

May 15, 2006
7:00p.m.

The regular meeting of the Doylestown Borough Council was held on the above date at the above time in Council Chambers with the following members present: President John ("Chip") Thome, Vice President Lou White, Council Members Darrin M. Hoffman, Mark D. Double, Detlev Ansinn, Jr., David Bull, and Lori Clipner, Also present were: Mayor Libby White, Borough Manager John H. Davis, Assistant Borough Manager/Zoning & Planning Director Philip Ehlinger, Chief James Donnelly, Director of Finance Caroline Leiter, Borough Solicitor Charles T. McIlhinney, Borough Engineer Robert G. Solarz, and Code Enforcement Officer/Fire Marshal David Cell. Absent were Melissa Bond who was out of town and Jennifer Corr.

APPROVAL OF MINUTES

1.) April 17, 2006 Council Meeting

Upon motion (Clipner-Ansinn) to approve the minutes of the April 17, 2006 Council Meeting Mr. Double said on page 978, when we were speaking last month about the current charges for towing, there was a discussion from some of the tow truck operators who were present that evening about ways in which they could get around the minimum charging rate and it is not accurately reflected in the minutes. It is not mentioned in the minutes. Mr. Thome said he agrees that was part of the discussion and it may become important to get that on the record. Mr. Davis said we can go back to the tape and attempt to add it.

Mr. Thome said subject to that possible amendment all in favor of the motion please say "aye". All Council Members present were in favor.

FINANCE AND ADMINISTRATION - Mr. White

Mr. White said the committee met in the early part of the month and Ms. Leiter

prepared a quarterly report broken down between the Operating Budget and the Capital Budget. Income on the Operating Budget looks okay. Something that we always look at are Parking Meter Fines. Our prediction, back in December for that, seems to be on target, at least as of now. On the expenditure side though police overtime is again rearing its ugly head as are costs for gas, oil, and fuel for this building. He thinks it is time for us to be looking at our police costs and looking perhaps at adding either a full-time officer and/or some part-time officers. He, in no way wants to suggest that we should cut back on the present assigning of officers downtown. He thinks that is very important. He is asking them to look at ways that we can cut back on the costs of the officers that we do have in place. He thinks joining the consortium was a good idea but apparently the part-timers that we get from that have as their long term goal a full-time job. He thinks he is correct in saying that we have lost all of our part-timers? Chief Donnelly said we have not lost them all. We did last week but one (1) came back. We should have him on board if the Municipal Police Officers' Review Board, out in Harrisburg, agrees that the letter from his attorney is sufficient to bring him back. In addition, we have another officer that works part-time for another police department that is looking to work for us and we just started the background investigation for him as a part-time police officer. Mr. Davis said he does think it is accurate to say it is always going to be a struggle. Mr. White said, at the very least, maybe we could look at advertising independently of the consortium for part-timers making it clear that's our goal - to get part-timers - not men or women who have as their long term goal becoming full-time officers. He just wanted to alert Council that this is showing up already in our budget as an item that we have to look at.

Mr. Hoffman said, to the extent that this is a budget item, it has come up at the Public Safety Committee. We had a pretty packed agenda last month, and the Chief is getting back on full-time status, so we pushed it off until next month. What the answers

are, he does not want to preconceive at this point but they will look at any and all of these options and try to come up with the best solution with an eye toward keeping the budget in line. Mr. White said that is his request that the Public Safety Committee have a look at this because over the next few months it's going to be an issue.

Mr. White said, as far as the Capital Budget is concerned, because the stock market is doing so well and because our investments are rather conservative, the interest that we thought we might be getting for 2006 is going to be about \$30,000 or \$40,000 off. We just have to be aware of that here in May so we don't get to December and find that there is a problem eating into the Capital Reserve. Mr. Davis said, just to clarify, the investments are conservative by law.

In response to a question from Mr. Douple, Mr. Davis said the consortium is entirely voluntary. Mr. White said we can withdraw from it and hire ourselves. Mr. Davis said by labor contract our part-timers must be Act 120 certified. That act of certification, typically, is only done by someone who is on track to be a full-time police officer. We will sit down with the Chief and try to look at different strategies to streamline the process.

