

**Marietta Borough Council  
Minutes of Meeting held May 13, 2014  
113 East Market Street, Marietta, PA**

President deVitry with Council member Sargen, Foreman, Kramer, Roberts, Renninger and Mayor Vegso present called the regularly scheduled monthly meeting of the Marietta Borough Council to order at 7:00 PM. Absent from the meeting was Council member Clements. The meeting opened with a moment of silence followed by the pledge of allegiance.

President deVitry asked for a motion to move the meeting to the Fire House due to the size of the crowd. Council member Roberts made that motion with a second by Council member Sargen. Motion carried.

President deVitry with Council member Sargen, Foreman, Kramer, Roberts, Renninger and Mayor Vegso present re-adjourned the regularly scheduled monthly meeting of the Marietta Borough at 7:15 PM at the Fire House.

On a motion by Council member Kramer with a second by Council member Roberts, the minutes of the April 8, 2014 Council meeting were unanimously approved as presented.

On a motion by Council member Renninger to make corrections to include the comments from Mayor Vegso and Mark Harman with a second by Council member Foreman, the minutes of the Special meeting on April 8, 2014 were approved with the following changes, page 1 comment from Mayor Vegso, "stated that the fees are twice as high as some fees. To put in 1000 square feet he does not see why we have this kind of expense." On page 2 with the following comments from Council member Roberts, "asked where do the fees go to?" Comments from President deVitry, "stated the fees go to managing and maintaining the Stormwater and the fees go to the Borough." Comments from Mark Harman, "stated that residents would come in to get a building permit and place the Stormwater fee in escrow. After it is reviewed they would get an approval letter with the amount of time that was spent and there may be a refund given back to the resident on the Stormwater fee. What drives the fees up is that someone may hire a consultant that will come in and make a submission and it does not meet the requirement and then they would have to reapply. The fee is done by resolution so that the fees can be changed each year as needed."

President deVitry stated the first order of business is to fill the vacant council seat created as a result of Allen Clements' resignation.

On a motion by Council member Kramer with a second by Council member Renninger, the resignation from Allen Clements as Council member was unanimously accepted.

President deVitry stated that we received (4) letters of interest:

- Marcus Snow
- Glen Mazis
- Harold Kulman
- Oliver C. Overlander II

Mayor Vegso stated that he sent an email out with a suggestion to change the procedure and allow each of these candidates to stand up and speak for two to three minutes and tell us about themselves. Then have nominations and the Council would perform a role call and each Council member would say who they vote for and the person with the largest amount of votes would be voted for in the normal way.

President deVitry stated that PA Act 45 §901 states that the procedure for council to appoint candidates and that is with a Resolution and a roll call vote. He asked for a motion to appoint one of the candidates.

Council member Renninger asked for a motion to speak with a second by Council member Foreman to allow Council member Renninger to speak.

Council member Renninger would like to make a motion suggesting, that the vacancy will be filled by a motion and a Resolution but she would like to give each person that tendered a letter of interest an opportunity to speak on who they are and why they are interested in serving the Borough of Marietta.

There was a second motion by Council member Foreman to allow the people that tendered the letters of interest to speak. Motion carried.

President deVitry stated that the new procedure has been adopted.

President deVitry allowed each candidate to give a brief summary of themselves.

President deVitry took nominations, Council member Foreman nominated Marcus Snow, Council member Sargen nominated Oliver Overlander, II. There were no other nominations.

Council member Renninger asked that Council member Kramer recuse himself from voting since Oliver is his father-in-law. Council member Kramer refused.

President deVitry asked for a roll call vote for the nominations.

|                                  |                                   |
|----------------------------------|-----------------------------------|
| James Sargen – Oliver Overlander | Eric Kramer – Oliver Overlander   |
| Bill Roberts – Oliver Overlander | Steven Foreman – Marcus Snow      |
| Sharon Renninger – Marcus Snow   | David deVitry – Oliver Overlander |

President deVitry read Resolution 05-2014 appointing Oliver C. Overlander, II to fill the vacant council seat created by the resignation of Allen Clements.

