

A regular meeting of the Borough Council was held July 2, 2008, 7:30 p.m.

The following members and officers were present: President L. James Roberts, Vice President Donald Rosenberger, Councilmembers Michael Johnson, Michelle Scarborough, Edward Scholl, Daniel Williams, and David Zaiser, Solicitor Charles Fonzone, Manager Scott C. McElree and Asst. Borough Secretary Phyllis R. Ewing.

RESOLVED, That, the Minutes of June 4, 2008, be approved as written. Motion of Councilman Rosenberger, seconded by Councilman Johnson. A roll call vote was taken and the motion was unanimously carried.

RESOLVED, That, the following check registers be approved for payment:

June 1, 2008	–	\$273,948.11
June 13, 2008	–	148,935.61
June 17, 2008	–	564,999.01
June 18, 2008	–	200.00
June 22, 2008	–	123,438.73
July 3, 2008	–	5,253.92

Motion of Councilman Rosenberger, seconded by Councilwoman Scarborough.

Councilman Roberts stated that he will abstain from voting on the approval of the check registers because it includes the purchase of items from the Friendly Book Store and that he has signed a letter in this regard.

A roll call vote was taken and the motion carried with the following Councilmembers voting in favor: Johnson, Rosenberger, Scarborough, Scholl, Williams and Zaiser; and the following Councilmember abstaining: Roberts.

RESOLVED, That, the Police Department, Zoning Administrator and Building Inspector reports be received and filed. Motion of Councilman Williams, seconded by Councilman Rosenberger. A roll call vote was taken and the motion was unanimously carried.

Visitors:

Stephen Biddle of 130 South Main Street indicated that he would like to speak during the Public Utilities portion of the agenda.

Loren Byelich of 21B S. 11th Street; Dennis Lawrence of 18 S. 12th Street; Todd Barringer, owner of property at 37 S. 8th Street; James Roth of 220 Franklin Street; Jeffrey Haring of 2407 Mill Road; and Mary Sulger of 108 Laurel Court indicated they wished to speak with regard to proposed Ordinance 1145.

PLANNING & ZONING COMMITTEE

Councilman Scholl invited those wishing to speak to speak at this time.

Loren Byelich stated that he strongly disagrees with Ordinance 1145. Mr. Byelich stated that he feels there is some misconception among Council that renters are second class citizens, incapable of defending their rights and making competent housing decisions. Mr. Byelich indicated that to have someone enter his home uninvited, unwelcome or unannounced, and cause his family to fear the government is something he will defend.

Dennis Lawrence stated that as a resident and landlord he opposes this Ordinance and feels that it would be a violation to his constitutional rights. Mr. Lawrence pointed out that he served on the Committee whose task force was to present Borough Council with possible legislation relative to a Landlord/Tenant Ordinance. Mr. Lawrence stated that after studying this for six months, the Committee came to the conclusion that if you are going to have inspections, all properties should be inspected, not just rental units.

James Roth indicated that he has several concerns or questions regarding the Ordinance:

Does the checklist contain all items to be inspected and all items subject to be corrected?;

There are approximately 1700 rental units in the Borough to be inspected once every three years, a full-time inspector would come out to be 3.52 hours per unit, which would be a bit excessive;

What are the qualifications, training, experience and certification that the inspector must possess?;

There is no appeals process in the Ordinance, the landlord would totally be at the mercy of the subjectivity of the inspector; and

The inspection report references an application, but nowhere in the Ordinance does it refer to an application.

Mary Sulger indicated that she is the Property Manager at Quakertown West Apartments. Ms. Sulger told Council that they keep up the maintenance on their rental units. Ms. Sulger pointed out that she is hearing from the renters at Quakertown West that they are not in favor of this Ordinance.

Jeff Haring reserved time to speak later in the meeting.

Todd Baringer indicated that he felt all properties should be inspected. Mr. Baringer pointed out that he, as a property owner with tenants, will be held to a standard by this Ordinance that owners of adjacent properties with residential owners won't be held to, and asked that Council look at this Ordinance longer before considering its enactment.

RESOLVED, That, reading of Ordinance 1145, pertaining to residential rental dwelling units, be waived. Motion of Councilman Scholl, seconded by Councilman Rosenberger. A roll call vote was taken and the motion was unanimously carried.

RESOLVED, That, Ordinance 1145, an Ordinance requiring landlords to annually register all residential rental dwelling units owned by such landlords in the Borough of Quakertown and the occupants of each such rental dwelling unit, and to report occupancy and physical changes to such rental dwelling units; fixing the registration/inspection fee further providing for a periodic inspection of all residential rental dwelling units for compliance with Borough Codes and Ordinances; providing fines and penalties for violations; repealing all other inconsistent Ordinances, be passed finally. Motion of Councilman Scholl, seconded by Councilman Zaiser.

Councilman Rosenberger asked that with regard to Section 9 can someone interpret who is paying the violations and penalties, is it assessed to the lessee or to the landlord? Zoning Administrator Ken Fretz answered that it would be the property owner.

Councilman Rosenberger asked about the appeal process? Zoning Administrator Ken Fretz stated that for appeals, depending on the issue — building or zoning violation, they would either go before the UCC Court of Appeals or the Zoning Board of Appeals. There are two appeal processes. It was pointed out that the UCC Board consists of residents or business persons in the trade.

Manager McElree stated that we are in the process of developing a policy of procedures, based on the Ordinance, it is in the draft stage. Manager McElree indicated that the policy of procedures will be presented to Council at the next Work Session for discussion. After which, Council will be asked to consider adoption of a Resolution adopting the policy prior to inspections. Manager McElree pointed out that another option would be for Ken to issue summary citations; but it was felt that a fairer way would be an appeal process before their peers (of the trade). Councilman Rosenberger asked that a listing of the members of the appeals committee and a brief background of their qualifications be presented to Council at the next Work Session.

