

CITY COUNCIL
Sunbury PA 17801
January 24, 2011
6:15 pm

A regularly scheduled meeting of the Council of the City of Sunbury was called to order with the Honorable David L. Persing, Mayor, presiding. There was a quorum with the following in attendance:

David L. Persing, Mayor
Todd E. Snyder, Director of Accounts and Finance
Joseph J. Bartello, III, Director of Public Safety
Kevin E. Troup, Director of Public Works
James R. Eister, Director of Parks/Recreation and Public Buildings

Other City officials in attendance:

Elizabeth Kremer, City Treasurer
Lisa Martina, City Controller
Michael M. Apfelbaum, City Solicitor
John R. Bakowicz, City Engineer
Michael Rhoads, Property Maintenance Officer
Joseph Swope, Code Officer
Stephen A. Mazzeo, Chief of Police
Terry Specht, City Clerk

There were thirty-four (34) visitors present.

LAKE AUGUSTA CORRIDOR STUDY

Mr. Tom Grbenick from SEDA-COG explained that this effort has been going on for several months and the purpose is to use the asset of the Susquehanna River and Lake Augusta to its fullest potential by the municipalities that border it. Lake Augusta has the potential to develop economic development in the area. The municipalities involved include Sunbury, Northumberland, Shamokin Dam and Monroe, Union, Point and Upper Augusta Townships. Background explaining the project was given to council members to read when they have time. There are 40 individuals that have volunteered to be on the committee. The benefits of the plan would be significant in recreational development and environmental enhancement of the areas involved. Economic and community development are also important factors (see “Benefits of the Lake Augusta Gateway Corridor Plan” and “The Lake Augusta Community-Principles of Smart Growth” attached). Mr. Grbenick said the committee has charged him with meeting with all 7 municipalities to provide the information about the plan and encourage them to consider the adoption of the future vision and principles for smart growth, at a later date. Mayor Persing asked if this would integrate with the comprehensive plan and the answer is yes – it will be coordinated with the plan to try and strengthen the development in the municipalities. Mr. Grbenick also said he has had his own vision with the urbanized area, a 6.2 mile loop connecting all the communities as an expanded Shikellamy State Park. Mayor Persing suggested that council members review the information and they can make a decision about supporting it at the February 28th meeting.

MORAN INDUSTRIES UPDATE

Mayor Persing told the audience that every step of the Moran Industries project at the former Knight-Celotex plant will be up front and nothing will be held in confidence from the citizens of Sunbury. If there are questions they should be directed to the mayor’s office for answers. Mayor Persing assured audience members that DEP is monitoring everything that is progressing with the Marcellus Shale industry. Mayor Persing also stated that this council wants to do everything they can to promote new industry and job growth in the City while protecting the lives and properties of the citizens. Mr. Apfelbaum said he was asked to research the legal aspects of transloading the dirt onto train cars for transport to Ohio. Mr. Apfelbaum addressed the concerns in a letter to council members (see attached). The area is zoned as an Industrial Park District (Code of the City of Sunbury Section 175-54). Demolition is the only use that is currently approved by the City. The owner of the property should have filed an application for a building permit prior to the construction of a ramp. That has been done as of this day. The use of the land should be evaluated by the code office to determine if the use falls within the category of permitted use under Section 175-55 or Section 175-60. If a prohibited use falls within the category of Section 175-60(F) an application should be filed by the owner with the Zoning Hearing Board. Any environmental concerns should be forwarded to DEP for review. The current rules do not limit the use of streets in the area of the site however, the Director of Public Works should