Mr. Ansinn asked if there are numbers for the in-take costs for the part-timers? Mr. Hoffman said he thinks they can look at all this at the Public Safety Committee meeting. Mr. Ansinn said in the context of that discussion he thinks it would be good to know what the turnover in the part-timers actually costs us in the overall budget. Mr. Davis said they do have that and can get it to them.

WATER - Mr. Bull - no report

COMMUNITY AND GOVERNMENTAL AFFAIRS - Ms. Clipner

- 1.) **Fire Marshal's Report - April 2006**
 - **Doylestown Fire Co. No. 1 Report - April 2006**
 - **Central Bucks Ambulance and Rescue Unit Report**
- 2.) **Code Enforcement Report - April 2006**

Ms. Clipner said Council has before them the Activity Report from the Fire Marshal's Office for April 2006 which covers Building Permits, Reviews, and Inspections, Fire Prevention and Investigation. Also, there is a copy of the Alarm Incidents from the Doylestown Fire Company as well as the monthly Activity Report from the Deputy Code Enforcement Officer. The reports are available to the public if anyone wishes to see them.

3.) Henry Mercer Gravestone Marker Funding Request

Ms. Clipner said June 2006 marks the 150th anniversary of the birth of Henry Mercer. Mercer is buried in the graveyard at Doylestown Presbyterian Church but his tombstone has become worn and illegible over time. As such, Doylestown Presbyterian Church is proposing to mark the grave with a brass plaque. The Community and Governmental Affairs Committee is recommending that Council contribute \$300.00 toward the cost of the Mercer Plaque.

Upon motion (Clipner-White) to contribute \$300.00 toward the cost of the Mercer Plaque for the Henry Mercer grave Mr. White said Ms. Lois McClintock was in the audience to share with us the details of this project. Mr. Double asked Ms. McClintock if, during her presentation, she could explain to Council why it would be better to have a brass plaque as opposed to a Mercer Tile? It would make sense to have a Mercer Tile if we are celebrating Mercer. Ms. McClintock said she does not know why it is not a Mercer Tile. Perhaps, it has something to do with the conditions at the cemetery. Mr. Davis said the Borough was not able to use the treated tiles in the outdoor construction of the signs at the Cultural District. There are a number of tiles that will not withstand weather.

Ms. McClintock said so much of the history of this Borough centers around Henry Mercer and his buildings. It seems to her to have a birthday party and to have people coming to visit your grave it is a shame when your grave is so dirty and covered with moss and algae. Therefore, it was appropriate to have the gravestone cleaned up. Very few

people know that Henry Mercer is buried beneath the Presbyterian Church Cemetery as is the Chapman family, the Mercer family, and Fanny Chapman. In talking to a friend, I learned that a local girl is a preservationist of tombstones. We had her come out and look at the tombstone and went ahead and had her clean the tombstone. The church has promised to have the tombstones of the Chapman and Mercer families cleaned. We have had support from the Bucks County Historical Society, the Doylestown Historical Society, and a few individuals that are planning to contribute to this cause. We are very pleased to have the support and hope to have it completed by his birthday. We will have a 10"x16" bronze plaque at the head of his tombstone. Ms. McClintock passed to Council a copy of the wording that was suggested by the Bucks County Historical Society. Ms. Molly Lowell did the wording. The plaque will cost \$629.00 and then there is shipping, installation, and the stakes that will support the plaque. The total cost will probably come to near \$1,000 complete. The church is going to help with the other tombstones if we get enough money for the Henry Mercer tombstone. Ms. McClintock thanked Council for considering contributing to this cause.

In response to Mr. Hoffman's question, Ms. McClintock said the Friends of the Bucks County Historical Society have contributed \$300.00 but she does not know what the Doylestown Historical Society plans to give or the other individuals. If they get more than enough in contributions, it will go toward the cleaning of the Chapman and Mercer tombstones of which there are seven (7) all together.

Mr. Thome said there was a motion and a second to contribute \$300.00 to this worthy cause and called for a vote. All Council Members present were in favor.

PUBLIC SAFETY - Mr. Hoffman

- 1.) **Consideration of Ordinance #2006 - 5; Prohibiting Brake Retarders on Swamp Road**

Mr. Hoffman said Council authorized the advertisement of this ordinance last month.

Upon motion (Hoffman-Douple) to adopt Ordinance #2006 - 5 prohibiting brake retarders on Swamp Road (Route 313) between Smoke Road and East State Street (Route 202) all Council Members present were in favor.

