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THE BOROUGH OF LITTLESTOWN
10 South Queen Street ▪ Littlestown, PA 17340 ▪ Council Chamber
BOROUGH COUNCIL MEETING ▪ MARCH 27, 2012

CALL TO ORDER

The Borough Council met in session and the meeting was called to order at 7:00 p.m. with Council President Paul Sharpless presiding.

ATTENDANCE

Council Members Present:

Council President Paul Sharpless
Council Member Dave Wheeler
Council Member Donald Bateman
Council Member Betty Bucher
Council Member Charlene Westcott
Mayor James Eline, Sr.

Council Members Excused:

Council Vice President Ron Baird

Additional Borough Representation:

Borough Solicitor, Todd King & Bob Campbell
Secretary/Treasurer Sandy Conrad
Chief of Police/Borough Manager, Charles Kellar
Chief Water/Sewer Operator, Chris Stroup
Borough Engineer, Josh Fox
Borough Consultant, Jim Schumacher

Additional Borough Representation Excused:

Directory of Public Works, Tim Topper

Borough Authority Members Present:

Chairperson Karen Louey
Authority Member Dave Westcott
Authority Member Pam Snyder

Borough Authority Members Excused:

Authority Member Rick Adams
Authority Secretary/Treasurer Marilyn Zanger

Others in Attendance:

Bryan Westfall
Harry McKean
Richard Messinger
Steve Laughman
Rebecca Baugher
Nicole Farace
Joyce Weatherly
Jess Haines, Gettysburg Times
Craig Paskoski, Evening Sun
Fred Miller

APPROVAL OF MINUTES

***MARCH 13, 2012
MEETING MINUTES***

Council Member Bateman made a motion seconded by Council Member Bucher to waive the reading of the March 13, 2012 minutes and approve as written. Motion carried unanimously.

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**APPROVAL AND
PAYMENT OF BILLS**

Council Member Bateman made a motion seconded by Council Member Bucher to approve the accounts payable for the General, Pool, Water and Sewer Funds from March 9, 2012 through March 22, 2012 in the amount of \$42,620.42. Motion carried unanimously.

Council Member Bateman made a motion seconded by Council Member Bucher to approve the payroll March 9, 2012 through March 22, 2012 in the amount of \$43,177.51. Motion carried unanimously.

Council Member Bateman made a motion seconded by Council Member Bucher to approve the revenue and expenditure report for the month of February. Motion carried unanimously.

OLD BUSINESS

***CLARK & KENNEDY CONSULTANT
REVISED PROPOSAL***

At the March 13, 2012 meeting of Council, Council unanimously approved a Personal Services Contract between the Borough of Littlestown and John Kennedy and Stover Clark as consultants with the contract commencing March 13, 2012 and terminating of February 28, 2013, contingent upon contract adjustments and the approval from the Borough Solicitor. Council asked that the contract be more detailed. A revised Personal Service Contract that was written by the Borough Solicitor was presented to Council this evening for re-approval.

Council Member Bateman made a motion seconded by Council Member Bucher to approve the revised Personal Services Contract between the Borough of Littlestown and John Kennedy and Stover Clark as consultants with the contract commencing March 13, 2012 and terminating of February 28, 2013. Council President Sharpless asked if there were any questions. Council Member Wheeler still had concerns as to how the agreement was presented as to the second page of the contract was presented as references which contained names of municipalities that had received low interest loans and grant monies. Borough Secretary Conrad stated that was a misunderstanding because the second page was not part of the original contract nor was it represented as such. The second page was to show that surrounding municipalities were receiving large grants and low interest loans from Pennvest which is what Mr. Clark and Mr. Kennedy would be applying for. Council Member Wheeler felt the agreement was more professional than the original agreement. **Motion carried 4-1 with Council Member Wheeler casting the opposing vote.**

RECESS

Council President Sharpless recessed the meeting of Council at 7:15pm to allow the Borough Authority to go into session.

BOROUGH AUTHORITY

The meeting of the Littlestown Borough Authority was call to order at 7:15pm with Authority Chairperson, Karen Louey presiding.

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***PAYMENT NO. 2 – CONTRACT 11-4
FAYETTEVILLE CONTRACTORS, INC.***

Authority Member Westcott made a motion seconded by Authority Member Snyder to approve payment no. 2 for contract 11-4 to Fayetteville Contractors, Inc. in the amount of \$60,196.62. Motion carried unanimously.