President deVitry asked for a roll call vote for the Resolution 05-2014.

|                        |                     |                    |                      |
|------------------------|---------------------|--------------------|----------------------|
| James Sargen – aye     | Eric Kramer – aye   | Bill Roberts – aye | Steven Foreman – nay |
| Sharon Renninger – nay | David deVitry – aye |                    |                      |

Resolution is approved. Affidavit of Residence for Oliver was notarized. As the paperwork was being prepared Council member Renninger made a statement to the public that no matter who was put on Council that they have their work cut out for them and what needs to happen for Council is the practice and procedures of Council need to be corrected and come in line. Even though the voice of the public was not listened to during this procedure she hopes that they keep pressing on for the Council to behave in a matter that reflects the Borough.

Mayor Vegso swore in Oliver C. Overlander, II as Council member.

President deVitry opened the public comment session of Borough Council.

**PUBLIC SESSION**

Marcus Snow – 310 West Market Street – comment on the letters that the council received from their attorney in relation to Wild Cherry Sports Bar. Have not seen a zoning permit or occupancy permit for

Wild Cherry's and requested to see them and have not gotten them. There is parking issues and it is a different nature if it has a dance floor and a DJ. He would like to have the Borough speak with the zoning officer to see if it is in compliance and if it is a pre-existing and nonconforming use.

Council member Renninger stated that it falls under zoning and she is having correspondence going on with Mark Harman concerning the usage and whether or not they are in compliance. They have acquired a lease for parking and will be receiving a copy of that.

Andy – Wild Cherry Sports Bar – addressed the public that he is opening a high end sports bar and people are going on assumptions. It is not a hooters he has better taste than that. The door is open people are free to come in. They applied by all the rules and received all the permits to open. It is not a night club. They are open to 1:00 am to give the residents a choice. They sound proofed the place. The waitresses will be wearing referee type shirts and a tennis skirt.

Nick – Wild Cherries Sports Bar – he moved here to Marietta and invested over \$700,000.00 and would like to get along with his neighbors and invest in the community. They have always invested in the firehouses, baseball teams, and schools to help the community out. They plan on doing that here also.

Rich Kushner – 573 Essex Street – In regards to the bicycle race, Bill was unable to come. Union National Bank and Donegal Mutual Insurance Company among other local business are supporters of the race. They have 75% of the funds necessary for hosting the race. Their plans are to have the excess amount of funds to distribute to Marietta Youth Organization to make the War Memorial Park improvements that are needed. That is their fund raiser. Bathroom and port-a-potties will be available. Next week they should be able to have the final things worked out to present at next council meeting.

Debra Rosser-Hogben – Executive Director for Milanof-Schock Library – Thanked Marietta Borough for the library contribution. They are getting ready for the summer reading program. She invites everyone to come in and use the library. They started a new program called “Skills for School” to help children get ready for pre-school and kindergarten. They received a \$25,000.00 donation which allowed them to put in new computers.

Dennis Shumaker – 402 West Market Street – Came to speak about Wild Cherry's and if indeed that it is a sports bar then they have no problem with that, but if indeed they have put in a dance floor and have a DJ then this is not permitted in this zone. They would have to go in front of the zoning hearing board. There is also not enough parking for the establishment and this needs addressed.

President deVitry asked for a motion for a short break with a second from Council member Kramer.

Adjourned at 8:05 PM

Re-adjourned at 8:12 PM

Rae Ann Schatz – 24 Fairview Avenue – After last council meeting she invited Council member Sargen to walk Fairview Avenue and would like to see if he would comment on what he seen on Fairview Avenue.

