specific account just for the Rushbrook Creek. Mr. Smith said approximately \$7,500 we put into that account this year. Lou Demarco asked if there are any estimates and if this part for the Borough is not done will it hold up the project. Lou said we are a small town and can't raise taxes. Senator Blake said this Borough will not be without the resources it needs to get done in order for this project to get built. \$4.7 million is available right now do we have a cost of construction right now? Right now, it is at \$4 million. Mr. Kulick said we need to sit down and get a better understanding on what our financial responsibility is going to be for this project and go from there. Senator Blake said the acquisitions can hopefully go with some cooperation, the utilities might help out, the County has already expressed their willingness to help out on some of the County structures and we already have a grant in the bank. Mr. Kulick said this meeting was just as important for us as it was for the general public. He thanked DEP and Senator Blake for coming. Mr. Smith said a number of years ago we went to Senator Blake's office and sat down with Senator Blake. We talked about the critical need to have someone as our sponsor to help us through this; at that time Senator Blake promised he would help us out as much as he could. Mr. Smith said Senator Blake is the backbone who has been here all the time. We had a meeting with Lackawanna County. There was a better understanding on what was happening. Mr. Smith said with this council there is a lot of action to see this project be fulfilled.

Mr. Mark said he has been here since the conception of this. He said there is another area by Mr. Mrozcka's of the bank eroding. It is further upstream. Mr. Mark said it was a high bank and very hard to get stabilized. They said they can take another look and make note of it. Mr. Mark said another area he did not see is the area behind the 3 houses going over to the East Side on Delaware. This was through Representative

Staback that it was supposed to be put into this project to control the flooding over there. Mr. Kutch said he remembers this discussion but was not sure if it was incorporated into this project. Mrs. Wilson said it was added later on. Mr. Mark said it was around 2006. Mr. Malene said it is something they can continue to talk about it. Mr. Mark asked about getting into the creek bed for maintenance and sediment build up. They said after the project is complete the permit states we would have an operation maintenance obligation and restore it to as built conditions. Mayor Smallacombe asked if we are responsible for utilities on county bridges. Utilities remain a borough sponsored adjustment.

Sandra Suey- Lincoln Ave. said the edge of the creek and her driveway; the land is falling in. She asked if they can guarantee her within 3-4 years she is not going to lose her land, garage and driveway. They said we cannot make any guarantees. They cannot put an amount of time on how long it is going to take to develop the easements, we are very hopeful and think the scheduled time is very realistic. Her worry is that she is going to lose everything. She asked what she can do in the meantime. Mr. Conville said unfortunately they do not have any mechanism to fix that problem, until the easements are all signed and DGS gives the right to bid we can't build the project; we are doing the best we can. Until the project goes into place, it will remain a private property issue.

Mr. Napoli said we are going to incur more fees from solicitor and engineer, at the meeting we had in March or April we were told at that point our Engineer no longer had anything to do with it, it is the Engineers of the County. Mr. Markey asked Ralph Pappas after a point we would be using the County Engineer not the Borough Engineer. Mr. Kulick recalled the statement as well. Mr. Napoli asked if we are definitely going to incur fees. Mr. Pappas said through the grant we cannot pay the legal work or engineer out of that grant money, the Borough would be responsible for it. Mrs. Wilson asked about the County Engineer. Atty. Moran asked why you cannot pay for professional fees out of the grant money. Mr. Pappas said it is part of the agreement, they will send the original budget.

Randy Parry- The total allocation is \$4.75 million, in a rare event you come in under budget; what happens to the .7. Why can't it help pay their bills? Mr. Malene said 4 million is for construction, \$750 is for design and contingency. That money cannot be used to pay for anything else.

Gerard Jeffery- What is the reason for replacing the Johnson Ct Bridge? Mr. Mark said it is the most used alley way we have. Mayor Smallacombe said it benefits our business district and fire companies for emergency personnel.