Councilman Williams stated that he feels this is coming about because of the Front Street apartment that had deplorable conditions, and asked whether the Borough gets many complaints from renters? Zoning Officer Fretz stated that they get some complaints both from renters and owners. Councilman Williams indicated that he doesn't feel this is a large problem in Quakertown; and in a year or two from now, if there are a lot of complaints from renters, then look into this at that time.

Councilman Scholl indicated he is in favor of the Ordinance and stated that Council should not wait for problems.

Councilman Zaiser stated he feels that he has seen more issues than just that on Front Street.

President Roberts reminded Council that since this is an Ordinance, a unanimous vote is required for adoption. If the vote is not unanimous, the Ordinance will come up for a vote again at the next regular Council meeting, at which time a majority vote will be required for adoption.

A roll call vote was taken on the motion to adopt Ordinance 1145 with the following Councilmembers voting in favor: Johnson, Rosenberger, Scarborough, Scholl, Zaiser and Roberts; and the following Councilmember voting against: Williams. President Roberts indicated that since the vote was not unanimous, Ordinance 1145 will again be considered for adoption at the next regular meeting of Council.

President Roberts stated that this Ordinance will be discussed at the next Work Session on July 28th and Council will vote on this Ordinance at the August meeting.

RESOLVED, That, the following Resolution 88-08, Quakertown Alive DCED Grant application, be adopted:

RESOLUTION NO. 88-08

WHEREAS, the Borough of Quakertown is desirous of obtaining funds from the Pennsylvania Department of Community and Economic Development in the amount of \$40,000 for the Quakertown Alive Streetscape Program;

NOW, BE IT RESOLVED by the Borough Council of the Borough of Quakertown to file this resolution with the Pennsylvania Department of Community and Economic Development to apply for a total funding of \$40,000; and

BE IT FURTHER RESOLVED that the Borough of Quakertown and Quakertown Alive! will assume the provision of the full, local share of project costs, and they will reimburse the Commonwealth of Pennsylvania for the State's share of any expenditures found by the Department to be ineligible.

Motion of Councilman Scholl, seconded by Councilwoman Scarborough. A roll call vote was taken and the motion was unanimously carried.

REVENUE & FINANCE COMMITTEE

RESOLVED, That, the following Resolution 93-08 pertaining to senior residents use of the swimming pool, be adopted:

RESOLUTION NO. 93-08

WHEREAS, a request was made by senior residents to be permitted to enter the Borough Pool area, but not swim, while babysitting their grandchildren.

NOW, THEREFORE, BE IT RESOLVED, That, the Council of the Borough of Quakertown, grants senior residents (at least 62 years old) entrance to the Quakertown Borough Swimming Pool area at a nominal fee of \$1.00/day while babysitting their grandchildren provided they show proof of age and residency.

Motion of Councilman Rosenberger, seconded by Councilwoman Scarborough.

Under discussion, Councilman Johnson felt that the seniors shouldn't have to be Borough residents.

A roll call vote was taken and the motion was unanimously carried.

RESOLVED, That, the following Resolution 93A-08 pertaining to senior citizens use of the swimming pool, be adopted:

RESOLUTION NO. 93A-08

WHEREAS, a request was made by senior citizens to be permitted to enter the Borough Pool area, but not swim, while babysitting their grandchildren.

NOW, THEREFORE, BE IT RESOLVED, That, the Council of the Borough of Quakertown, grants seniors (at least 62 years old) entrance to the Quakertown Borough Swimming Pool area at a nominal fee of \$1.00/day while babysitting their grandchildren provided they show proof of age.

Motion of Councilman Rosenberger, seconded by Councilman Johnson. A roll call vote was taken and the motion was unanimously carried.

RESOLVED, That, the following Resolution 94-08, pertaining to the demolition of the Electric Department building at the Fourth Street site, be adopted:

RESOLUTION NO. 94-08

WHEREAS, the Upper Bucks Senior Center was consumed by a fire on June 29, 2007. The Electric Department portion of the building suffered damage from mold, water and smoke; and.

WHEREAS, it is not feasible to restore the Electric Department building at the Fourth Street site.

NOW, THEREFORE, BE IT RESOLVED, That, the Council of the Borough of Quakertown, directs that the Electric Department building, at the Fourth Street site, be demolished.

BE IT FURTHER RESOLVED, That, the Council of the Borough of Quakertown directs the Borough Manager to determine the costs and feasibility of the use of the Borough workforce to perform the demolition.

Motion of Councilman Rosenberger, seconded by Councilman Zaiser. A roll call vote was taken and the motion was unanimously carried.

RESOLVED, That, the following Resolution 95-08, pertaining to request for bids for an addition to the Electric Department storage facility, be adopted:

RESOLUTION NO. 95-08

WHEREAS, it is not feasible to restore the fire-damaged Electric Department building at the Fourth Street site.

NOW, THEREFORE, BE IT RESOLVED, That, the Council of the Borough of Quakertown, directs the Borough Manager to receive and advertise bids for the construction of an addition to the Electric Department storage facility to include an office area, locker/break room facilities and a meter testing room.

Motion of Councilman Rosenberger, seconded by Councilman Scholl. A roll call vote was taken and the motion was unanimously carried.

RESOLVED, That, the following Resolution 96-08, pertaining to Quakertown Community Pool rental policy, be adopted:

RESOLUTION NO. 96-08

WHEREAS, it is desirable to allow rental of the Quakertown Borough Swimming Pool; and

NOW, THEREFORE, BE IT RESOLVED, That, the Council of the Borough of Quakertown establishes the Quakertown Community Pool Rental Policy attached herewith.

QUAKERTOWN POOL RENTAL POLICY

Availability:

Sunday through Saturday: 8:00 p.m. to 10:00 p.m.

Memorial Day through Labor Day, depending upon life-guard availability.

Fees:

Reservation of the pool is subject to a refundable clean up/damage deposit(s):

Reservation/Damage Deposit: \$100.00 refundable (cash only)

½ Pool – Wading Area – 4’

Includes 4 Lifeguards and 1 Manager

Maximum swimmers – 100

\$350.00

Full Pool – Wading Area – 6’ (except diving well)

Includes 7 Lifeguards and 1 Manager

Maximum swimmers – 200

\$500.00

Call 215.536.5001 x15 for pricing of parties over 200 swimmers.

