

MINUTES

HAZLETON CITY COUNCIL

REGULAR MEETING

WEDNESDAY, FEBRUARY 28, 2018

Call to Order: Council met in regular session on Wednesday, February 28, 2018 in Council Chambers. The meeting was called to order at 6:00 pm.

Silent Meditation and Pledge of Allegiance: A silent moment was taken followed by the Pledge of Allegiance.

Roll Call: Barletta-present; Colombo-present; Mope-present; Perry-present; Gavio-present

Minutes of Previous Meetings: The minutes of the February 5, 2018-Regular Meeting were approved unanimously.

Presentation/Proclamations/Communications: – Presentation by Barry Isett & Associates on the City of Hazleton's MS4 project and Storm water Fees.

Gregg Pavlick of Barry Isett said with the election of the new city council members that he would make the same presentation that was given a few months ago at the city council meeting.

Pavlick said the city of Hazleton is under a permit with the Department of Environmental Protection for the MS4 project. He said there was a fee for storm water, in the city, several years ago, that was not increased in 2017. Pavlick said he was in discussion with Paul Grella, Environmental Engineer, in combining different systems in the area. He said a fine would be implemented on the city if they do not comply. He said Barry Isett is keeping up on this issue to prevent the city from being fined.

Stephanie Milewski of Barry Isett, registered landscape architect, said she specializes in the MS4 permits. Milewski stated MS4 stands for (4 S's) separated storm sewer system. She said it is different from the CSO's or the combined sewer outflow systems. She said MS4 is a conveyant system for untreated storm water to flow back into the watershed. She said it could be things above ground, below ground or a combination of both. She said it is separate from the combined systems. She said the city of Hazleton has both- combined sewer outflows and separated storm water outflows. Milewski said MS4 is nationally mandated by the EPA but it administered through the PA Department of Environmental Protection. She stated it is through the NPDES permit- National Pollutant Discharge Elimination System permit. Milewski said the MS4 program was unveiled in two phases. She stated the first phase is for municipalities greater than 100,000. The second phase is for a population greater than 10,000 and a density greater than 1,000 residents per square mile. She stated there are two types of permits. There is a general permit which storm water is discharged into water in the commonwealth. The second permit is an individual permit where storm water is discharged into an exceptional value, high-quality

watershed or has impaired water. She stated the city of Hazleton currently has a general permit which will expire in 2018. She stated the new permit will be an individual permit because the storm water is discharged into Hazle Creek and is an exceptional value, high-quality watershed. She said the MS4 permit is broken up into six components called minimum control measures, or MCM. Milewski stated the first two involve public education, outreach, involvement, and public participation. She said MCM#3 deals with illicit discharge and detection. She stated anything that is not storm water that flows into the storm water is considered MCM#3. Milewski said MCM#4 is construction site run-off, MCM#5 is post-construction storm water management, and MCM #6 deals with in-house, good housekeeping rules, and pollution prevention within the municipal services. She said the city submitted the NOI (Notice of Intent) to apply for the next permit which will be an individual permit. Milewski said because all the outflows that are MS4's do not flow into the Chesapeake Bay Watershed, the city does not have to do a pollutant reduction plan. She said this studies where the storm water comes from and removing any pollutants. She said, currently, the outflows go into the Delaware River watershed. She said once the city turns the CSO's into MS4's then the city would be required to follow the Chesapeake Bay requirements. She said the EPA did an inspection for the city a few years ago. She said the city was found to have some violations and was penalized. Milewski said the city was required to do a written program for illicit discharge and employee training. She stated there was a project at the Hazleton Municipal Airport for a rain garden installation and to update the city's storm water map. She said with the MS4 program, most municipalities form key partnerships with other organizations to help achieve compliance with the MCM's. She said another key partner is the conservation districts. She stated this is a very key partnership. Milewski stated they handle all items under MCM#4 and part of items under MCM#5. She said they observe which constructions are going on with properties that have a permit. She said post-construction, they help with some compliance. Milewski said neighboring municipalizes are also key partners. She said the city needs a dedicated line of funding to achieve compliance.

Milewski said there are storm water authorities being formed, council of governments taking on storm water, and municipalities charging storm water fees that municipalities throughout the state are doing to meet the requirements. She said local examples are the Wyoming Valley Sanitary Authority which are developing a program, with 31 municipalities, which will handle the storm water and MS4 permit requirements. She said they will handle about half of the MCM's. She said the fees are ranging between \$29.00 and \$150.00/year for a residential property.