Mr. Malene said when DGS releases the easements to the Borough, we will come up and advise the Borough to set another public meeting and make sure you have the list of all the property owners and make sure they are aware of that public meeting.

Mr. Markey asked if any other municipalities are involved in this besides Jermyn and will we have to obtain easements from any of those municipalities. We will have to obtain easements through the private property owners that reside in those municipalities.

All of council thanked them for coming.

A recess was called at 8:50 p.m.

Council reconvened at 8:55 p.m.

TREASURER'S REPORT:

General Fund after bills and deposits \$74,747.49 – Refuse 83,348.59 – Recycling \$20,451.06 – Liquid Fuels \$12,648.77. Deposits 42,643.99 – Disbursements \$52,294.32

A motion was made by Mr. Napoli and seconded by Mr. Parks to accept the bills. All in favor; motion carried.

UCC APPEALS BOARD:

Mr. Kulick said we need to set up the appeals board for the UCC. We have three volunteers; Robert Thomas Moran, Don Muschal & Lou Demarco. A motion was made by Mr. Smith and seconded by Mr. Parks to appoint Lou Demarco, Robert Thomas Moran & Don Muschal to the UCC and Property Maintenance Code Appeals Board. All in favor; motion carried. Atty. Moran said we are always looking for alternates.

AGREEMENT:

Atty. Moran said he spoke to George Kelly regarding the cooperative agreement with the county for the creek project. He made some changes on the agreement and wants to look it over before we sign anything. A motion was made by Mrs. Wilson and seconded by Mr. Markey to allow the solicitor to negotiate the Cooperative Agreement with the County. All in favor; motion carried.

ORDINANCES:The Ordinances for organizations and tax and garbage fee. They were sent for publication and will be voted on for next meeting.

RENTAL FEE ORDINANCE:Mr. Kulick read aloud a letter from a resident who is unable to fix her property to rent it out. The solicitor said if they do not want to pay that is not good enough but if you cannot pay that is good enough but come in here and tell us why you cannot pay and request a waiver from council. A motion was made by Mrs. Wilson and seconded by Mr. Smith to allow the exception for 209 Franklin of Ms. McLaughlin of the rental fee. All in favor; motion carried. Mr. Mark said if they are not renting them they should not be charged a fee. Mrs. Wilson said the affidavit may have not been worded as correctly as it should have been but that is why the affidavit was

sent out and they had to have it notarized that were not renting that apartment out. If it's not a rental then it is a single dwelling and they should fill out the affidavit. Mr. Kulick said collected 131 permits as of 1/5/17 and we sent out about 200. Mr. Kulick said if it's an apartment and no one is living there, you still have to pay the rental fee.

SAFETY: Mr. Napoli provided council with a report listing 2017 goals and the highlights of 2016.

GARBAGE FEE REIMBURSEMENT:

Mr. Kulick said you are supposed to submit an affidavit that there is no garbage put out and no one is living there, it has to be done within a year of the time you are requesting the money for. Mrs. Wilson asked what kind of affidavit? Mr. Kulick said it is in the ordinance.

DPW BUILDING:

Mr. Kulick said we agreed at some point we wanted to sell it. He proposed to advertise it, to accept offers for it up until Feb 1, 2017. Any offers are with a stipulation that the fire siren remains on the building for at least 5 years. Mr. Kulick said it costs us \$4,000 a year to maintain the building.