Council member Sargen stated that he told Rae Ann up front that he would not and did not use in the equation what happen in the past. We cannot go back 20-30 years to find out why properties in this Borough do not have sidewalks. He told Rae Ann that he is not a type of individual that does not try to move forward by looking in the rear view mirror. Any discussion on how and why we got where we are today he would not entertain with anyone. As far as what we have in front of us is a mess. He sees things as far as his opinion he feels should be looked at again. As far as the sidewalks go, the sidewalks

need to be installed. He spoke with a municipal attorney and there are three (3) very good reasons why the sidewalks need to be installed. 1) If the Borough would turn their back to the sidewalks with an exemption with an Ordinance requiring sidewalks and if someone would be walking in the street the Borough could be found in gross negligence. 2) If the Borough turns their back on the sidewalk ordinance there could potentially never be a sidewalk built in this Borough ever. 3) As the public health and safety chair he seen a large family (8-10 people) on Fairview Avenue walking down the street because there were no sidewalks. They were an issue for traffic. If they were hurt who would be to blame? Not the residents, it would be the Borough. So he looked at all the estimates that Ray provided him, and also spoke with people that already had their sidewalks installed. He talked to the gentleman that is doing the sidewalks for his dad. The cost of concrete and the estimates that you gave me the average price to the Borough to put in the sidewalks would be \$88,000.00 this would be for concrete only. What we have is what we are going to have and the people on Fairview Avenue need to put their sidewalks in.

Mayor Vegso commented that he has a different view and he also consulted with a solicitor and the situation is not impossible and the question is what is a fair and just resolution? Allen Clements and he received letters from (8) eight or (9) nine people on the street. How can we do something that does not trigger everyone for the last twenty or thirty years that have put in a sidewalk, and also setting a legal precedence for the future. He is working on a document that is 80% finished and will present at the next council meeting. We need to seek a resolution that will not satisfy everyone completely but will get this behind us. If we can't find a reasonable resolution then we will have more lawsuits. He does not advocate the Borough taking on everything, but feels we could set some limit. The Borough can handle this anyway it wants. We don't want to have any more sidewalk problems. If we start enforcing the sidewalk ordinance half the people in town would be in violation.

President deVitory stated that if we didn't have the first lawsuit we would have had more money and it cost the borough \$67,000.00 and a mil in taxes.

Rae Ann Schatz – commented on Council members Sargen's comments. She would bet that the people they saw walking down the street she would bet 99% that if the sidewalks were in they would not have used them. Even if people walk down streets and alleys and fall into a pothole are they not still going to sue the Borough. She just wanted Jim to tell the council members what he saw on Fairview Avenue.

Council member Sargen stated that he told Rae Ann Schatz when he came up to Fairview Avenue he did not have the answer. He was being truthful and he decided how wrong does he want to be?

Rae Ann Schatz – commented that she would like to have from council a letter stating that she will be reimbursed for her driveway or not.

Jennifer VonStein – 328 West Market Street - comment on Wild Cherry Sports Bar, that she understands that Nick wants to be a good neighbor and that's well and good, but according to an article that was published in the Lancaster Newspaper it says that they will have a dance floor and according to the Marietta Building Ordinance that is the definition to a night club. So a night club is not permitted in the Borough and the parking needs to be addressed. She wants to make sure that the Borough is following up and doing their job in this matter.

Linda Ross – 67 Fairview Avenue – She knows that we are concerned about people and safety of people falling on the street. When you walk down Front Street you have to walk on the street because the sidewalks are not safe. She doesn't like that we are blaming them for the lawsuit, they tried other ways to fix Fairview Avenue but they were not being heard.

Earnest Lehman – 304 East Front Street – Fifteen years he’s been having is family reunion at the County Park. He recently asked to use War Memorial Park and Council member Foreman is nice enough to open the bathrooms. He was told that he can’t have a key for the bathrooms and feels that you should be able to have access to the restrooms. He feels that we need to get a policy in place so that residents can use the restrooms. He put a sidewalk in and it cost him \$5,000.00 and people still walk on the street.

Council member Foreman stated that a lot of municipalities are looking at closing their restrooms due to vandalism and he is looking at putting in port-a-potties.