Full payment of rental fee must be paid three (3) days prior to rental. Fees must be made in person, M-F between 8:30 a.m. and 5:00 p.m. at:

Quakertown Borough
35 North Third Street
Quakertown, PA 18951

Rules & Regulations:

1. All pool rules apply to the reservation except where noted below.
2. Reservations are made on a first come, first serve basis and must be made at least 10 days prior to the date of the event.
3. All pool amenities are included in the rental fee, except diving well.
4. Diving and swimming are prohibited in the diving well area.
5. Electric outlets are available for small electronic devices. (Radios, CD players, etc.)
- a. Groups with children six years old or younger must have at least one adult to every three children.
6. An application for reservation of the pavilion will be reviewed and considered only when the Reservation Policy and Application have been completed and all fees and deposits have been received by the Borough. The review process takes *at least* 3 business days
7. In the event an application is denied, fees and deposits will be returned to the Applicant.
8. Each applicant is responsible for the clean-up of the pool area. The pool area must be left clean and clear of litter and other debris.
9. Clean-up must be completed within the time period as determined by the pool manager. All trash must be placed in waste containers. The pool staff will inspect for compliance. Failure to comply will result in the forfeiture of your deposit.
10. All food and beverages must stay in the reserved café space. No food or drinks are allowed by the swimming pool. No glass containers are allowed.
11. No alcohol beverages are allowed.
12. Diving well is not available for rental. No swimmers are allowed to enter the diving well area. Violation of this will result in the removal of the individual from the pool.

Cancellations:

1. A seven (7) day cancellation notice is required in order to receive a refund of reservation and damage deposit.
2. The pool manager has the right, but not the obligation, to postpone, cancel, or close the event and the use of the pool because of hazardous weather conditions or other acts of God or for public safety and welfare, as the pool manager may determine in his sole discretion. The Borough shall have no liability for such postponement, cancellation or closing. Further, the Borough shall have no liability from the failure to postpone, cancel or close the event early under such conditions. A refund of the reservation fee and the damage deposit will be made or the reservation may be rescheduled depending on schedule availability. No partial refunds will be made.

Disruptive Conduct:

1. Any person may be ejected or removed from the pool for disruptive conduct or inappropriate behavior, such as, but is not limited to: abusive, indecent, profane or vulgar language which by its very utterance tends to incite an immediate breach of the peace; and intentionally or knowingly causing physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.

Items Requiring Pre-Approval at the sole discretion of the Pool Manager:

1. **Portable Equipment / Furniture / Games**
 - a. Use of portable equipment/games, rental equipment or furnishings must receive approval by the Pool Manager prior to the issuance of a pool rental permit.
2. **Decorations**
 - a. Use of decorations which are to be affixed or attached to any structure or object at the pavilion using tape, glue, tacks, nails, etc. is prohibited without the Pool Manager's prior approval.
3. **Inflatable Pool Toys/Rafts**
 - a. The use of inflatables could have an adverse impact on the pool equipment if popped. Use of these products is prohibited without the Pool Manager's prior approval.

Borough Rights:

1. The Borough of Quakertown reserves the right to cancel any permit for any reason, at any time.
2. The Borough of Quakertown reserves the right to schedule special events for the Borough that would conflict with, and regardless of, prior reservations. Applicants who have reserved the use of a pavilion will have the option of rescheduling or having the deposit refunded.

Liability & Waiver:

I certify that I am at least 21 years of age and agree to abide by and comply with all of the Rules as described above. In addition, I understand that I am liable and must reimburse the Borough of Quakertown for any damages caused to the swimming pool or pool facilities and equipment by myself or members of my group during the rental period. In addition, I understand that penalties may also arise as a result of cancellation within 7 days of the event for which I have applied and failure to properly clean up the pool grounds and swimming pool after use. Furthermore, I assume all risk of damage or injury in or about the pool, and do hereby waive any and all claims in respect thereof that may be caused by or arise out of, in whole or in part, any act or failure to act of the Borough of Quakertown, its officials, officers, employees, or agents, and will not hold the Borough of Quakertown or any of its representatives liable for any damage or injury sustained while renting and using the pool and pool grounds.

Applicant Name *(please print)*

Signature

Date *(please print)*

Motion of Councilman Rosenberger, seconded by Councilwoman Scarborough.

Under discussion, Councilman Johnson asked if the fees could be waived? President Roberts indicated that the fees can't be waived except for certain institutions. President Roberts stated that he feels \$50 for a reservation/damage refundable deposit is too low. Following a discussion of Council the fee for reservation/damage refundable deposit was suggested to be set at \$100.

RESOLVED, That, the adoption of Resolution 96-08 be amended by amending the Quakertown Rental Policy to include a reservation/damage refundable deposit of \$100.00.
Motion of Councilman Rosenberger, seconded by Councilwoman Scarborough.

A roll call vote was taken on the motion as amended and the motion was unanimously carried.

RESOLVED, That, the following Resolution 97-08, pertaining to a separation agreement, be adopted:

RESOLUTION NO. 97-08

WHEREAS, the Borough has obtained a signed separation and release agreement from employee Donald Turner. This separation and release agreement was signed by Mr. Turner on June 9, 2008.

NOW, THEREFORE, BE IT RESOLVED, That, the Council of the Borough of Quakertown authorizes the proper Borough officials to sign, on behalf of the Borough, the separation and release agreement with Donald Turner.

Motion of Councilman Rosenberger, seconded by Councilman Scholl.

President Roberts pointed out that this resolution is the result of a disability issue and not a discipline issue.

A roll call vote was taken and the motion was unanimously carried.

Councilman Rosenberger indicated that there will be a summit on cost and spending on Wednesday, July 30, in the Richland Township municipal building. The Borough as well as the School District, Paul Clymer, Rob Wunderling and other municipalities have been invited.