***WORK CHANGE DIRECTIVE NO. 1
CONTRACT 11-4
FAYETTEVILLE CONTRACTORS, INC.***

Authority Member Westcott made a motion seconded by Authority Member Snyder to approve Work Change Directive No. 1 for Contract 11-4 for Fayetteville Contractors, Inc. in the amount of \$4,171.00. Motion carried unanimously.

***CHANGE ORDER NO. 1 -
CONTRACT 11-4
FAYETTEVILLE CONTRACTORS, INC.***

Authority Member Westcott made a motion seconded by Authority Member Snyder to approve Change Order No. 1 for Contract 11-4 for Fayetteville Contractors with an estimated increase to the contract of \$46,000.00. Motion carried unanimously.

Josh reported that there would be a Wastewater Treatment Plant meeting on April 10, 2012 at 5:30pm.

ADJOURN

Authority Member Westcott made a motion seconded by Authority Member Snyder to adjourn the meeting of the Littlestown Borough Authority. Motion carried unanimously.

The meeting of the Littlestown Borough Authority was adjourned at 7:20pm.

RECONVENE

Council President Sharpless reconvened the meeting of the Littlestown Borough Council at 7:20pm.

NEW BUSINESS

***PAYMENT NO. 2 – CONTRACT 11-4
FAYETTEVILLE CONTRACTORS, INC.***

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***RESIGNATION OF CHRIS FOLSTER
EMC***

Council Member Bateman made a motion seconded by Council Member Bucher to accept the resignation from the Borough's Emergency Management Coordinator, Chris Folster effective immediately. Council President Sharpless stated that this was a non-agenda item and asked if there were any public questions or comments. Council Member Westcott informed Council that this was a situation where

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the cart went before the horse because Council had put in another person before the current person was dealt with first. She further stated that everyone needs to be a little more cautious in the future. **Motion carried unanimously.**

REPORTS

Mayor

Mayor, James Eline, Sr. reported that he turned over \$285.00 in fines to the Borough Clerk on March 22, 2012. Some of the fines that were collected consisted of parking meter violations; no parking zones accident reports, miscellaneous service, etc...

Chief of Police

Chief of Police, Charles Kellar informed Council of the following:

- 107 complaints
- 17 incidents, which are reportable crimes
- 1 reportable accident
- 3 non-reportable accident
- 13 non-traffic citations
- 32 traffic citations
- 10 written warnings
- 33 parking tickets
- 14 arrests

Chief Kellar also informed Council that Officer Hiyard's last day will be Saturday, April 6, 2012. He will be going with the AG's office. The police secretary starting Monday, April 9, 2012 will be out on medical leave for approximately 3 months. The Smoke Shop was closed. Undercovers were sent in to by the synthetic drugs. This was a joint operation and it was started by the AG's office. A citation was also issued to the owners of the shop when they first opened up for selling pornography. The individual that was being chased was caught and is in the Adams County jail. He was being chased for a domestic issue.

Borough Manager

REPAIR OF APPLER WELL

The Appler Well needs to be repaired. There is a major leak and the well at this time is shutdown. This is not causing any water problems but the well will need to be repaired. There is a line that comes off the main line that goes back into the well house which is used to test the chlorine levels in the water. It is leaking where the pipe comes up out of the main and it is about 10' down. The Borough does not have the right equipment to dig that deep. The original cost from Kinsley Construction for the repair was not to exceed \$14,000.00. He met with Harry and Kinsley to discuss some different options to lower the cost and after meeting with Scott and Tim, the Borough would be able to do a lot of the work. However Kinsley would have to dig it up and bring the line up to where the Borough can manage it. The cost from Kinsley for this option would not exceed \$6,344.00.

Council Member Bateman made a motion seconded by Council Member Bucher to approve the repairs to the Appler Well with the cost from Kinsley Construction not to exceed \$6,344.00. Motion carried unanimously.

