

**Red Lion Borough Council
Meeting Minutes
November 13, 2017**

Members

Cindy Barley
Tina Frutiger
Chris Minnich
Tony Musso
Dennis Klinedinst
Nevin Horne
Kelly Henshaw

Others

Dianne Price, Borough Manager
Dan Shaw, Codes/Zoning
Jeff Shue, Engineer
Mike Craley, Solicitor
Brett Patterson, Public Works
Mayor Steven Kopp
Stacy Myers, Recording Sec'y

Visitors

Robert Frutiger
Melanie Thompson
Laura Kirk
Stefanie Weaver
Mike Zelger
Brad Smith
Laura Plaughter

Jack Rogers
William E. Wise
William Wise
Cindy Mann
Nathan Elfner
Neal Metzger
Nick Rhoads

Rosemary Wise
Joyce Wise
Barbara Rineholt
Wade Elfner
Tim Rutter
Dave Martineau

1. Public Hearing opened at 7:00p.m. Council President Henshaw opened for public comment on Ordinance 2017-11-7 amending the Red Lion Borough Ordinance concerning the map amendment of parcel #131, 730 South Main Street. If approved, this Ordinance will allow for the zoning map amendment for this property to be changed from Residential Outlying to Commercial.
2. Public Comment was as follows:
 - Jack Rogers from 726 South Pine Street was present for the 4th time to plead with Council not to approve the map amendment. As a neighboring resident of the current Rutter's store at 5 Winterstown Rd, he named the issues that Rutter's representatives stated would be addressed. 1) Noise—delivery trucks are **still** coming before 6a.m.; 2) Light pollution—one light in the parking lot has been changed to a less-intrusive type; 3) Traffic—alley (behind Rutter's) traffic has not been addressed, although this may be a Borough issue, not Rutter's; 4) Rats—nearby residents are still seeing rats around trash receptacles; 5) Property depreciation. Mr. Rogers stated nothing has changed & believes that nothing will change with an expanded store. As a Borough resident & voter, he hopes that Borough Council will keep the residents' concerns in mind rather than the wants of a big corporation.
 - Jeff Frey from 741 South Main Street has his medical practice directly across from the current Rutter's store. He stated that when he opened his practice many years ago, Borough Council (at the time) was concerned it would produce extra traffic congestion. Since Rutter's has come there, Dr. Frey said traffic is much worse, especially during the school year. He has many of the same concerns as Mr. Rogers and collects a lot of trash (cigarette butts, lottery tix, sandwich wrappers) from his property. He is concerned for the safety of his patients, many who are older, driving in & out of his practice, especially with more traffic produced by a larger store.
 - Cindy Mann from 13 Winterstown Road agrees with her neighbors and asked Borough Council to put themselves in the position of the residents who must live beside an already busy store.
 - Laura Plaughter from 737 South Main Street, lives next to Dr. Frey and reiterated his concerns about heavier traffic. She stated the school buses have a difficult time now pulling onto

South Main because of the congestion at the intersection caused by Rutter's, especially during early morning & later-day work traffic. She & her family moved to Red Lion because the "small town" feel of it and they love that about the town, but she fears that "small town" feel will be gone once a larger store opens. She patronizes Rutter's now, but she does not feel this is the right area for a "super Rutter's". The old McCleary home (730 South Main) needs repairs, but she does not believe it needs to be torn down. It could be fixed up to become a family home again.