President Roberts proposed that the Borough Manager attends as an observer and reports to Council. Councilmembers did not voice any opposition to this suggestion.

HEALTH, SAFETY & WELFARE COMMITTEE

Councilman Johnson indicated that Ordinance 1144 has been advertised and asked if anyone present wished to speak on this Ordinance. There was no response.

Councilman Johnson read Ordinance 1144 in full.

RESOLVED, That, Ordinance 1144, an amendment to the Code of Ordinances of the Borough of Quakertown, Chapter 15. Section 201, adding a 25 mph speed limit zone to Berks Court, Braithwaite Lane, Braxton Court, Dewsbury Lane, Elwood Court, Fairway Court, Fox Court, Kenwood Circle, Naylor Court, Pennington Lane, Roan-Tree Drive, Tierney Court, Whittier Court, and Winchester Drive be passed finally. Motion of Councilman Johnson, seconded by Councilman Scholl. A roll call vote was taken and the motion was unanimously carried.

RESOLVED, That, the following Resolution 89-08, National Night Out street closings, be adopted:

RESOLUTION NO. 89-08

WHEREAS, the Council of the Borough of Quakertown adopted Resolution 34-08, supporting and sponsoring the celebration of National Night Out; and

WHEREAS, street closures will be required for the celebration of National Night Out.

NOW, THEREFORE, BE IT RESOLVED, That, Council approves the following street closures for National Night Out to be held on August 5, 2008:

Twelfth Street from Juniper to Broad Street
Eighth Street from Juniper to Park Avenue
Erie Avenue from Penrose to Elm Street
Naylor Court from Roan Tree Drive

Motion of Councilman Johnson, seconded by Councilman Zaiser.

Councilman Johnson stated that National Night Out will also include fireworks.

A roll call vote was taken and the motion was unanimously carried.

RESOLVED, That, the following Resolution 90-08, Trinity Lutheran Church's request to close Erie Avenue for their annual Peach Festival, be adopted:

RESOLUTION NO. 90-08

WHEREAS, a request was received from Trinity Evangelical Lutheran Church to close Erie Avenue for their Peach Festival.

NOW, THEREFORE, BE IT RESOLVED, that Council grants the request of Trinity Evangelical Lutheran Church to close Erie Avenue from Hellertown Avenue to the entrance of the church parking lot on August 13, 2008 from 5 to 10 p.m. (rain date August 14) for their Peach Festival.

Motion of Councilman Johnson, seconded by Councilman Scholl. A roll call vote was taken and the motion was unanimously carried.

PUBLIC UTILITIES COMMITTEE

Councilwoman Scarborough told Mr. Biddle that he could speak at this time. Mr. Biddle asked Council that if they reach an agreement with Bucks County Water & Sewer Authority for an expansion, he suggests the Quakertown Planning Commission and Richland Township do a joint review of whatever plan is proposed.

Resolved, That, the following Resolution 92-08, regarding Bucks County Water & Sewer Authority's proposed expansion of the Wastewater Treatment Plant, be adopted:

RESOLUTION NO. 92-08

WHEREAS, a proposal has been received from Bucks County Water and Sewer Authority with regard to the expansion of the Quakertown Wastewater Treatment Plant to accommodate Richland Township's future wastewater needs.

NOW, THEREFORE, BE IT RESOLVED, That, the Council of the Borough of Quakertown directs the Borough Manager to check into the feasibility of Bucks County Water and Sewer Authority's proposal to expand the Quakertown Wastewater Treatment Plant as per Richland Township's 537 Plan.

Motion of Councilwoman Scarborough, seconded by Councilman Johnson. A roll call vote was taken and the motion was unanimously carried.

Councilman Rosenberger stated that other municipalities are having issues with minor levels of drought and asked whether there are any concerns with the Borough water? Manager McElree told Council that, according to the Water Department Superintendent, the Borough is in good shape.

PUBLIC WORKS COMMITTEE

Councilman Zaiser stated that there aren't any items for action or report under the Public Works Committee this evening.

Manager McElree told Council that compliments, either through email or phone calls, have been received on the work the Public Works crew has done with regard to maintenance of the alleys.

PARKS & RECREATION COMMITTEE

RESOLVED, That, the following Resolution 91-08, Boy Scout Troop 55 request to use Memorial Park, be adopted:

RESOLUTION NO. 91-08

WHEREAS, a request was received from Boy Scout Troop 55 to hold a Health & Wellness Fair in Memorial Park.

NOW, THEREFORE, BE IT RESOLVED, that Council grants the request of Boy Scout Troop 55 to hold a Health & Wellness Fair in Memorial Park on August 9, 2008 (rain date August 10) from 10:00 a.m. to 5:00 p.m. provided they add the Borough as an additional insured on their insurance.

Motion of Councilman Williams, seconded by Councilman Johnson. A roll call vote was taken and the motion was unanimously carried.

Councilman Williams reminded everyone of Community Day on July 4th in Memorial Park.

President Roberts adjourned the meeting to 7:30 p.m. on July 28th for a public hearing on the Conditional Use Permit for the demolition of a building at 46 S. Main Street and proposed Ordinance 1146 amending the zoning classification of Parcel #35-8-143. The meeting adjourned at 9:00 p.m.

BOROUGH OF QUAKERTOWN

L. James Roberts, Jr.
President of Council

Attest:

Phyllis R. Ewing
Asst. Borough Secretary

A special meeting of the Borough Council was held on July 28, 2008, at 7:30 p.m.

The following members and officers were present: President L. James Roberts, Vice President Donald Rosenberger, Councilmembers Michael Johnson, Michelle Scarborough, Edward Scholl, Daniel Williams, David Zaiser, Solicitor John Ashley and Manager Scott C. McElree.