Barb Kauffman – 30 Fairview Avenue – there is an issue in regards to fairness and equal treatment. The former council person stated that every time we have done streets we have transitioned the driveways. Don’t know of any street project that they tore up the street and put stones in where there was macadam. Why on every other street project were driveways repaved on the portion that was torn up? On Essex Street stones were put down in preparation for sidewalks and that was not done here either. She is asking that we be reimbursed for the macadam that was torn up by the Borough and the stone base be put in for the sidewalks. Understand that in April 2013 the Borough accepted property that was given to them and is across the street from Mr. Kramer’s house. Who owns the property that the fence is on across the street from Mr. Kramer’s house? What is the property that was given to the Borough that contains the fence? She would like to know about the easement that is on Oliver’s property on Front Street that the Borough owns.

Council member Kramer stated that Oliver Overlander owns this property.

Tracy McFatridge – 30 Lumber Avenue – just wanted to remind everyone that Neighbors helping Neighbors will be meeting tomorrow evening at the Fire Hall at 7:00 PM and will be speaking about water safety.

Glenn Orr – 45 West Fairview Avenue – he appreciates everyone coming to the Fire Hall. Also have applications for new members and the carnival will be held the last week in June.

Carl Roberts Khoshnevisan – 10 Fairview Avenue – he is there on behalf of his parents and he spent about six days last week grating their yard, filling and moving 40 tons of dirt from the front yard to the back yard. In all his years in construction he has never seen such negligence. He understands that they have to put the sidewalks in. Other people have to do excavation and that should have been done when the road was put in. They damaged people’s property and while the equipment was here they should have excavated the driveways and the yards, instead of the homeowners having the expense. There is a lot of things in town that need fixed up. People should look at doing a fund raiser to help put sidewalks in and fix other things around town. Council needs to look at ways to find the funds and raise the funds and honoring that these people paid good money to purchase their homes, and when the road was put in they damaged their property.

Jack Rice – 624 West Market Street – the project on Fairview Avenue was done by a contract. He did not help negotiate that contract he was not aware of the reading of the contract. Beyond the contract he put stone in driveways. It does not solve the problem. Everything was done that was in the contract.

President deVitry announced public comment session of Borough Council was closed.

**ADMINISTRATIVE/PERSONNEL/FINANCE –President David deVitry**

On a motion by Council member Kramer with a second from Council member Sargen, the General Fund Breakdown dated 5/13/2014 was unanimously approved as presented.

President deVitory gave an update on the Northwest River Trail. David met with officials from the state last week and they gave us a go ahead to move forward with the trail. There is one project that we are working on, and that is the bridge which will take a while with permitting. There is a section between Gay Street and New Haven Street that is not passable right now and he would like to make a motion to move forward with Phase I-A to go with the clearing between Gay and New Haven. Council member Roberts made that motion with a second from Council member Overlander. Hopefully we can get started on this next week.

Council member Renninger asked why they do not have the documents ahead of time so that Council had time to look over these documents. She does not have any paperwork to look at to review this to make a decision on the River Trail. She would like to see the proposal ahead of time so that Council can make a decision.

President deVitory stated that this is no cost to the Borough that this falls under the agreement we have with the Grant for the Northwest River Trail. We got \$250,000.00 from the state and another \$23,000.00 from the Eater Foundation and donated in-kind services from LCSWA. The cost for the clearing of the trail is coming out of that money.

The motion was approved with Council members Renninger and Foreman in dissent.

#### **STREETS & HIGHWAYS – Council member Steve Foreman**

Nothing at this time.

#### **BUILDINGS & SPECIAL PROJECTS – Council member Eric Kramer**

Nothing at this time.

#### **PARKS & RECREATION – Council member Steve Foreman**

Council member Foreman would like to ask for a motion to change the Summer Recreation Program from June 23rd to July 31st to the new dates of June 18th to July 31st. Council member Overlander made the motion to change the dates with a second from Council member Renninger. The motion was unanimously approved.

#### **PLANNING/ZONING/HOUSING – Council member Sharon Renninger**

Council member Renninger stated the Planning Commission meeting for April 15th was cancelled, and no meeting was held. On April 29th Eric Keiser requested a meeting with herself and David deVitory to discuss the RFP proposal. They discussed who was going to attend the opening of the bids on April 30th and it was decided that David deVitory, herself and the office staff would be present. The question was raised regarding the obligation to accept the bids and hire a consultant to fix the Borough's zoning ordinance. Mr. deVitory was to meet with Mike Davis the Borough Solicitor to discuss what procedures should be followed after the opening of the bids. At this point they have not decided until they further interview and look into the options that are available to proceed with this.