2.) Consideration of Resolution #2006 - 5; Setting Rates in Plaza West Parking Lot

Mr. Hoffman said The Plaza West Parking Lot contains two (2) "Pay and Display" Parking Units. There is a \$1.00 per hour fee for parking during the hours of operation. These hours are 9:00a.m. to 5:00p.m. Monday through Wednesday and 9:00a.m. to 9:00p.m. Thursday through Saturday. Resolution #2006 - 5 calls for a new rate of \$.25 per hour (equivalent to the normal parking meter rate) for the first three (3) hours of parking and \$1.00 per hour for each additional hour. The escalating rate is designed to encourage turnover while still offering a longer term parking option. The Public Safety Committee is recommending the adoption of Resolution #2006 - 5.

Upon motion (Hoffman-White) to adopt Resolution #2006 - 5 changing the parking rate in the Plaza West Parking Lot to \$.25 per hour for the first three (3) hours of parking and \$1.00 per hour for each additional hour discussion followed.

Mr. Hoffman said he was unaware that you could use a credit card at the parking lot to pay. Mr. Ansinn said that is the issue with the lower rate. The "Pay and Display" Units allow you to pay with a credit card. That fee to the Borough can be as high as \$.55 or \$.60. If we have someone who puts an hour at \$.25 on a credit card, it can conceivably cost the Borough as much as \$.30 to process that payment. He believes, if you lower a credit card based parking rate to below our cost, it doesn't make a lot of sense. Either we can support a different parking rate, when you pay by credit card, or the rate to cover our cost to process the credit card payments is going to have to remain pretty close to \$1.00.

Mr. Hoffman said there is another issue. If it is more to park there than it is for the \$5.00 fine somebody makes a business decision. Mr. Davis said we do allow all types of credit cards. There are three (3) types of cards that would exceed, where we pay an additional charge (a transaction fee), a \$.25 charge they are; Master Card, a VISA Check Card, and a Master Card Debit Card. One of the things we can look at is do we want to offer that full range? It would certainly be difficult to eliminate Master Card. We do not take American Express. The debit cards could easily be eliminated, he thinks, without any trouble. We do, presently, allow transactions less than a \$1.00. You can go up and put a dime in there and get six (6) minutes. There are currently ample opportunities for someone to put a charge on one (1) of those three (3) cards that would result in a net loss to the Borough. The vast majority of the credit card charges that are made, at least looking at the last month, are on types of cards that would not cost us regardless of the size of the transaction. The other issue is offering people who use the lot as many different mechanisms for paying, as much convenience as possible, and in some ways accepting the potential for a loss on a minimum of these transactions. We are not familiar, in looking back at the records, with anybody who has ever made a transaction with a credit card for less than \$1.00.

In response to Mr. Hoffman, Mr. Davis said we can do just about anything you want with the "Pay and Display" Machines. He would caution that the more complexity we add, the more difficult it will be for the average person to use the machine and, as such, we make be getting back to the issue that we are trying to address here which is getting people to use the lot. There are three (3) factors that seem to be possibly affecting the popularity of the lot. One is the technology. Are people comfortable using those machines or would they rather go to a meter? The second is whether the machines are working well which he thinks now they are. The third is the cost. What the business people are saying is that

they believe the difference between the meter rates and the \$1.00 per hour rate in the parking lot (which is the rate it has been for a long time) is causing some lack of parking in that lot and the statistics bare that out. We have done some counts and the parking lot is not as full as it used to be. Mr. Douple said it is not a novel concept to have one rate for cash and another rate for credit. If we are going to end up losing money by allowing somebody to use a credit card that shouldn't happen, but if somebody wants to take whatever advantage they think they have by using a credit card then, they should bare that additional cost. Mr. Bull said technology wise we can just put a limit in there for \$1.00 if they use a charge card. We can post that, as a piece of information, on the meter saying as a minimum it's a \$1.00. There is no complexity added at all. You can just put a sign on it, program it, and away you go. Mr. Davis said they can do that.