President Roberts stated that the recessed meeting of July 2 is now called to order. Meeting was recessed to hold two hearings tonight. I will turn the running of the two public hearings over to be handled by our Solicitor Ashley. Mr. Ashley will proceed with the Richland Library Conditional Use hearing

Solicitor Ashley:

The first item on the Agenda tonight is the public hearing on the Conditional Use permit application of Richland Library Company for the demolition of a building at 46 S. Main Street, in the Borough of Quakertown. Is there anyone present on behalf of the Richland Library? Please come forward and be sworn in. Is there anyone interested in this application and may want to give testimony, besides the applicants? Will all three of you testify?

Ms. Hellman:

Probably just Tom.

Solicitor Ashley:

We will need your full names.

Margaret Hellmann, Thomas Moll and Terry Stauffer

Solicitor Ashley:

Those wishing to testify, please raise your right hand. (Solicitor Ashley swore-in those wishing to testify.)

Solicitor Ashley:

This is a public hearing, a court reporter will be taking down minutes so we need you to verbalize. Want to state your name, please, sir?

Mr. Moll:

I'm Thomas Moll.

Solicitor Ashley:

Mr. Moll, what is your position with the Library?

Mr. Moll:

I'm the Librarian for the Richland Library Company.

Solicitor Ashley:

It is my understanding that you submitted a plan for the property?

Mr. Moll:

Yes.

Solicitor Ashley:

I'm going to mark it as Applicants Exhibit A-1. On the plan this is marked as an existing building and this is the building you wish to remove?

Mr. Moll:

Yes, it is 46 S. Main Street.

Solicitor Ashley:

Why do you want to remove the building?

Mr. Moll:

The application to remove the building is due to the fact that we would like to add a parking lot, off street parking. The plan contains off-street parking for eight vehicles including a handicap parking spot for the library. There is currently no off-street parking for the library. Anyone wishing to use the library must park along Main Street, which, of course, only allows parking on one side of the street. It is a very dense neighborhood. There is a lot of traffic and a lot of cars parked there. We're about a half of block from the intersection with Broad Street and another half of block from the other intersection with Juniper Street. It is a very congested area with cars, and it would help to have a parking lot, off-street parking.

Solicitor Ashley:

Are the two lots then going to be consolidated into one lot?

Mr. Moll:

We do not have a parking lot at this time.

Solicitor Ashley:

No, I mean the one lot existing and the lot proposed, will they be made into one lot as opposed to two separate lots.

Mr. Moll:

The lot of the existing dwelling has, what I call, a parking tab that is in front of the building and it is large enough for maybe one car on a concrete pad. The existing parking lot would start at a curb cut where that concrete pad is now. The lot would be extended back towards the rear of that property. Most of the parking lot that we propose would be on the property that is now 46 South Main Street and there would be a slight overlap onto the current library property, which is 44 South Main Street.

Solicitor Ashley:

If you get permission for this, will the lot line be removed from these two lots into a single.

Mr. Moll:

That would be the intention of the library. I'd like to add that the property, 46 South Main Street, even though it is in a historic area of town, it itself is not a historic property. It was built in 1929. It's a very small building. At one time it was a garage to our house where the library is currently located. At one point it was sold off and made into a small apartment-type of building and we are, in fact, purchasing it back for the space for a parking lot.

Solicitor Ashley:

Is there going to be any lighting on that property for that parking lot?

Mr. Moll:

I believe there is a plan to light the parking lot. We had previously had a different design for a parking lot in the back of the library before this property was available and there was lighting for that parking lot design. So I assume there will be lighting for this.

Solicitor Ashley:

Will the lighting go off at night once the library closes?

Mr. Moll:

Currently, the library is only open on Saturday mornings, we are not open in the evenings. We will not have lighting on in the evening except for some, perhaps, security lighting.

Solicitor Ashley:

Access to the area will be from South Main Street?

Mr. Moll:

Yes.

Solicitor Ashley:

There is no street to the rear?

Mr. Moll:

No, there is no alleyway or anything behind the property. There is on the plan, a proposed turn-around area at the very back end of the parking lot. We will be able to do a three-point turn on the parking lot and will be able to pull out onto Main Street.

Solicitor Ashley:

Is there anything else you would like to offer to the Council?

Mr. Moll:

We did ask, on the application, that the \$1,500.00 fee for the permit for the demolition be waived since we are a non-profit company, historic library in Quakertown. We've been in Quakertown since 1789 and none of us accepts anything for our work at the library, we are all volunteers. Not for profit historic entity within the Borough of Quakertown.

Solicitor Ashley:

Does Council have any questions? (No response.) Anyone else wish to testify? Does anyone from the audience wish to offer any testimony regarding this matter? (No response.) The Board has before it two issues the waiver of the fee and the demolition.

President Roberts:

The Chair will entertain a motion on the request from Richland Library regarding the demolition of a building at 46 S Main Street.

RESOLVED, That, the Conditional Use Permit application of Richland Library Company for the demolition of a building at 46 South Main Street be approved. Motion of Councilman Scholl, seconded by Councilman Rosenberger. A roll call vote was taken and the motion was unanimously carried.

President Roberts:

The Chair will also entertain a motion, as requested, to waive the \$1,500 fee associated with this hearing and this procedure.

RESOLVED, That, the fee of \$1,500 for the conditional use hearing and procedure is waived. Motion of Councilman Scholl, seconded by Councilman Rosenberger. A roll call vote was taken and the motion was unanimously carried.

July 28, 2008

Solicitor Ashley:

The next hearing is a request that's been duly advertised regarding amending the zoning classification of Parcel No. 35-8-143 changing that property from the Medium Residential classification to the Town Center district in the Zoning Ordinance.

Atty. Gavin Labosky:

Gavin Labosky, on behalf of Dr. Robert Rush, who is the property owner and petitioner in the zoning change request. Just by way of background, this matter was before you rather informally in April for review and, at that time, I provided to you a series of exhibits and documents. I trust you still have along with a brief powerpoint, I don't think it will be necessary to do that tonight. Dr. Rush is here in the audience. Just by way of a reminder, this is a property at 600 West Broad Street. The petition to re-zone was filed in May. Based upon the fact that for more than 30 years the property has operated as a mixed residential/chiropractic office. A series of variances issued over the years have sort of drowned out the residential use. The use implies non-conforming with respect to the space devoted to medical use. We went to your Planning Commission and received a unanimous favorable recommendation to re-zone this. We also received a favorable recommendation from the Bucks County Planning Commission to re-zone this parcel. One of the comments that sort of struck me in the Bucks County Planning

Commission letter was that it represents a logical extension of the TC zoning district to cross Sixth Street for this property which has traditionally been commercial. Dr. Rush is here to answer any questions you may have. Fire away.