Perry asked why this is so wide ranging. He asked if it is due to population. Milewski stated the key factor is population and how many households there are to support the storm water program.

Mope said she recently spoke with Gerald Cross of the Pennsylvania Economy League. Mope said Mr. Cross stated the city cannot, as a third-class city, charge a storm water fee. She said unless the city does not have an authority in place, the fee cannot be "on the table". Pavlick said he received a ruling from the city's attorney and a couple of attorney's regarding the fee. He said the ruling, looking at the third-class code, states the city is allowed to implement the fee. Atty. Sean Logsdon said reviewing the documents and hearing the state's and PEL's recommendations

that the city should not be charging the fee. He said Lancaster and Allentown are currently charging this fee.

Mope said Atty. Logsdon stated previously that the city of Hazleton can increase the EIT tax, and just because the other cities are doing this does not mean the city of Hazleton can do this. She said this needs to be investigated and discussed with PEL. Mope said Mr. Cross gave her the opinion that the city cannot charge the storm water fee. Pavlick stated he will discuss this fee with Mr. Cross. He said he did review this with the legal system. He said they came to an understanding on what the fee will be.

Mope stated everything needs to be in place before the fee is charged. Perry said the city will have a fee regardless of who will administer this. Pavlick stated Paul Grella is trying to have the city follow the requirements instituted by the DEP. He said there are going to be more costly items associated with the permit. Pavlick stated the EPA is “pushing” the requirements. He said the city will be fined “large amounts”. Mope told Pavlick to speak with Gerald Cross about the fee. Perry said the fee was charged a few years ago. Mope said the money was transferred to a general fund. She said the fee was not utilized in the proper way.

Pavlick stated there needs a separate account needed for this fee. He said there is also mapping required. Pavlick said there also needs to be rain gardens in place and coordinating storm water projects. Mope said the Hazleton Sewer Authority has done smoke and dye testing. Pavlick said these are two separate items. He said when the sewer and water lines are separated, this will be the responsibility of the city. Mope stated if the Hazleton Sewer Authority is already separating these lines there is no need to duplicate these procedures. Perry asked Pavlick on the timetable. Pavlick stated some other municipalities have charged the fee because they have been fined. He said the information was relayed to the DEP for the recommendation of not charging the storm water fee.

Mope stated the realty transfer tax, for the city of Hazleton, was mistakenly stated as 1.5% which is incorrect. She said Hazleton is a third-class city and items need to fit into the city’s form of government.

Milewski said the MS4 permit is with the city. She stated the city is the permit-holder and will be held responsible. Gavio asked if there are mandated fees from the EPA. Pavlick said there is a permit the city must complete. He said the city does not have the funds to complete the projects. He said as the sewer authority corrects the issue, the city needs to deal with the separate water lines and release points associated with this. He said as the permit continues, the projects will get larger.

Mope said with the recent Broad Street Corridor Project and the sewer lines, she asked how this will be fixed. She said this is a state road and a combined line. She said Poplar Street is a combined street with a corrugated pipe. She said the state has several combined streets. Milewski stated this is the city’s responsibility. Mope said there was the Button bock project and a Locust Street project which the state owns. She stated any inlets, stated in the minutes of the Hazleton Sewer Authority and owned by them, is their responsibility. Pavlick said he spoke with Mr. Cross and he wants to sit down and speak with Barry Isett & Associates

on this issue. Mope said she is working with Mr. Cross and this needs to be discussed with PEL.

Pavlick said he is trying to help the city with the required permit. He said he knows what is combined and what is separated. Mope asked what areas would be looked at if the city would co-partner with other municipalities. Pavlick said he has met with the COG. He said this is an organization that has all the municipalities together. He said the COG suggested this should be handled by the Hazleton Sewer Authority. He said the sewer authority handles Hazleton, West Hazleton and Hazle Township. He said there are 31 municipalities in the Wyoming Valley and Back Mountain has 5 municipalities. Mope said the city of Courtdale has done an individual plan. Pavlick said Courtdale is part of a larger group. Pavlick said all residents will have a sewer, water and storm water bill which is being enforced by the EPA. Milewski stated Barry Isett is doing their presentation to help educate council on the MS4 permit and for the city to be in compliance. She said Pennsylvania is governed by small entities and Hazleton is in an area that is very urbanized with no green space to treat water. She said this is very expensive. She said in the first round, the municipalities still have a permit with the DEP. She said in the second round, the municipalities will be dissolved of the permit responsibility. She said mapping is a big issue. She said Hazleton will have to complete their mapping requirements. Pavlick said there will be additional mapping required by the city for DEP. Mope asked if the city could use the Hazleton Sewer Authority mapping. Pavlick said there will be additional mapping required by the city to meet DEP standards. Milewski said it will not meet all the requirements that the DEP demands.