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***RIGHT-A-WAY LUMBER STREET
DONADIO***

The issue with the Lumber Street issue regarding the Donadio family needs to come to a resolution. The Solicitor nor the Engineer cannot find any documentation stating that there is a right-a-way. One resolution is to have the solicitor draw up an agreement which would state that they do not nor never had any rights to the property however the Borough will give permission for use but if at any time the Borough has to use the property for whatever reason access will be lost. Borough Solicitor Todd King reiterated that the Donadios would be asked to provide such documents proving that they have a right-a-way. If they don't have such documents then the Borough would inform them they would not be able to use the property because we don't have anything showing that they have the right to use the property. However if they wish to use the property then they would need to sign a document basically waiving any right that they would have had and any future right to it but the document would give permission for them to use the property but not have any rights to it. Council Member Bateman added that the agreement should also include that they would be liable for any damages to the property.

Council Member Bateman made a motion seconded by Council Member Bucher to direct the Borough Solicitor to prepare an agreement in regards to the right-a-way issue concerning the Donadios and the Borough's property on Lumber Street which such agreement is to include single axle vehicles only. Council President Sharpless stated that this was a non-agenda item and asked for public questions and comments. Council Member Westcott had a concern with a big bus being allowed to access the property, even more so now because there is a well house there. She is concerned that especially in bad weather the well house could be hit and damaged. Council Member Sharpless informed Council that they have a coach bus and the bus does have access into their garage off of Keystone Street. In order to bring the bus into the back of the garage they would have to back it in. He would like to see a demonstration of the bus being backed into the garage from Lumber Street. Council did not see a problem of smaller one axel vehicles going in the garage from Lumber Street. Borough Manager Kellar stated that you could add in the document that the location is limited to single axle vehicles. Mr. Fred Miller of Lumber Street said it would be difficult to back the bus into the garage from that location however if their garage door was widened then it may make it a little easier. Borough Engineer, Josh Fox suggested adding bollards around the well house to protect it. Mr. Miller feels that the bollards should be installed either way because if anyone else goes on the property and turns around the bollards would protect the building. Council Member Westcott does not feel it is not worth the risk and the bus should not be allowed access from Lumber Street. Mr. Miller feels that the neighbors should have been contacted before the block work was done and the building should have been moved at least four feet down. Ms. Karen Louey clarified with Council that there was another access to the garage and the Borough is not denying them entry to their garage. Council Member Bateman informed Ms. Louey that there is another access which is off of Keystone Street so they are not being denied entry to their garage. Council Member Wheeler stated that the issue with the front door is that they are unable to drive all the way

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through, however if they go through the back way they are still unable to drive all the way through, so either way they go they have to back in or back out. Ms. Louey stated that instead of paying money for the Solicitor to draw up an agreement just don't allow them access through the back entrance because the Borough is not denying them entry to their garage because they are able to gain access from the front of the garage. A sign could be posted stated private property, no throughway. Mr. Westcott had the same concerns of the damage that could potentially occur to the well house. **Motion carried 3-2 with Council Member Westcott and Council Member Wheeler casting the opposing votes.**

UPGRADE MEADOWVIEW PUMP

The quotes to repair the Meadowview Lift Station are being received. At this time the estimated cost for repair is between \$7,500.00 and \$8,000.00. Chief Water/Sewer Operator Stroup informed Council that it is Smith & Wellington pump that was installed way back however the pumps over the years have gone through some upgrades where they have more reliable controls. This pump has seen a lot of usage and it is time to upgrade some of the controls.

Council Member Bateman made a motion seconded by Council Member Bucher to repair the Meadowview Lift Station Pump with a cost not to exceed \$8,000.00. Council President Sharpless stated that this was a non-agenda item and asked for public comments and questions. **Motion carried unanimously.**

Borough Manager Kellar also informed Council of the following:

- There will be a young gentleman who will be doing his Eagle Scout project in the park. The project will consist of re-staining and repairing the walking bridges and re-staining one of the pavilions.
- Sandy is in the process of gathering information for the finance committee to re-invest the Borough's funds.
- Water rate is to be increased which is phase two. Borough Consultant, Jim Schumacher informed Council that there is to be an evaluation of the water revenues to see if phase two of the increase needs to be put in place.
- After speaking to Council Member Wheeler Council will need to decide if Committee meetings will be advertised, so the community knows when we are having them and this will also allow all council members to attend without violating the Sunshine Law. In order to save money on advertising the Committee Chairperson of each committee would need to give set dates and times so all the meetings could be advertised at once. Council Member Bateman does not feel that there should be fixed dates because committee meetings are called as needed. Council President Sharpless informed everyone that ever since he could remember committees have never been advertised. He also brought up the issue of having to canceling some of the meetings. Council Member Wheeler informed Council that it does not cost anything to cancel a meeting. Borough Solicitor, Bob Campbell informed Council that there are a lot of municipalities that do not advertise their committee meetings because there is no action that is taking place.