- Wade Elfner from 734 South Pine Street stated this is also his 4th time before Council about this matter. He pleaded with Council representatives to fulfill their duty to the residents and not to a big outside business. He stated there is no way that a larger store won't have a serious impact on the neighbors. No one in that area wants it.
3. With no further comment, Council President Henshaw closed the Hearing @ 7:15p.m.
 4. The regular Borough Council meeting began at 7:15p.m. with a moment of silence. All present participated in the pledge to the flag.
 5. Mr. Musso made a motion to approve the October 9th, 2017 Meeting Minutes; Mrs. Frutiger seconded. All were in favor; motion carried.
 6. **VISITORS AND PUBLIC COMMENT**—The following were present to address Council:
 - Joyce & William E. Wise of 167 South Franklin Street addressed Council with a complaint about their new neighbor's huge brick fire pit and the thick smoke they must endure because of it. The Wise's have lived in their home for 47 years. It's a semi-detached so the properties are very close to each other. They are extremely concerned for the safety of their property & others in the row because of the proximity of the neighbors' fire pit to the homes because the flames get very hot & high in their back yards. (Mr. Wise provided pictures) When they have nicely asked the neighbors to be mindful of their property, the neighbors have become belligerent and curse at them and do nothing to control the flames or smoke. The Wise's have called the State Police, who visited the property; however, PSP does not enforce Ordinances. The neighboring Fire Chief has come down also & agreed with the Wise's that the fire pit, especially the thick smoke, was excessive, but he also cannot enforce Ordinances. Jon Persing, the Borough's Assistant Codes Enforcement Officer told the Wise's that fire pits are allowed in the Borough and the neighbors do have a screen on their fire pit. The Wise's stated the screen does nothing to control the thick smoke that goes all through their home, even with the windows closed. The Wise's questioned Borough Council about the possibility of banning fire pits in the Borough. Open burning is banned in the Borough; contained fire pits are allowed; however, the smoke from them falls under the Nuisance Ordinance. The Wise's also stated they have asked the neighbors to pick up their cigarette butts and take care of their smelly trash, which are also violations of the Nuisance Ordinance, but again were met with cursing and nothing done to control the trash accumulation. Mr. Persing has sent a letter to Wise's neighbors and they can continue to get fined for violations. The letter doesn't specify time; as soon as the letter is sent, the violation is supposed to stop; however, the Wise's stated the neighbors used their fire pit recently again, so Mrs. Price will check the date of the letter they should have received. Council told them if it happens again, Jon Persing can start fining the neighbors. They explained to the Wise's that passing an Ordinance to ban all fire pits, outdoor burning, etc. is still a process that takes time. Mr. Craley stated, as the Wise's report, their neighbors are already violating two Ordinances (Section 301:J—"soot, smoke, ash, etc. to go off premises & interfere with normal use of property" and Section 20-104:I—"refuse/trash has to be secured"). Mr. Craley urged the Wise's to document & photograph every time the violations take place because if this would go to court, proof would be necessary. A municipal Ordinance offense holds a maximum fine of \$1,000. If the fine isn't paid, they could serve jail time. To get an injunction to prohibit the burning from happening at any time, is a civil matter (in civil court) & not the responsibility of Borough

Council. Per the current Borough Ordinance, fire pits have no limit on fuel level; however, Borough Council can review the Ordinance on fire pits & decide if they wish to revise it.

- Rosemary Wise lives 4 houses up from Joyce & William E. Wise. She too, has witnessed the thick black smoke and tall flames from the neighbor's fire pit. She stated, even 4 houses away, the smoke is bad. She stated, years ago, they had a fire pit burning at a family gathering. One neighbor called the Police (Red Lion Borough Police at that time) and Police said the fire pit was not allowed. Then they bought a chiminea to roast marshmallows, etc; the Police came again & said that was now allowed either, per Ordinance.
- Mike Zelger was present to discuss Per Capita Tax. He said Borough Council can decide what they want to do (as some municipalities have gotten rid of per capita) but he is a big proponent of the tax. He said the Borough is made up of 48% renters; the Borough collects \$5/resident/\$5 per capita=\$10 per person. And this year, there are 473 new residents in the Borough, the largest he has seen added in his four years as Tax Collector. Per Borough Ordinance, anyone who rents out their home must report who is living there. In Mike's opinion, he would raise per capita & lower the property tax. Mike stated he & the association of tax collectors have a better handle on collecting per capita than York Adams Tax Bureau and YATB has promised to get their records to the tax collectors so a cross-reference can be done. This will ensure all perspective taxpayers are picked up. He believes a lot (close to 600) of residents will be picked up. Mr. Klinedinst would like all members of households to be registered to ensure all of them pay per capita; however, Mr. Craley does not believe an Occupant Registration of this type would be allowed. More on this later.
- Nick Rhoads was present to discuss the following:
 - To ask if "No Parking" signs can be added in the 800 block of Atlantic Avenue. He is unable to get his larger trucks past when residents are parked there. Mr. Klinedinst will look at the area & report back to Council.
 - If a fence will be erected between his property & that of the Borough. The prior owner of the property that Mr. Rhoads purchased had given permission for the Borough to dump branches, trees, leaves, etc. & since Mr. Rhoads purchased it, Brett Patterson has pulled back a lot of brush & branches from the property line, per his request. Nothing else was dumped in that area in the past four years. Mr. Craley said Mr. Rhoads can do whatever he wants with it now; it goes with the land & Mr. Rhoads is now the owner. The lease that the Borough had with the prior owner was terminated due to the bankruptcy. If the lease was still in place, the Borough, as the "lessee" would have to clean the property. Council members are amenable to the fence that Mr. Rhoads is requesting but they don't think the Borough should pay for it. Mrs. Price told Mr. Rhoads, if Council approves it, a formal easement for the encroachment is going to be necessary. When Mr. Rhoads (Silverback Services) purchased the property, there was a fence shown on the site plan. Mr. Rhoads is requesting this fence be relocated across his property line onto land owned by the Borough. Mr. Craley said he (Mr. Craley) needs to know where the fence will be so that a simple easement agreement can be drawn up. "Encroachment" will be used in the language because essentially that is what it is. There are different types of easement agreements—perpetual, which go on forever & then there are those for a specific time period, which will only be for as long as Silverback owns the property. It may have to go before the Zoning Hearing Board to change what was on the plan when it was approved. If the fence is going to be relocated, there would have to be a new Special Exception or a request for relief from conditions. This can be determined later. Mr. Horne & Mr. Klinedinst are concerned about the brush being too close to the stream, per a 50' requirement from PA DEP. Jeff Shue said the requirement is a generic fallback that keeps people from getting too close to a stream. If there is no defined flood plain (there is none in this area), a joint permit is required