evaluate the neighbor's concerns. Mr. Apfelbaum went with the code officers to the site to see what has been happening there. There are steps in the code book that must be followed. The City does not have a department that can make a determination whether an environmental problem exists. This is DEP's jurisdiction and they are monitoring the site. Mr. Jeff Stroehmann said that as a point of clarification, the press made the project sound like it was being operated in a haphazard manner and he wanted to recap that he did attend the last meeting, there was a discussion about the plans for the project, a site meeting was scheduled and held to determine whether a permit was needed. At that time it wasn't clear whether a permit was needed but the code office did come back to them at a later date and said a permit would be needed and they did submit the application for that permit. The test run of the loading of the cars went well. He wanted to discuss the concerns of the citizens in person, and not through the press. A DEP site inspection was conducted and the project was not shut down. They are reviewing their rules and regulations and Moran Industries is happy about the way things are progressing with DEP. Ms. Carol Mazzeo asked what was in the trucks and Mr. Stroehmann answered drill cuttings. She asked why it was wet and leaking on the streets (pictures were presented). She said there was a bag in a rollback dripping from the trucks as they were going down the street and when the door was opened it flopped out. Councilman Eister asked if it was water and Ms. Mazzeo answered no. She took pictures of stains on the street of an oily substance she said is dripping coming in and going out of the site. The substance stays there no matter what the weather. Ms. Mazzeo asked why this was occurring if they are just doing test runs and did they have a permit. Mayor Persing said they have the permits that are needed right now. As long as the substance is not illegal, they can haul anything in. DEP has determined that the drill cuttings being hauled are not hazardous. Mr. Stroehmann answered that he has no idea what was in the picture shown and Ms. Mazzeo said she has a picture of what the trucks were dripping but did not show it. None of the pictures he viewed showed what was dripping. The trucks coming in do not have foreign material coming out of them. Every truck has been inspected and they have sealed gates on them. The drill cuttings are required to be solidified and are. If they find a load that is not solidified, they push the liner back in, reseal the gate, and the load goes back to the well field to be solidified. "Solidified" is a process that keeps liquid from running out of the trucks. Demolition trailers were also using the street after it snowed and there was liquid coming from some of the trailers leaving the site. That is an entirely different operation which has been going on for months. That was snow and rain water on the demolition material and they are not required to put liners in to haul the demo materials out. Ms. Mazzeo asked how many trucks would be coming in per day. Mr. Stroehmann said he could pull the driver logs but in an average 24 hour day the maximum was 12 loads. There are no postings on the street that prohibits their trucks from using City streets. Councilman Troup stated that when Celotex was operating, there were 50-75 trucks a day using the streets. Ms. Mazzeo said the neighbors were concerned about the way it was done because it was not what they expected. The test was run and then there were many more trucks using the street. Mr. Stroehmann said he has a log and if the City wanted it he would provide it. Mayor Persing said it was not necessary because there were no violations occurring. She asked why the emergency response spill team was at the site. Mr. Stroehmann answered that Minuteman is an emergency response company. If a manager comes to the site, that is posted on the side of their vehicles. There was no emergency on the site. The neighbors thought that there was a "spill" at the site. Mr. Stroehmann explained there was a chunk of concrete backfill that fell down between the cars that came over the top of the wall. It was not material from in the cars. Mr. Stroehmann said he was sorry that the neighbors did not trust Moran Industries and that they think there is a large conspiracy going on. His company is transparent and they feel they have been unjustly accused publicly. Ms. Cora Campbell asked if Mr. Stroehmann knew the test was going to take place so soon and the answer was yes. Ms. Campbell said they were unaware of the beginning of the test. Ms. Campbell said she owns 9 rentals in the block and the home she lives in and she does not think anyone will want to rent her properties. A lot of the problem is the noise well after midnight. Ms. Campbell stated that no matter what happens with the entrance to the property the dumping will still take place next to her backyard. Councilman Snyder said that Mr. Apfelbaum presented a legal opinion on where things stand. There are still some questions to be addressed. One is that the application for a permit was received after building already occurred. Also, a zoning and planning process should be followed. Some of the things happening would not normally occur until the paperwork is completed. Councilman Snyder asked Mr. Apfelbaum whether precedent has been set to allow developers or property owners to proceed with business operations without having the necessary permits in place? If so, it is difficult to go against that. He also asked if an occupancy permit is required to be sure all employees are operating and working in a safe environment. Mr. Apfelbaum said that sometimes individuals do not know about the rules or will learn about them later and come to the code office and submit the necessary paperwork. That is what happened with this project. Also, the occupancy issue would be looked at by the code office to decide if it was a problem. The code office did not see any issues. Mr. Rhoads said that the code officers feel that the spill containment went above and beyond what was necessary. They viewed the dumping procedures and deemed it safe. There are many safeguards in place when the drillings are dumped into the train cars. There were no hazards there when they were at the site. When they left the site they contacted DEP to see what the protocol on this type of operation was. This is the first the code office ever had to deal with a project like this. It