Solicitor Ashley:

Dr. Rush, please get sworn in.

Solicitor Ashley:

Anyone else interested in this application?

Mr. McCune:

Robert McCune

Mr. Fackler:

Stephen Fackler.

Solicitor Ashley:

Dr. Rush, will you please state your full name?

Dr. Rush:

Dr. Robert A. Rush.

Dr. Rush, Mr. McCune and Mr. Fackler were sworn in.

Solicitor Ashley:

Mr. Labosky, do you have anything additional?

Atty. Labosky:

I would just move for submission of the exhibits that I provided previously and I have an extra copy in case you want to make a record and also, of course, the petition itself. I'll mark this as A-1, if that is acceptable, and hand it to you Mr. Ashley.

Solicitor Ashley:

A-1 is the exhibits.

Atty. Labosky:

Yes.

Solicitor Ashley:

For the record, the four exhibits attached to A-1 are the Exhibit 1 is Quakertown Borough Zoning Hearing Board decision of February 25, 1971; Exhibit 2 is the Quakertown Borough Zoning Hearing Board decision of September 23, 1975; Exhibit 3 is Section 307 of the Quakertown Borough Zoning Ordinance detailing permitted uses in the Medium Density Residential District; and Exhibit 4 is Section 309 of the Quakertown Borough Zoning Ordinance detailing permitted uses in the Town Center District.

Atty. Labosky:

If I could just briefly call Dr. Rush to verify the items that are contained in the petition, we could just move the petition. Dr. Rush would you come forward please.

Atty. Labosky:

Dr. Rush I'm handing you a document that is entitled petition of Dr. Robert A. Rush for an amendment to the Quakertown Borough Zoning Ordinance and maps, do you recognize this document?

Dr. Rush:

Yes, I do.

Atty. Labosky:

Did you review this before it was filed with Quakertown Borough?

Dr. Rush:

Yes, I did.

Atty. Labosky:

You verify that all the information contained in this petition is accurate and truthful?

Dr. Rush:

Yes.

Atty. Labosky:

And you'd like Council to approve the Resolution amending your property zoning designation from MR to TC?

Dr. Rush:

Correct.

Atty. Labosky:

That's all I have. I ask that the petition be made part of the record.

Mr. McCune:

As you've stated, you made a powerpoint presentation, we'd like to see that powerpoint presentation. There are several points of interest that we have as residents of that neighborhood. In particular, we've heard several rumors about the addition of parking to that property and we'd like to see specifically how that is to be accomplished. In other words, drawings before and after. Drawings showing how many additional parking spaces and what sort of guidelines or safeguards will be put in place to keep cars from ending up on the sidewalk that our kids use to get to the park. That's the first point. The second point, and a much broader point, comes down to your intended use of that property. It is our understanding that it is a point to be zoned, you call it

Town Center, but essentially from we understand it would be more of a commercial property used, at least as far as we understand, for probably as a professional building of some type. Do you have any specifics as far as what you plan on actually locating in that building? How many offices? The occupancy that your requesting? The number of employees? The number of clients that might be present? Essentially, what you plan on putting there and how many people you plan on bringing into that building that is essentially an enlarged garage? So I'm asking for this information, before I continue.

Atty. Labosky:

If the Council would like me to address them, or if Mr. McCune wants to continue on. I'm happy to step in now or not.

Solicitor Ashley:

It would make the most sense to get his questions answered.

Atty. Labosky:

On both issues, what's before Council tonight is not a proposed use of any kind. There is no proposed use for the garage at this point. To the extent that there becomes an application that will go to Mr. Fretz, reviewed by the Zoning Officer and will be determine whether or not the proposed use complies with the Zoning Ordinance. If it does not, my client will have to come to the Zoning Hearing Board and seek relief, and Mr. McCune and his neighbors will be notified of that proceeding and can interject at that time. There is no proposal, again, to expand any parking area at this time. Anything like that when it would be proposed, it would be run through the Borough's administration before any action could be taken. So what's before you tonight is simply a re-zoning petition and we'd like to focus on just the merits of that re-zoning petition at this time. Questions about how the property may develop in the future are appropriate for another proceeding.

Solicitor Ashley:

You selected the Town Center District because the current use is most consistent with that?

Atty. Labosky:

Not only is the long-standing use consistent with that, but if you look at the MR zoning district regulations, right now the property doesn't comply with those district regulations. So you have a somewhat of a white elephant that doesn't belong in the MR District because there's been a series of variances granted over the years. As I mentioned, the property has no real prospect of converting back to a residential property. If you look at all of the uses in the MR District, it doesn't qualify as a swim club, it doesn't qualify as a private club, it doesn't have enough ground for any of those things. So the thought was if it is commercial, which it has been for 38 years, lets continue with that use and make it fit in terms of zoning to the extent something comes down the pike in terms of a new use or a changed use, that will be addressed through the Zoning Ordinance process.

Solicitor Ashley:

And the Town Center does provide for medical offices?

Atty. Labosky:

Yes, it would become a complying property, in terms of use.

Solicitor Ashley:

As you said, if there is any expansion of use, you would have to go through the zoning process.

Atty. Labosky:

And I would add, Mr. Ashley, in that process there are parking requirements for every use, as you know, and that will have to be calculated on the basis of the square footage, based on the type of use that's going in there, and that's something that Mr. Fretz and his office will review and if it is determined that there isn't sufficient parking off-street, my client will either not be able to go forward or will come to the Zoning Hearing Board, we'll cross that bridge when we get to it.