Mr. Rood said he still needs access to the building for the fire siren. Atty. Moran said that will be covenant in the deed. Mr. Kulick asked Mr. Markey if we are sure we are ok with moving the trucks moving where they need to be moved. Mr. Markey said yes. Lou Demarco said he would be interested in the building and having the Borough sign a 6 month lease allowing them to leave the trucks in there for \$200-\$250 a month until they work something out with their new location. Mr. Rood said once the building is gone is the Borough financially stable enough to do whatever they do to house these trucks, the maintenance of the trucks. What is the future if that is sold? Mr. Rood said to move the siren it would be in the 20 – 25 thousand range. Lou Demarco said leave the siren there for the life of the building. Mr. Rood said that would be ok if it was not going to be used for apartments. Mayor Smallacombe said we have to adhere to our own ordinances. The more equipment we bring here, the less room there is for parking. Mr. Napoli said it will not hurt to see what we can get for it. Mr. Rood said if we do sell the building we have to look to what is going to happen after we sell the building. The realtor was going to list it at \$58,000. Mr. Markey said for the record we never set a price, if the realtor was going to list it; it was going to be listed at \$58,000. Mr. Mark said we just had everyone here about this creek project, we better have some money put on the side just to make sure that Jermyn Borough isn't going to be the ones to hold the project up. This is a big project here and you see how long it has been going on. We are going to have a building we are talking about selling and more expenses moving the siren. Mr. Kulick said we discussed selling the DPW building. If we sold the building we would probably put it into the creek account. We have to build a new building at some point, but it does not have to happen right now. Mr. Smith said speaking from the Finance group, when the Finance Committee met to do the 2017 budget, the question came up how long are

we going to keep funding the DPW garage? The building was deteriorating. Mr. Smith said we thought it would be in the best interest of the Borough if we take a look to see if we can sell that building. The best thing we felt was to recommend to council that this is the course of action we should take. Mr. Mark asked if they took into the consideration the cost of moving the siren. Mr. Smith said the cost of moving the siren was really not discussed in that point of time, it was the yearly maintenance costs and when the roof goes; our costs each year would be going up.

A motion was made by Mr. Markey and seconded by Mr. Napoli to advertise the DPW garage for sale; if someone wants to look at it they can call the Borough Office. Offers up until Feb 1, 2017 with the stipulation that the fire siren can stay there for a minimum of 5 years. Sealed Offers. All in favor; motion carried.

DCED AUDIT:

Mr. Markey made a motion and seconded by Mr. Napoli to appoint Michael Barbetti's firm to complete the DCED audit for Jermyn Borough for 2016. All in favor; motion carried.

DUMPSTER ORDINANCE:

Mr. Markey mentioned said it was discussed to put an expiration date on the dumpster permit application. Does this need to be advertised or amend the ordinance to include the expiration date? Atty. Moran recommended putting it on the application. A motion was made by Mr. Markey to allow the Borough Secretary to update the dumpster ordinance permit application to include an expiration date; seconded by Mrs. Wilson. Mr. Mark asked if we are giving an amount of time for the expiration date. Mr. Kulick said 6 months is too long. Mayor Smallacombe suggested 30 days and then to renew it if needed longer. The motion was amended to update ordinance application with an expiration of 30 days from date of application. All in favor; motion carried.

ALTERNATE FOR APPEALS BOARD:

A motion was made by Mr. Napoli and seconded by Mr. Markey to appoint Dan Johnson as an alternate for the UCC and Property Maintenance Code Appeals Board. All in favor; motion carried.

HEALTH INSURANCE:

The solicitor advised that the payments to Mr. Reilly and Ms. Zaborowski are not obligated by the Borough. A motion was made by Mr. Markey and seconded by Mrs. Wilson to have the solicitor draw up a letter to Mr. Reilly and Ms. Zaborowski that we will no longer be paying their insurance as of January 2017. All in favor; motion carried. Mrs. Wilson said Mr. Reilly was paid \$907 in 2016. It was decided to make the final payments of 2016.

GARBAGE CANS:

Garbage cans have to be brought back in within 24 hours. Mrs. Wilson said the garbage cans on Main St. can be put in the alleys.

OTHER:

Mayor Smallacombe asked if he can do a fundraiser on the Borough stage – musical fundraiser the week before Memorial Day. They advised the Mayor to go through the Recreation Commission.

A motion was made by Mr. Napoli and seconded by Mr. Markey to adjourn the meeting at 10:05 p.m. All in favor; motion carried.