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Solicitor, Todd King informed Council that the Sunshine Law states that public meetings are required for official action and deliberation by a quorum of members of the agency. Deliberation is defined as the discussion of agency business held for the purpose of making a decision, so anything that a committee does is deliberation except for the personnel committee. So it is the Solicitors interpretation that the committee meetings would have to be advertised.

- AT&T called and they were informed that the land could not be purchased so they came back with a proposal which is a 100 year lease with the same payment schedule as before however if the Borough does not have to do anything. Council informed the Borough Manager to inform the gentleman from AT&T that the Borough will not be accepting the offer.
- Some of the water and sewer bills that are overdue have been able to be worked out with a payment arrangement. Since the last two weeks around \$8,000 has been collected. This has stopped the foreclosures process on some of the homes.

Director of Public Works

Council President Sharpless stated that the Director of Public Works had been excused from the meeting this evening however a report had been submitted to Council. There was a concern from Council Member Bateman asking for some specificity of his reports. The question arose regarding if Council wishes for Tim to continue with his daily reports or start preparing a monthly report. Council Member Bateman does not feel that a daily report is necessary. He is more concerned with the percentages and the status of the project not so much of who did what.

Code Enforcement Office

Code Enforcement Officer, Bryan Westfall reported that he has been sending out violations notices. There have been 26 abandoned vehicle notices with 14 being corrected, 6 citizen complaints and 7 violation notices.

Borough Clerk

A report was prepared by the Borough Clerk, Rebecca Baugher showing Council the past due water/sewer accounts and the accounts that had a lien on the house or that was in bankruptcy.

Borough Solicitor

Borough Solicitor, Todd King informed Council of the following:

- There were some documents that were forwarded from HRG relating to the WWTP Project. The document must specify how to handle disputes. The different ways to handle disputes are by mediation, litigation or arbitration. The two most common ways are litigation or arbitration. Council does not have to make a decision this evening but Council will need to choose one of the options to place in the documents. This allows the contractor to know in what manner the Borough will be handling any issues with the contractor that may arise.
- The construction insurance coverage is listed as the minimum required. Everything is listed and covered under the contractor's liability insurance. The option is given as to whether or not the builder's property insurance is carried by the Borough or the contractor. It would be in the best interest of the Borough to put the burden of the risk on the contractors

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- Consequential damages and waiver of rights. Since Pennsylvania allows consequential damages there will not be any language added for waiver of rights. The Borough will pursue the right to sue for consequential damages if that arises.
- The documents should also go to the insurance carrier to make sure that the insurance limits are adequate and if there any additional coverages that they would recommend.

Borough Solicitor Bob Campbell sent letters out to the individuals regarding Proplant Avenue. It has been concluded that if a quit claim deed is asked for, for the back portion of the property that there would only be a deed from Inland and the school district needed. If there are no aires found for I.H. Crouse and if the Borough is not going to be building in the strip then Council should not be too worried about it because there should really be no objections to the Borough having claimed ownership to the tiny strip in the back. An appoint has been set up with Wayne at the School District. There is still not word from the gentleman at Inland. If there are any issues ever made then Council would condemn the strip. So if the quit claim deeds are received from the school and Inland then the Borough is pretty safe with the rear portion.

Borough Engineer

Borough Engineer, Josh Fox informed Council of the following:

Contract 11-1 – Water System Improvements

- The contractors continue to work at EP 101, EP 102, EP 104 and EP 107 preparing for final completion inspection.

Contract 11-4 – Lumber Street Utility & Roadway Improvements

- Work continues on site which includes the installation of sanitary sewer mains, laterals and manholes. There are 3 crews on site completing the sanitary sewer work.

Wastewater Treatment Plant Upgrade

- The permits from PA DEP including the Water Quality Part II Permit and NPDES for Post-Construction Stormwater would be delayed until Union Township reviews and approvals of the Stormwater Management Plan for the WWTP. The Stormwater Management Plan is required to be submitted with the Land Development Plan. The Land Development Plan has been submitted to Union Township on March 26, 2012 which then the plan will be presented their Planning Commission at their April 10th meeting.