Solicitor Ashley:

Does Council have any questions of the Attorney? (No response.)

Mr. McCune:

Although, he's claiming that all he is doing is asking for a variance to Town Center, there's been a lot of work being done on that building currently to renovate. So, the idea that he's just changing the zoning for the sake of changing the zoning is not true. I currently have in front of me seventeen signed petitions from residents of Sixth Street, 600 block of Broad Street, these are residents in a residential zone that are concerned with the impact that a commercial building will bring additional parking or additional vehicles to that area. As you can see, the only parking, off-street parking, is for approximately four or five vehicles. Everything else is on-street parking, residential on-street parking. Every house to the left and south is residential and if he gets this put in, it will be commercial buildings. May I submit this to you?

Solicitor Ashley:

Yes.

Mr. McCune:

Based on a minimum estimate of say putting two commercial offices, small offices, with two employees per office and then just 2-1/2 clients per office, the idea of evening hours, would bring nine additional vehicles to this neighborhood. Nine additional vehicles probably is not an issue, but we are very concerned that once this variance is provided, that we are looking at more in the terms of maybe fifteen or twenty vehicles. If an office is scheduled or employs more than two employees, then we could very quickly be looking at a situation where, not only is the existing on-street parking used up, you will basically be creating a situation where people are parking illegally along Apple Street and the back alleyways. As I said, if its residential parking, most people that live on Sixth Street and Broad Street already know the difficulties that we have in finding on-street parking especially during winter months. The loss of just a couple of spots is very noticeable. To bring additional parking beyond a modest number – four, five or six vehicles at the most, would

definitely create an impact along this neighborhood. To say that he is not planning on doing anything with that building is ridiculous because he's already been in there, gutting the building and refurbishing it. Why is he doing that work?

Solicitor Ashley:

I don't know why he's been doing the work, but obviously if he's expanding whatever the commercial portion of that use is, it would have to comply with any of the Zoning Ordinances requirements for permissible uses. As I understand there is a chiropractic office there now.

Mr. McCune:

There is.

Solicitor Ashley:

If he would want to put another chiropractor in or add more square footage, the Zoning Ordinance has additional parking requirements for any increase. Even though the building may already be there, if its used for a professional office, additional parking requirements would have to be met before obtaining a use permit to use any additional space for any professional office, expanding what he has, or if he would have another doctor in there, whatever it may be, he still has to comply with any Ordinance requirements for this type of use.

Mr. McCune:

That's fine. We are primarily concerned with the occupancy. Occupancy limit that's approved for this building because essentially whatever occupancy limit you provide, is the number of vehicles you can expect to attract to that location. If you say that he can have up to 20 personnel and people in that building, employees and clients, that's 20 vehicles.

Solicitor Ashley:

The way it would probably work is sort of the opposite of that. Let's say he only has three off-street spaces and that would govern how many employees or people could access this.. Sort of work backwards, if you will, from what the permitted use is on the property that will allow how many

Mr. McCune:

I understand what you are saying. There is currently no off-street parking in that neighborhood except for what he already has.

Solicitor Ashley:

He works in his office there, I don't know if he has any other employees.

Dr. Rush:

I have an assistant and Office Manager.

Mr. McCune:

Plus you'd have to agree that your clients also use on-street parking as well, correct?

Dr. Rush:

We have on-street parking across the street, we have for the 38 years we've been there, we have cooperation with Carroll across the street, we share parking when needed We have commitments from people on the opposite side of Sixth Street, which is Town Center and commercial from Apple Alley to Juniper. On the side with Spinlon, its not residential, its Town Center. If we had any problem with patients, we had commitments from people that we could use one or two spaces. Over the years that we've been there if there was any problem, or if one of the patients would park in front of the residents side on the other side of Apple Alley, if anybody said anything, we would ask those patients

Mr. McCune:

We have no complaints about his current operation. This is not what our concern is about.. Our concern is regarding the potential impacts of upgrading this rear building on your property, changing it into a commercial property that will bring vehicles. I don't see where you are going to possibly stick off-street parking.

Solicitor Ashley:

If he upgrades that building, he won't be allowed to use it for an additional use unless he has additional parking. Please identify yourself, sir.

Mr. Fackler:

Stephen Fackler.

Solicitor Ashley:

Okay, resume.

Mr. Fackler:

I called the Zoning Office last week, before we went on vacation, they told me that Dr. Rush had applied for a permit for additional parking units on this property or the one he bought next door, is what the Zoning Office told me over the phone. I'd like to know what that was all about.

Solicitor Ashley:

Tonight we are just talking about the zoning change

Mr. Fackler:

He applied for four additional parking spots

Atty. Labosky:

I'd like to know what all that has to do with what is going on.

Solicitor Ashley:

Dr. Rush, did you apply for additional parking spaces?

Dr. Rush:

No.

Mr. Fackler:

The Zoning Office said that he had.

Solicitor Ashley:

We can ask the Zoning Officer, he's right here.

Zoning Officer Ken Fretz:

I have no idea what you are talking about. You didn't call me.

Solicitor Ashley:

First you have to be sworn in.

Zoning Officer Ken Fretz was sworn in.

Solicitor Ashley:

Will you state your name, please, sir.

Zoning Officer:

Ken Fretz.

Solicitor Ashley:

Mr. Fretz is there an application from Dr. Rush for any additional parking permits?

Zoning Officer:

Absolutely 100% no.

Mr. Fackler:

Mr. Fretz also, I asked him why it was just in the Morning Call and not the announcements for the Borough. He said he would call me as soon as this meeting was supposed to happen. He did not call me, but his secretary did explain to me that there was an application in for additional parking spots when I called the Zoning Office.

Solicitor Ashley:

He should know what is going on in his office. With regard to the advertisement tonight, it was advertised in a newspaper of general circulation?

Zoning Officer:

Yes, and we always advertise in the Morning Call.

Mr. McCune:

It seems to me what you are focusing on is a very narrow objective and I guess that is where you are going to stay so I am going to request though is that every single person that signed

that petition is notified on any hearing that is going to be held regarding the further business to be done at that property.