from DEP to do any work within 50' of the stream bank. Jeff can visit the property with Brett to ensure there will be no requirement from Army Corp of Engineers, DEP or otherwise on Silverback's property.

7. **PUBLIC SAFETY**—Mr. Musso reported:

- **Fire Company Report**—for October
 - 25 calls using 77 personnel & 29 pieces of apparatus
 - \$0 fire loss
 - No failed calls
- **Ambulance Report**—distributed
- **EMA Report**—Laura Kirk reported:
 - She attended two trainings in October
 - Continuing to work on Recreation Department Emergency Operations Plan (annex)
 - Simplex radio test was done (for emergency communications)
 - Kept Recreation Director apprised of fire call at Rec Building
 - 2018 Borough Emergency Operation Plan will be updated (due January 2018)—Council members & the Mayor will be reviewing the document
 - Updating the notification & resource documents—this will go to Brett Patterson & Fire Company
 - Mr. Klinedinst requested Fire Company audit (or financial reports) to see what Borough contributions are spent on within the Fire Company.
 - Meeting between Borough & Fire Company CPA's is requested.
- **State Police**—Mr. Horne & Council sends thanks to Lt. Palmer for the informative quarterly report. The troopers continue to do a great job in the Borough.

8. **MAYOR KOPP'S REMARKS AND RECOMMENDATIONS**—Per Mayor Kopp's request, Mrs. Barley made a motion to suspend the parking meters from November 23rd thru January 1st; Mr. Musso seconded. All were in favor; motion carried. Mayor Kopp thanked Council for this action.

Mr. Klinedinst asked about the requirements for the Parking Enforcement Officer to replace Dave McCoy. Mrs. Price is considering this & said the attendant must have the ability to walk meters & read. Training will be done in-house. Jon Persing is performing this job in the interim, but the replacement will need to be sworn in as a Parking Enforcement Officer with the District Justice.

9. **SOLICITOR'S REPORT**—Mr. Craley reported:

- Requests an Executive Session to discuss the ArthurLee zoning appeal for North Main Street.
- Thank you to those who hung the banners around town. He especially likes the one he sponsored right down from his office.

10. **ENGINEER'S REPORT**—Jeff Shue reported the road work has been completed by Stewart & Tate. He is satisfied with the work & asking for approval of the final payment of \$274,900.12 minus a \$1,600 deduction for repairs that Stewart & Tate asked Borough staff to complete. The payment will be held until work/repairs are done at some of the inlets. Mr. Musso made a motion to make the payment in the amount of \$273,300.12 subject to the Engineer's final approval & satisfaction of the punch list items being completed; Mrs. Frutiger seconded. All were in favor; motion carried. Mr. Horne & Mr. Klinedinst weren't totally satisfied with the workmanship on this job. Jeff Shue said sometimes there are problems with low-bidders on a project. When a spec list is put together, you hope a satisfactory product is given. How the contractor performs work, as long as it's not detrimental to the Borough, can be frustrating but cannot be controlled. If construction specifications are met, nothing further can be done.

11. **ORDINANCES**

- Ordinance 2017-11-7—amending the Zoning Map. Council has met all the legal requirements prior to reviewing this. A Public Hearing has been held, both Red Lion & York County Planning Commissions have reviewed it, the property has been posted & it has been

advertised for consideration at tonight's meeting. Mrs. Frutiger made a motion to approve the adoption of Ordinance 2017-11-7; Mr. Klinedinst seconded. Mr. Henshaw stated he is totally against this because Red Lion does not need a "super Rutter's". Mr. Horne agreed with Mr. Henshaw, stating bigger is not better in this case. Motion carried, with Mr. Henshaw & Mr. Horne opposing.