Park Projects Grant Application Assistance (C2P2)

- A concept sketch, cost estimate has been prepared for the proposed improvements and a Stormwater Narrative for inclusion in the C2P2 Grant Application being prepared by the Borough's Financial Consultant.

Borough Consultant

Borough Consultant, Jim Schumacher informed Council that the grant application is just about ready to be sent electronically to DCNR. The total amount of the projects is \$123,200 but the Borough will be requesting \$61,500.00 in DCNR grant funds, with \$6,300 in matching local cash, \$37,400 of Borough in-kind contributions, \$4,000 in funds received from Mt. Joy Township, \$7,600 from the Stonesifer Trust, \$1,000 of Recreation Board in-kind contributions and \$5,400 of Baseball for Youth in-kind

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contributions. In order to get the grant submitted Council will need to approve the following:

- To authorize the C2P2 funding application to DCNR, which include the funding levels state above
- To approve the authorizing Resolution
- To approve the Council President as the authorizing signature on behalf of the Borough relative to the submission of the DCNR application package
- To approve the certifications page of the application

AUTHORIZE THE C2P2 FUNDING APPLICATION

Council Member Bateman made a motion seconded by Council Member Bucher to authorize the C2P2 funding application to DCNR, that include the following funding levels:

1. **\$61,500 – DCNR Grant**
2. **\$6,300 – Borough Cash**
3. **\$37,400 – Borough in-kind contribution**
4. **\$4,000 – Mt. Joy Township Cash**
5. **\$7,600 – Stonesifer Trust Cash**
6. **\$1,000 – Recreation Board in-kind contribution**
7. **\$5,400 – Baseball for Youth in-kind contribution**

Council President Sharpless stated that this was non-agenda item and asked for any public comments or questions. **Motion carried unanimously.**

APPROVE AUTHORIZING SIGNATURE

Council Member Westcott made a motion seconded by Council Member Bateman to approve the Council President as the authorizing signature on behalf of the Borough relative to the submission of the DCNR application package.

AUTHORIZE RESOLUTION FOR THE C2P2 GRANT

Council Member Westcott made a motion seconded by Council Member Bateman to approve the authorizing Resolution for the C2P2 Grant from DCNR. Council President Sharpless stated that this was non-agenda item and asked for any public comments or questions. **Motion carried unanimously.**

APPROVE CERTIFICATIONS PAGE

Council Member Westcott made a motion seconded by Council Member Bateman to approve the Certifications page of the C2P2 application. Council President Sharpless stated that this was non-agenda item and asked for any public comments or questions. **Motion carried unanimously.**

REPORTS OF BOARD AND COMMISIONS

PLANNING COMMISSION

***B&C AUTO MENDERS
42 SOUTH QUEEN STREET***

Council Member Bucher made a motion seconded by Council Member Bateman to approve the recommendation from the Planning Commission to allow B&C Auto Menders, LLC to open a business for the purpose of writing estimates at 42 South Queen Street. Council President Sharpless stated that this was a non-agenda item and asked for public comments and questions. Ms. Nicole Farace felt that it was odd

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that a business would open an office just to write estimates. Council Member Westcott was not in favor of the business location due to the amount of traffic on the main street and the difficulty on getting in and out of the small parking lot at that location. She further stated that it was not an appropriate business and it doesn't matter how the Borough was zoned 400 years ago when there were a lot of businesses around. People need to start thinking about the neighborhoods and people walking down the streets. **Motion carried 3-2 in favor of the motion with Council Member Westcott and Council Member Wheeler casting the opposing votes.**

RECREATION BOARD

**JAYCEES EASTER EGG HUNT
 YMCA CROSS-COUNTRY**

Council Member Bateman made a motion seconded by Council Member Bucher to approve the Littlestown Jaycee's to use Crouse Park on March 31, 2012 from 9:00am to 1:00pm and to approve a rain date of April 1, 2012 for their annual Easter Egg Hunt contingent upon a certification of insurance being submitted and to allow the YMCA the use of the Cross-Country Trails on April 21, 2012 from 8:00am to 12:00pm pending a certification of insurance being submitted. **Motion carried unanimously.**