Solicitor Ashley:

If there are any additional hearings, if there are any additional applications, that require public notice, the Borough will comply with the Municipalities Planning Code and Borough Ordinances as set forth who has to receive notice and how far away from the property they have to be to receive it. I'm sure Mr. Fretz knows how to calculate that and anyone that is legally required to be provided notice, will.

Mr. McCune:

That included two property owners, this time. The public notice was in the Morning Call. The only reason we are here, and you have those seventeen notices, is that his Great Uncle happens to read the Morning Call. The Morning Call is not regularly read by the locals in Quakertown, although I'm not saying it is unread. It is certainly not the paper of the majority.

Solicitor Ashley:

The property was posted also.

Atty. Labosky:

The property is posted.

Solicitor Ashley:

We will do what the statutes require.

Mr. McCune:

Thank you.

Solicitor Ashley:

Anyone else? Please identify yourself and be sworn in.

Mr. Craig:

Frank Craig.

Frank Craig was sworn in.

Mr. Craig:

I live on Sixth Street also. The only question I have is – if this property is Town Center, what does that do to the rest of our properties adjacent to it or behind it?

Atty. Labosky:

It doesn't affect any of their properties at all.

Solicitor Ashley:

Not a super affect any other property, just Dr. Rush's property.

Mr. Craig:

It doesn't affect the taxes or assessment on taxes?

Solicitor Ashley:

No.

Mr. Craig:

I live next to Mr. McCune and I was just curious on how it would affect the neighborhood.

Solicitor Ashley:

Dr. Rush's property changes zone, everything else stays the same zone.

Mr. Craig:

The hearing is only to deem the property commercial, which it already is?

Solicitor Ashley:

Town Center.

Mr. Craig:

Town Center, right. Thank you.

Solicitor Ashley:

Anyone else? (No response.)

Atty. Labosky:

I'll just to briefly summarize, as you know across Sixth Street is already Town Center, across Broad Street is already Town Center and as I said this is sort of a logical extension of one more property. Let me make something very clear, I didn't stand here and tell you that there isn't plans for the future, I just don't know what those plans are. To the extent that Mr. McCune believes I made some misrepresentation in terms of what the future is, I have no doubt that they are going to do something on that property, but that's not what is before you tonight. It is something that will be addressed through the appropriate procedures when my client applies for whatever he wishes to apply for. That's all I have.

Mr. Fackler:

I have a question for Mr. Fretz. Ken, what are the zoning differences between Town Center and what it is now in making an application for a commercial building? What can they do that would fall under our zoning?

Zoning Officer:

There are six pages of that.

Mr. Fackler:

Could you give me a general idea?

Zoning Officer:

It provides for many more uses than the MR classification.

Councilman Rosenberger:

If we would change it to Town Center, that designation will, of course, continue for future property owners. Whereas, if Mr. Rush with his current MR with variances, if he were to change over the property would the variances continue to the new owner?

Solicitor Ashley:

Variances stay with the property. It's the property that earns the variance.

Councilman Rosenberger:

If we did nothing, he could currently sell it to another Chiropractor and he can continue using it as what is essentially the Town Center. He's proposing it because it gives him a little more flexibility with the zoning.

Mr. Craig:

I just want to make it clear this is to make the property Town Center. Anything extra that he does will be brought to Council again for approval?

Solicitor Ashley:

Either Council or the Zoning Hearing Board depending on what changes would be made.

Mr. Craig:

I knew about this because it was posted on the garage. If anything else happens, it would again be posted?

Solicitor Ashley:

If he needed any other zoning approvals, his property would have to be posted and it would be advertised.

Mr. McCune:

Question for the Zoning Officer. Having the Town Center zoning, what specifically does that provide any business operating in that zone as far as use of residential parking adjacent to it?

Zoning Officer:

The Ordinance does not provide for on-street parking at all. That is public right-of-way parking.

Mr. McCune:

Public right-of-way parking, in other words anyone can use it.

Zoning Officer:

For on-street parking, that's correct.

Mr. McCune:

If you take that one step further, if you provide Town Center zoning for this, you then approve occupancy for 16 vehicles, your saying go ahead and use the parking, its available.

Solicitor Ashley:

The Ordinance would require off-street parking that they would have to have off-street.

Mr. McCune:

Do the Ordinances require off-street parking?

Solicitor Ashley:

Every use and every district is different.

Zoning Officer:

I don't have any plan on my desk presently and, therefore, cannot calculate that.

Mr. McCune:

I understand that. We're concerned again not with an occupancy of nine, ten or eleven people. We're concerned with an occupancy that exceeds fifteen or twenty because there is just enough land there for off-street parking and so that only real alternative is to expect clients to walk two or three blocks, which they are not going to do; they are going to obviously seek the closest parking spot to their destination, that's just human nature. They will park in any place that they can find the closest to their destination. There is a residential area on Sixth Street, there is a residential area on the 600 block of Broad Street and every open alley spot that they can find. You're the Chief of Police is there any written statement or plan if this situation came into place, how it would be enforced. Has the volunteer Fire Department been asked if there is an issue with off-street parking in the block with Apple Street due to illegal parking and how that could affect them? These are all issues that need to be addressed publicly in writing. I want to know what your plans are. It requires an additional response to the problem.

Chief/Manager McElree:

I think as Mr. Fretz said there aren't any plans at this point and, if and when they are, a planning module will be put in place that we could certainly look at the impact as we do in those case. We would look at the impact of any on-street parking could present. Sometimes plans include doing nothing and sometimes our plans include increasing some parking restriction in certain locations. At this point, I couldn't answer your question specifically, but certainly when it does come time to do that we will certainly look at it.

Solicitor Ashley

Any other comments? (No response). The public hearing is closed.

Councilman Roberts stated that Council will be voting on this issue at the August 6 Council meeting.

BOROUGH OF QUAKERTOWN

L. James Roberts
President of Council

Attest:

Scott C. McElree
Borough Secretary