Milewski said storm water budgets include items in daily operations- i.e. street sweeping, inlet cleaning, illicit discharge program. She said all this counts towards the storm water. She said there is a lot of infrastructure in the city that is failing. Milewski said the public needs to be educated, workshops held, and inserting information on the city's website. She said there is also staff training for DPW workers, engineering and zoning department employees. Milewski said there is acid mine discharge from Hazle Creek and the city will need to put in a BMP. Mope asked why the city is responsible for the acid mine run-off when it is on private property. Pavlick said the city is responsible for the water that is coming from the city that is going into this area. He said this may affect the city's budget in a good way. He said the VAC (Vactor) truck could be paid for by the fees collected. Pavlick said the storm water fund could be used to pay any LSA grants/funds. Perry asked if the fees are temporary. Milewski said most municipalities use their square footage to decide what the fee would be. She said once the fee is collected then the city could do mapping. Pavlick said the county has a GIS system in place but is not at the level, in detail, the DEP requires. Mope said due to the city currently being in ACT 47, the city needs to follow PEL's recommendations at this time. Pavlick said the EPA will institute any fines on the city which do not follow their requirements.

Mope stated the fine was charged because the storm water management plan was not in place. Pavlick agreed. Pavlick said a lot of documents were not submitted to the DEP. Milewski said the permits will not be issued, by the DEP, until all requirements are done. Mope asked if the city needs to comply first then ask. Milewski said DEP listed a number of terms that need to be submitted by the city.

Bid Opening: City of Hazleton Altmiller Park Improvement bids were read by Atty. Sean Logsdon.

1. EBI LLC, Mayfield, PA. Bid- \$197,300. Bid bond included.
2. Cobalt Construction, Inc., Swiftwater, PA. Bid- \$319,000. Bid bond included.
3. Bognet Inc., Hazle Township, PA. Bid- \$284,482. Bid bond included.
4. Columbia Excavating LLC, Bloomsburg, PA. Bid- \$267,194.40. Bid bond included.
5. American Asphalt Paving Co., Shavertown, PA. Bid- \$286,719. Bid bond included.
6. Belles Property Management LLC, Shickshinny, PA. Bid- \$289,295. Bid bond included.
7. George Hayden, Inc., Hazleton, PA (Electrical). Bid- \$56,250. Bid bond included.

Courtesy of the Floor (ON AGENDA ITEMS ONLY):

Grace Cuozzo, 948 James Street, Hazleton, Spoke of Ordinance 2018-8- Ordinance Amending Ordinance 2017-29- Re-enacting Realty Transfer Tax Provisions Pursuant to Article XI-D of the Tax Reform Code of 1971, and Authorizing the Department of Revenue of the Commonwealth of PA to Determine, Collect, and Enforce the Tax, Interest and Penalties. She said it states the tax rate may be changed by further action without reference to the ordinance. Atty. Logsdon said this was how the ordinance was worded previously. Cuozzo asked what the city will do after over charging for the last four years. She asked if the E&O Insurance will cover the overcharge. Perry said council will deal with this when it happens. Cuozzo said Perry voted for this in 2013. Gavio said council will deal with this when it arises. Cuozzo asked if there was a recent Altmiller Park Improvement project done. Joe Zeller, Community Development director, said in 2017, council approved a grant application for Altmiller Greenways Rails and Trails. She said another issue are the storm lines. She stated some lines have been separated, but all lead and connect to the Hazleton Sewer Authority. She said Gerald Cross of PEL stated a storm water fee cannot be implemented. She stated the law cannot be violated. Cuozzo said the city needs to get legal opinions on these issues. She asked what happened with the \$1 million received from the sewer transmission/ storm water fees collected over the past few years. Mayor Cusat said it was put in the general fund, as a line item in the budget, as revenue.

Dee Deakos, 43 West Mine Street, Hazleton, said Resolution 2018-30 should be an ordinance and not a resolution due to setting fees. She said regarding the fee schedule for building permits, residents obtain permits but do not call the inspectors. She said the work is not being inspected with no follow through. She suggested the inspector money be put in an escrow account. She said this will make the city safer.