is a learning curve for all concerned. The test runs were successful and the project will continue. Mr. Stroehmann said they were not asked to get a building permit. They did not build a building. He feels they have had a lot of good dialogue with the City and the code office has been accommodating developing the site. At their initial meeting they asked about needing a permit and at that time they were told the code office did not know and would research it. When it became clear the code office wanted a permit they complied. Moran Industries is working to build a new entrance to the site but that is a long process. Mr. Stroehmann also stated that they are willing to work with the county, city and state to build a road that will relieve all the traffic from Packer St to the state road. Mr. Joe Swope said he has never given a Certificate of Occupancy unless there was a building involved. There is no building at this site. He also said Moran Industries is very upfront with the code office. Ms. Mazzeo said DEP was not aware the trucks were starting to deliver to the site. Mr. Swope said he has been to the site several times and spoke to someone from DEP at the site. Mr. Apfelbaum will continue to monitor the situation and provide legal opinions. Ms. Connie Plonowski said she lives at the other end of town and wants to know if the cuttings have to go to the landfill, what is wrong with it? Mr. Stroehmann said that most of the drilling and energy companies are very environmentally friendly, above what the regulations require. This is the drilling process, not the fracking process. That process happens after they develop the well and come back in to extract the gas. The drillings do not even have to be removed by DEP standards. In the regulations, they can bury them on site or spread them on the site and plow them in to within 6". This has been done. The gas and energy companies don't want to do that – they would prefer to put them back into green spaces and restore them. If this material is taken off site, they must dispose of it in a landfill. There is a great expense to these companies to do that. There are daily dumping limits at landfills per DEP's regulations and the industries are running up against having their trucks turned away from the landfills when their capacity is met for the day. The drill rigs must continue to run due to the high operating cost so they cannot wait for the landfills to take the drillings. Moran is a logistics company who tries to find solutions so they thought that if DEP says you can only put a certain amount in landfills, they would find a way to put them in train cars and move them to Ohio where the regulations are different. At this time there is discussion about using the drillings to mix with asphalt material or use them for cover material in the landfills. Mr. Joe DeFazio said he feels this is not usual and customary for use at this site. The land use ordinance should be followed, not what's customary and usual. If there is no toxicity issues, another thing that should be looked at is if this is in a closed contained system or open air system? Particulates and dust could cause just as much problem as toxic materials. Mr. Stroehmann said the solidification process takes place on the well fields. They add wood shavings in and they must pass a paint chip test to find out what the consistency of the materials was. A load was brought in that was wet and they rejected it and they did show DEP how they deal with that issue. If there is snow in the bed of the truck or railcar before the liner is put in, the liner is on top of the snow. If the material is warm, the snow will melt between the liner and the bed of the truck. The liners are to keep the material separate from the drain holes. Mr. Stroehmann pointed out icicles coming off a truck to DEP but it was water coming from between the liner and the bed of the truck. The liners are called burrito wraps because that is the way they are wrapped. Ms. Campbell said she noticed a rattling board noise when a truck was dumped and what was to keep that dust from flying. Mr. Stroehmann said if there is a picture of dust coming from them he will immediately take care of the situation but he has not seen any. The train car also has a liner. Ms. Peggy Valenti asked if there would be jobs for people in the community when everything is in place or would they be bringing their own people in to work. Mr. Stroehmann answered that Moran Industries has a policy that they hire as many people from the local community as possible. They would probably bring management staff in but there will be a lot of openings for local people. Mayor Persing said there was a letter to the editor in Sunday's Daily Item from the mayor of Watsonstown that stated Moran Industries has been a good neighbor to them and hired many people that had been laid off from other businesses that closed. Mr. Reuel Whipple asked if the trucks would be covered with tarp when they come in and the answer is yes, they are always covered. Mr. Whipple said the neighbors would not have a problem with any buildings that would be erected on the site but are not in favor of the dumping. Mr. Whipple started to say he felt if it would be dumped in a pit and Mr. Stroehmann said they do not want to put it on the ground and it is dumped directly into the train car. Councilman Troup said everyone knew about the smoke and dust problems at DEP and their inspections were ongoing – sometimes on a daily basis. He is sure they will monitor this project just as well. Ms. Beverly Funk said the trucks do not always stop at stop signs and there are bus stops with children getting off and on busses. It is not just the truck traffic it is local traffic as well. Mayor Persing said the chief of police would look into that. Councilman Snyder said he is not against Moran Industries developing the site, he feels the communication has not been adequate between each party. He is looking for the City to thoroughly check the ordinances to make sure they are being followed. The excuse that the code office is not up to date enough to deal with this issue is not a good one. He wants to make sure the laws are followed. Mayor Persing said he feels the City has done their due-diligence because they have been in touch with DEP and they are monitoring the site. This is a large project and as it progresses the City will work with people to make sure it happens the right way. He said no one on council wants any business to have a negative impact on the City or its citizens. All issues will be addressed. He

reiterated that if anyone has questions, they shouldn't call DEP because there are many departments at DEP and they will only get the opinion of that one person. He is talking to the director and he will update everyone at council meetings in the future. Mr. Apfelbaum stated that Mr. Bakowicz would get involved to review a land development plan when that time comes. Until that time, it is a zoning issue. At this time, they are dumping dirt into a train car. Mr. Larry Welfer said he is confident that DEP will keep the mayor informed of everything that is happening at the site. He asked Mr. Stroehmann who is in control of the site at this time. The answer is that there is an agreement in place for Moran Industries to purchase the site from Scraptrade Inc. when the demolition is complete. Ms. Mazzeo said there are a lot of kids in the neighborhood and the site is wide open. The goal is to fence a lot of the area in. Mr. Stroehmann said that with all due respect to Councilman Snyder there has been open exchange of information and communication between Moran and the City and he appreciates that. He stated that Sunbury has been fully developed for many years and the process for land development has not been on the table a lot. The site being redeveloped is a great site with a lot of potential to be an economic generator for Sunbury. This is happening in many places where Marcellus shale is happening. Councilman Eister said he thinks the code office has been on top of the issue and reviews with Mr. Apfelbaum, Mr. Bakowicz and DEP just about every day. Councilman Eister said we, council and the citizens, did not ask Mr. Stroehmann many questions when he attended the prior meeting. More general discussion was held on this subject among council members.