Council member Renninger stated the Flood Insurance Committee or she should say the local citizen committee met and there are a number of webinars that are being conducted throughout the month for anyone that would like to learn more on the Flood Plan Management and the webinars are about an hour

in length.

### **PUBLIC HEALTH & SAFETY – Council member James Sargen**

Council member Sargen stated that The Pioneer Fire Company responded to seventeen (17) QRS calls and twenty-one (21) Fire Calls for the month of April. The Special Fire Police responded to four (4) calls and put fourteen (14) men out on the street for a total of 15.5 man hours.

Council member Sargen stated that Fire Company is performing its annual fund drive. Last week the second mailing went out and typically the fund drive is around 22% participation and right now 14% have participation. Please reconsider donating to this Fire Company.

### **SEWER & TRASH – Council member Bill Roberts**

On a motion by Council member Kramer with a second by Council member Overlander, the April Sewer Department Monthly Breakdown was unanimously approved as presented.

On a motion by Council member Sargen with a second by Council member Foreman, the April Recycling Report was unanimously approved as presented.

### **MAYOR’S REPORT - Mayor Ray Vegso**

Mayor Vegso stated the Council needs to come and work together for this community. We need to treat people with respect and be professional.

The Mayor stated that at the last meeting we voted on the Engineer to be here and give a progress report.

President deVitry stated that we did not vote on the Engineer to be here. The Engineer had another meeting and they are putting together figures and he will have numbers for the next meeting.

Mayor Vegso stated that if this project goes the way that it has in the past with delay, delay, delay, he will still be civil but he will be a bull dog on this and will report who is delaying the process.

Mayor Vegso feels that it is his duty to bring this up. The auditor sent in ten (10) copies of the audit report for each of the Council members and the Mayor. In the audit report is two (2) letters that are addressed to the Mayor and Council. The Mayor and some of Council did not receive one (1) of those letters. In addition when you have the review meeting he was not invited. At that meeting were Council member Roberts and President deVitry. Other council members should be as irate as he his. Someone interfered with your mail. Why was that letter removed? Why was it not given to the people it was meant for? The second letter contains more detail, it deals with significant deficiencies. This letter defined nine significant deficiencies. He won't go through the nine deficiencies at this point. He doesn't want to embarrass people. This is an outrage and is unethical and it better never happen again.

Mayor Vegso would like to apologize to the public and to Lillian Hill for the mistreatment from Council. She was attacked by two (2) Council members, and this was an embarrassment.

Mayor Vegso stated that since the last meeting he meets with about a dozen of other mayors. We talk about things. One thing he would like to share is that both Elizabethtown and Columbia both have chaplains who go with the police when there are domestic situations or go shortly after. He has two (2) people who would like to consider this.

Officer Scott Ney commented that they have a list of chaplains that the County gave them and if they need a chaplain they let their dispatcher know and they get in touch with one on the list. If this person would like to be placed on the list they should contact the County or Chief Hauck.

Council member Overlander stated that if you check with Chief Hauck that they have had chaplains for the last eight (8) years.

Mayor Vegso stated that he thought having a chaplain to go out on domestic calls was a good idea and didn't know that this was in place and if it is working that is great.

Mayor Vegso stated that a couple of months back he made a suggestion that in emergencies instead of running out in the snow we need a list of people. We would get volunteers to give their phone numbers so that we could contact them in an emergency. He discovered that Columbia and Elizabethtown use a Robo Call System and is inexpensive and the Council members have this information and hope that Council will go forward in adopting this.

As far as the police department he has copies of statistics if someone would like a copy.

There being no further business to come before Council, the meeting adjourned at 9:25 P.M. on a motion by Council member Overlander with a second by Council member Roberts.

BOROUGH SEAL

Respectfully submitted,

Sharon L. Bradnick  
Secretary/Treasurer