**POOL POLICIES
 POOL RULES**

Council Member Bateman made a motion seconded by Council Member Bucher to table the policies until the Borough Manager and Recreation Board President have met and to approve the pool rules. **Motion carried 3-2 in favor of the motion with Council Member Westcott and Council Member Wheeler casting the opposing votes.**

**LEARN TO SWIM PROGRAMS
 LIFEGUARD CLASSES**

Council Member Bateman made a motion seconded by Council Member Bucher to approve the following dates and times for each program:

1. Pool opening and closing
 - a. Open May 26th, 27th and 28th
 - b. Closed May 29th – June 1st
 - c. Open June 2nd & 3rd
 - d. Closed June 4th – 8th
 - e. Open daily starting June 9th
2. CPR/Lifeguarding recertification class on May 19th
 - a. 9am – Noon CPR/AED
 - b. 1:00pm – 5:00pm lifeguard recertification
3. Lifeguarding pre-test on May 19th
 - a. 1:00pm pre-test

Must also attend all Sessions if pre-test is passed

 - b. 5pm – 9pm on May 31st
 - c. 9am – 2pm on June 2nd
 - d. 9am – 3pm on June 3rd
 - e. 3pm – 8pm on June 5th
 - f. 3pm – 8pm on June 7th
 - g. Noon – 6pm on June 8th
4. Adult Swim Lesson Program
 - a. 10am to 10:45am June 25th – 29th

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- b. 10am to 10:45am July 16th – 20th
- 5. Learn-to-Swim Program
 - a. 10am to 10:45am and 11am to 11:45am June 18th – 22nd
 - b. 10am to 10:45am and 11am to 11:45am June 15th – 29nd
 - c. 10am to 10:45am and 11am to 11:45am July 9th – 13th
 - d. 10am to 10:45am and 11am to 11:45am July 16th – 20th
 - e. 10am to 10:45am and 11am to 11:45am July 23rd – 27th
 - f. 10am to 10:45am and 11am to 11:45am August 6th – 10th
- 6. Pre-School Swim Program
 - a. 11:15am to 11:45pm June 18th – 22nd
 - b. 11:15am to 11:45pm July 9th – 13th

Council President Sharpless stated that this was non-agenda item and asked for any public comments or questions. **Motion carried unanimously.**

COUNCIL OF GOVERNMENT

Council Member, Wheeler informed Council that the Adams County Council of Government is turning to municipalities to help and support with hiring a third party consultant to study the County Emergency Services past, current and future emergency service levels and funding needs.

Council Member Wheeler made a motion seconded by Council Member Bateman to authorize \$150 to be paid to the Adams County Council of Governments to help pay for the cost of the third party review. Council President Sharpless stated that this was non-agenda item and asked for any public comments or questions. **Motion carried unanimously.**

PUBLIC COMMENTS

Mr. Fred Miller asked if there was a way to separate the water from the sewer. Borough Secretary asked Mr. Miller if he was referring to having separate meters for the sewer. He stated that there was property that pays water and sewer but the sewer was not even connected to the building. Borough Clerk, Baugher informed Mr. Miller that the property turned the water off to the property which eliminates the water/sewer bill.

Ms. Nicole Farace expressed her disappointment in the Borough and Council regarding the water that is constantly being pumped out of her basement which she is claiming was caused from an underground spring being hit while the Monarch Street project was occurring. She is also claiming that the land the Borough was doing the work on was not the Borough's land it was land that belonged to Bar-Ray and according to Ms. Farace the Borough did not have permission to do any kind of work on the property. She is also disappointed that she has made several phone calls to the Council President and there has been no return calls. The Council President informed her that a letter had been sent by the Borough's Solicitor indicating that the Borough was not negligent. Ms. Farace informed Council and the Borough's Solicitor that she would be filing suite.

RECESS

Council President Sharpless recessed the meeting of the Littlestown Borough Council at 10:00pm for an executive session to discuss personnel and potential litigation.

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RECONVENE

The meeting of the Littlestown Borough Council was reconvened at 10:43 pm and the public was invited back in.

ADJOURN

Council Member Westcott made a motion seconded by Council Member Bateman to adjourn the meeting of Council. Motion carried unanimously.

The meeting was adjourned at 10:43pm.

Sandy Conrad
Secretary/Treasurer

(SEAL)