RIVERFRONT PROJECT

The project has stopped due to the weather.

CODE OFFICE RESOLUTION

Mayor Persing reported that Mr. Apfelbaum and he addressed the owner of the Edison Hotel who reported that Mr. Bartello does have a month-to-month signed lease there. The Mayor announced he has fulfilled his responsibility of checking into this situation.

PA HISTORICAL MUSEUM GRANT/FORM BASED CODES

This subject was brought up at the Planning Commission meeting however the members were unaware of Form Based Codes so they made no decisions in regard to the topic. It does not replace zoning, but is a part of it. The City's codes need to be updated and it is costly. The proposed grant would have a \$25,000 match that would have to be provided by the City. Mr. Bakowicz has stated many times that the zoning ordinance and sub-division and land development ordinance need to be updated and feels the Smart Code would be a supplement to the codes and would not replace them. This is a normal process at the completion of a comprehensive plan. If there is \$25,000 Mr. Bakowicz feels it should be used to update the ordinances the City has now. Mr. Grbenick said people do not understand Smart Codes because it is not widely used in PA but has been used successfully in other parts of the country. Mr. Grbenick said he hoped the City would not turn down the grant if it is awarded, it would be better to withdraw the application. The guidelines would address the City's physical form of future development. This grant will not be awarded until late spring or early summer. Mr. Grbenick said he may be able to bring in \$50,000 in federal funds from a project SEDA-COG had allocated to another project that will not materialize. He is not sure if the funds could be reallocated but will look in to it. It would allow the City to proceed with rewriting the zoning ordinance and the form based codes at the same time. Mr. Grbenick should know in about a week if he would be able to bring the funds in to this project. Mayor Persing moved to authorize Mr. Tom Grbenick to proceed with the grant application to be submitted by January 31, 2011 with the City providing a \$25,000 match. Second – Snyder. Unanimous vote.

TRANSPORTATION COMMITTEE

As part of the Comprehensive Plan Mayor Persing announced that he will be putting together a transportation committee in conjunction with Brian Auman from SEDA-COG. There will be 2 public meetings scheduled in the near future.

CONSENT TO SELL REPOSITORY PROPERTY

The county has a bid on the property located at 416 N. 2nd St. which is being sold as a property that was not sold in a judicial sale. Mayor Persing would like more information before signing the letter to sell it because he thought the Redevelopment Authority may be interested in developing it. It is a property that the City tore down the building because it was a health hazard. The City never recouped the money used to tear it down. Mr. Apfelbaum will contact the county to let them know the City is interested in obtaining the property.

HIRE PART-TIME METER OFFICER

Mayor Persing moved to hire Mr. James Souder at \$8.00 per hour, to be increased to \$9.00 after the probationary period, as a meter officer to begin work on February 14, 2011. Second – Eister. Unanimous vote.

APPROVAL OF VOUCHERS PAYABLE REPORT

Councilman Snyder asked council members to continue to be conservative in spending at the beginning of the year. At this time, the tax anticipation revenue note is being used for payroll and accounts payable until tax revenue starts to come in. Councilman Snyder moved to approve the vouchers payable report in the amount of \$137,210.88. Second – Eister. Unanimous vote. He also pointed out the PPL amount being paid which he stated appears to be higher than last January as a result of the lights.

PA DOT PROJECT ON 11TH ST

Councilman Troup explained to council that PA DOT will be working to widen the bad curve on the east side of 11th St for better turning movements of large trucks, remove 2 trees, remove grass and curbing for about 150', place sub-base and new pavement to widen the roadway to the proposed curb line, install new concrete curbing and eliminating 1-parking space. The project will be completed sometime in 2011.

AUDIENCE COMMENT

Ms. Carol Mazzeo asked what the permitted uses and prohibited uses are for the former Celotex site and whether the code office would evaluate if there are noxious fumes at that site. Mr. Rhoads will have something for the next council meeting on February 14th.

ANNOUNCEMENTS

Mayor Persing's State of the City addresses is scheduled for February 17th at 7:00 pm at the Degenstein Library community room. The public is welcome and encouraged to attend. Light refreshments will be served.

There being no further business the meeting was adjourned at 8:08 pm.

Respectfully submitted,

Terry Specht
City Clerk