Old Business:

ORDINANCES

None

RESOLUTIONS

None

New Business:

ORDINANCES

Ordinance 2018-8 An Ordinance Amending Ordinance 2017-29- Re-Enacting Realty Transfer Tax Provisions Pursuant to Article XI-D of the Tax Reform Code of 1971, and Authorizing the Department of Revenue of the Commonwealth of Pennsylvania to Determine, Collect, and Enforce the Tax, Interest, and Penalties (**1st READING**)

Presented by Perry. Seconded by Colombo.

Roll Call: Barletta-yes; Colombo-yes; Mope-yes; Perry-yes; Gavio-yes.

ORDINANCE PASSES UNANIMOUSLY ON 1st READING

Ordinance 2018-9 Re-Enacting Ordinances 1931, 1932, and 1933, which Continue in Force and Effect for the Period January 1, 2018 through December 31, 2018, Imposing the Real Estate Tax, Earned Income Tax, Per Capita Tax, and Resident Tax, Respectively (**1st READING**)

Presented by Perry. Seconded by Gavio.

Barletta said she would like to amend ordinance. She said the wording should be changed from Imposing Real Estate Tax to Realty Transfer Tax.

Amendment presented by Barletta. Seconded by Mope.

Roll Call: (TO AMEND): Barletta-yes; Colombo-yes; Mope-yes; Perry-yes; Gavio-yes.

AMENDMENT PASSES UNANIMOUSLY

Presented by Perry. Seconded by Colombo.

Roll Call: (AS AMENDED): Barletta-yes; Colombo-yes; Mope-yes; Perry-yes; Gavio-yes.

ORDINANCE PASSES AS AMENDED ON 1st READING

RESOLUTIONS

Resolution 2018-27 Approving the Memorandum of Understanding Regarding Terms Between the City of Hazleton and the Luzerne County Conservation District and Authorizing the Mayor to Sign and Seal the Memorandum of Understanding

Presented by Mope. Seconded by Gavio.

On the Question:

Mope asked for an explanation on this resolution, Stephanie Milewski of Barry Isett said it is to cover the conservation district and will follow through on the MS4 permit. She said when a company is developing land over an acre or an agreement for a disturbance over 5,000 square feet, the conservation district makes sure the development is in compliance with the regulations. She said they handle MCM#4 (ALL) and MCM#5 (PART). Mope said the last storm water plan submitted was by CVS.

Roll Call: Barletta-yes; Colombo-yes; Mope-yes; Perry-yes; Gavio-yes

RESOLUTION PASSES UNANIMOUSLY

Resolution 2018-28 A Resolution of the City of Hazleton Authorizing the Abatement of Municipal Property Taxes for For 71-T8SW21-019-005-000 For 2016 & 2017

Presented by Gavio. Seconded by Colombo.

Roll Call: Barletta-yes; Colombo-yes; Mope-yes; Perry-yes; Gavio-yes

RESOLUTION PASSES UNANIMOUSLY

Resolution 2018-29 A Resolution of the City of Hazleton Authorizing the Abatement of Municipal Property Taxes For For 71-T8SW31-005-001-000 For 2017

Presented by Colombo. Seconded by Gavio.

Roll Call: Barletta-yes; Colombo-yes; Mope-yes; Perry-yes; Gavio-yes

RESOLUTION PASSES UNANIMOUSLY

Resolution 2018-30 A Resolution of the City of Hazleton Authorizing the Appointment of More Than One Building Code Official For the City of Hazleton Under Certain Terms and Conditions and Adopting a New Fee Schedule

Presented by Gavio. Seconded by Perry.

On the Question:

Barletta asked how the inspectors can apply and if it was advertised. Mayor Cusat said an RFP was put out a few months ago. He said everyone who applied will be sent the agreement and fee schedule. He said he will await the response. Mope asked if the rate scale will vary. Mayor Cusat said the inspectors need to agree with this fee schedule; the fees stated are all they can charge. Mope also asked about the multiple building code officials. Mayor Cusat said it is to avoid conflicts. Charles Pedri, Code Enforcement Officer, said there was a problem with a previous inspector. Mayor Cusat said there is legislation that will require municipalities to have a list. He said the city can make their own list. Mope asked how many firms applied. Mayor Cusat said five. Pedri said he reviews the inspector's bill and inspection done. He said he reviews all inspector's bills and double check against the time and work done. Mope said there has been a problem, in the past, with Alfred Benesch's bills not broken down. Mayor Cusat said multiple municipalities are doing this now. Pedri said the requirements are the inspector's bills, time, and background information. Mayor Cusat said Alfred Benesch was just paid for work done in 2016 and 2017. Pedri said the inspector's need to provide their bills and back up work performed. Mope said this resolution was placed on the agenda late and council did not have time to investigate this matter. Colombo asked Pedri if he does physical inspections himself. Pedri stated he does not do commercial inspections, but he performs some residential inspections. He said he is the city's official building code officer. He said the inspectors will be working under him.