- Authorization to advertise the budget—this is just authorization to advertise the draft budget for public inspection. Council will enact it in December. Mrs. Frutiger made a motion to advertise the 2018 draft budget; Mrs. Barley seconded. Motion carried, with Mr. Klinedinst & Mr. Horne opposing.
 - Authorization to advertise the tax ordinance—Mr. Musso made a motion authorizing the advertisement of the tax ordinance at the same millage rate as last year, with no tax increases. Mrs. Barley seconded. Motion carried, with Mr. Horne opposing.
12. **RESOLUTION**—Resolution 2017-12—adding the accumulation of refuse to the current Ordinance. When the Ordinance was adopted, Part 2 of Chapter 20 was adopted, which deals with recycling. Part 1 deals with accumulation of trash, putting trash out too soon, etc. Mrs. Barley made a motion to adopt Resolution 2017-12; Mrs. Frutiger seconded. All were in favor; motion carried.
13. **AGREEMENTS**—Teamsters Union has signed & approved their contract. It is now before Council for action. Mrs. Frutiger made a motion to approve the agreement with the Teamsters; Mr. Musso seconded. Motion carried with Mr. Horne opposing.
14. **PARKS AND RECREATION**—Mrs. Barley reported:
- Going forward, Parks & Recreation will be kept separate from Redevelopment in the budget for better accountability.
 - Halloween Parade—went well
 - November 20th @ 7:00p.m.—Recreation meeting
 - November 25th—Holiday Bazaar at the Community Bldg. This is going to be part of "Small Business Saturday" in town & will be a trolley stop. Tree lighting from 6-7p.m.
 - December 2nd—8:30-10:30a.m.—Breakfast with Santa (Adults-\$5; kids over 6yr-\$3; under 6yrs-free) Volunteers are welcome!
 - Santa's Shanty—December 7th, 8th, 14th & 15th @ 6:00p.m. in the new Municipal Lot
 - New Year's Eve Committee meeting—December 7th
 - December 9th & 10th—Santa Run (Santa will ride on the fire truck through Borough)
 - Basketball program is moving forward
 - Batting cages—in the past, the baseball teams used Bowers Pavilion at no charge and this cost was offset with registration fees. The Borough no longer receives the registration fees so Mrs. Price told Windsor Township they can either pay a fee from their registrations to offset the cost or the entities (groups in the baseball program) can be billed for the use of the cages.
 - Thank You letter was received from Byron Trout on behalf of the Red Lion Girls' Softball Team, thanking the Borough for their help in 2017. Byron expects the program to continue its growth in 2018, as it grew by 20% in 2017.
15. **PUBLIC WORKS**—Mr. Klinedinst reported:
- Letters will be sent to residents in need of sidewalk repair.
 - He would like a list of property being sold on MunicBid.
 - Ann Reichard would like to apply for the Vacancy Board as of January 2018.
 - Crosswalk on South Main Street (on South Main, near Henrietta Street)—Council should decide if they want to remove a parking spot or eliminate the crosswalk due to it being a hazard. Mr. Musso made a motion to remove the crosswalk & handicapped ramps in the middle of the block of South Main, near Henrietta Street; Mr. Horne seconded. Motion carried, with Mr. Henshaw not opposing, but stating he is not happy about removing it. This will be done in the springtime, as it will be better weather for concrete work.

- West Gay Street sidewalks—Mrs. Price reported those at 107, 125, 131, 139, 151, & 153 West Gay were visited, but were found not to be tripping/safety hazards.
16. **PLANNING, ZONING AND REDEVELOPMENT**—Mr. Horne reported:
 - November 20th @ 6p.m.—Redevelopment meeting @ Community Bldg.
 - November 14th @ 6p.m.—Zoning Hearing for Silverback Services
 17. **MUNICIPAL SERVICES**—Mr. Minnich reported:
 - Agreement is being worked on between the Municipal Authority & Borough for repair of the 95 hydrants in the Borough
 - 3% water rate increase is proposed for 2018.
 - Historical Museum—Council needs to decide what to do with it. How to maintain? It will be open for “Small Business Saturday” & other public events & input from residents will be welcomed in the quarterly newsletter as well.
 18. **ADMINISTRATION**—Mrs. Frutiger made a motion to approve the Per Capita Exoneration list as per list (the maximum amount, understanding the list could be reduced); Mrs. Barley seconded. All were in favor; motion carried.
 19. **COMMUNICATION**—nothing further
 20. **Approval of bills**—Mr. Musso made a motion to approve the bills; Mrs. Frutiger seconded. Motion carried, with Mr. Henshaw & Mrs. Barley abstaining.
 21. **Adjournment**—Mrs. Barley made a motion to adjourn the meeting @ 9:00p.m. Motion carried. Council held an Executive Session at the conclusion of this meeting. No action will be taken, but the following will be discussed:
 - ArthurLee, LLC zoning appeal of 80 North Main Street
 - ArthurLee, LLC trespassing issue at 33 West Broadway
 - Silverback Services Zoning Hearing scheduled for November 14th, 2017.

Respectfully submitted by:

Stacy Myers, Recording Secretary