Mope made a motion to table. Barletta seconded this.

Roll Call: (TO TABLE): Barletta- yes; Colombo-no; Mope-yes; Perry-no; Gavio-no

MOTION TO TABLE FAILS 3-2

Back on the Question:

Barletta asked if the fees now compare to what was charged previously. Pedri said it is contingent on the how large the project is. He said the UCC concepts/fees are charged by square footage. He said the \$25.00 plan review fee is applied to the permit. He said this will save the citizens of Hazleton money.

Roll Call: Barletta-yes; Colombo-yes; Mope-no; Perry-yes; Gavio-yes

RESOLUTION PASSES 4-1

Comments from the Audience: Charlene Hentosh, Hazleton, said she purchased a home in 2011. From 2011 to 2016, she did not have any problems. She said she was employed in 2016. She paid a private contractor to plow and cinder Manhattan Court, from 17th to 19th

Streets. She said she has problems every time it snows. She said she has to call the mayor's office, every snow storm, to have this plowed. She said a plowing service told her the street is "treacherous". She is not able to get out of her house after a storm. She said the mayor's secretary has helped her in the past. Barletta said she is sorry this has happened to her and will forward this to the Hazleton Streets Department.

David Sosar, 338 West 2nd Street, Hazleton, said Manhattan Court is very unsafe. He said it this is a narrow pathway. He agreed with Dee Deakos with Resolution 2018-30 and the fees. He said this should have been an ordinance instead of a resolution. He said no one knew where the fees were going. He said there was \$500,000 collected, not \$1,000,000. Sosar stated the money was put into the general fund and is illegal. Mayor Cusat said the original ordinance states the fees can be adjusted "via resolution". He said Atty. Karpowich has been working on this resolution. Mope asked if the original ordinance was correct. Sosar also asked what the difference is between a head tax and a per capita tax. He said the EST tax (\$52.00 tax) was to eliminate the other "nuisance" taxes. Mayor Cusat said the difference is the age on the two taxes. He said some residents are exempt. He said if a resident is not working, they do not have to pay this tax. Mayor Cusat said the LST tax is for residents who work in Hazleton. Mayor Cusat said he has spoken with PEL to eliminate this tax. He said the tax brings in about \$120,000 into the city, and costs \$40,000 to bill residents.

Comments from Mayor: Mayor Cusat said Ron Radtke, long-time Hazleton Zoning Board member, has passed away. He said his seat will need to be filled at the next city council meeting on March 14.

Comments from Junior Council: None

Comments from Council: Anthony Colombo thanked Tony Mope for his great job in getting heat back into city hall. He also thanked Junior Council for attending the meeting. He also noted the 1st annual Hazleton Easter Egg Hunt will be held on March 18, 2018 at 1:00 p.m at Memorial Park. Colombo said

this event will be sponsored by the Hazleton Unico, Hazleton Fire Department, and Mayor Cusat's Revitalization Program. He said if there is inclement weather, the event will be moved to the Hazleton Immigration Center on 4th Street (former MPB building).

Police Chief Jerry Speziale noted this event will also be for residents who would like to drop off any unused medications.

Speziale said there is on-going training for the police officers due to recent mass shootings. He said they are being trained on a breach, then enter procedure. He said they are being trained on live-ammunition situations.

James Perry thanked Paul Brenner and the drug ban. He said this is a fantastic program. He also thanked the Gottstein Corporation for their new constructions in the city. He also thanked the Hazleton Police Department for their recent drug arrests.

Mope stated there is a drop-off box, on the 1st floor of City Hall, for anyone who would like to get rid of any unused medications. This box is located right by the police department. She thanked everyone for coming to the meeting. She also thanked the department heads and city workers for attending.

Gavio thanked everyone for coming. He also thanked the police and fire chiefs in their proactive approaches they are taking in the city.

Adjournment: Gavio motioned to adjourn the meeting. Meeting adjourned.