Ms. Clipner said so it will be \$.25 per hour for the first three (3) hours, then \$1.00 an hour after that, and if you pay by credit card, the charge will be a minimum of \$1.00. Mr. Davis said that was correct and we are going to keep all the types of credit cards, debit cards, and check cards that we have now. Mr. Davis said the rationale behind the graduated rate is, while allowing lengthy parking if necessary, to encourage shorter term parking which is, he thinks, the life blood of the lot. One of the advantages of the lot is that it is a different technology. It offers something different from the meters, from the monthly rentals, and from the 10hour meters, and that is the intent.

Mr. Hoffman said perhaps one thing they have to look at is; if they are going to charge more for long term parking, then the effect of a ticket is less than what we are charging for long term parking. In other words, if somebody parks for 8 hours, they are better off just going in there and not putting anything in the meter and pay \$5.00. Chief Donnelly said they can get tickets for 2nd violations which is a \$35.00 ticket.

Mr. Thome said there has been a motion and a second and with the addition of the

words from Mr. McIlhinney (---with a minimum charge of \$1.00 for use with a credit/debit card for payment ---) to Resolution #2006 - 5 he calls for a vote. All Council Members present were in favor.

3.) Authorization to Draft and Advertise Ordinance Placing Stop Sign on Scout Way at Pine Street

Mr. Hoffman said this intersection presently has a Stop Sign on the library property for vehicles exiting the parking lot. There is also a Stop Sign on Pine Street at Scout Way for vehicles traveling South on Pine Street. This Stop Sign has a second sign allowing vehicles turning right to proceed without stopping. This second sign would be removed, forcing all drivers to stop at the intersection.

Upon motion (Hoffman-White) to authorize the drafting and advertisement of an ordinance placing a Stop Sign on Scout Way at Pine Street all Council Members present were in favor.

4.) Authorization to Advertise Ordinance Adding Definition Of Removal and Storage Charge for Car Towing

Mr. Hoffman said this came up last month whereby we reset the rates for towing from private lots. The proposed ordinance would add the definition of the phrase "Removal and Storage Charge" to the current ordinance regulating towing from private lots. This addition would limit the fees towing companies could charge by defining charge as the total of all charges for any and all activity involved in the removal of a vehicle.

Upon motion (Hoffman-Ansinn) to authorize the advertisement of an ordinance adding a definition of the "Removal and Storage Charge" for car towing discussion followed. Mr. Double said at the meeting he believes what the committee was recommending the language to be was to add, at the end of the second line of the ordinance, "-----relating to the provision of vehicle towing **and storage** services hereunder." Mr. Hoffman said that was correct. Mr. Double said that was the recommendation coming out of the committee.

Mr. McIlhinney said there is already a definition in the ordinance of Vehicle Towing Services. Mr. Double said then it should just read that it is a removal charge - not a storage charge. If it says removal and storage charge then the definition should be for removal and storage. If the definition is just changing the removal rate then it should be the removal charge. Mr. McIlhinney said unfortunately he did not have the language of the definition of Vehicle Towing Services in front of him. He thinks that may include storage charges. Mr. Double said then the definition should just be for removal charge.

It was decided that Council would move on with the agenda while Mr. McIlhinney waited for a copy of the ordinance book.

5.) Request to Advertise Sale of Police Vehicles

Mr. Hoffman said the Chief is recommending advertising the sale of a 1999 Crown Victoria with a minimum bid of \$1,800, a 1998 Jeep Cherokee with a minimum bid of \$1,900, and a 1995 Chevy S-10 Pick-up with a minimum bid of \$750. The Pick-up is from Fanny Chapman and the other two (2) are Police Vehicles.

Mr. McIlhinney said a form of motion he would suggest to conform to the requirements of the statute is: "To authorize the Chief of Police to sell the described motor vehicles, the estimated value of the entire lot being in excess of \$1,000, by sealed bid, as is, without warranties expressed or implied to the best responsible bidder in accordance with law. The Borough reserves the right to reject any bid below the fair market value of the vehicle." The advertisement will be required at least ten (10) days prior to the bid opening.

In response to Mr. Thome, Mr. McIlhinney said the bid cost does not have to go in there although they can state the \$1,800 for the 1999 Ford Crown Victoria, \$1,900 for a 1998 Jeep Cherokee, and \$750 for a 1995 Chevy S-10 Pick-up do total \$4,450. Mr. McIlhinney said the vehicle values are not necessary for the motion. In response to Mr.

McIlhinney, Chief Donnelly said those costs are the “blue book” value for each of the vehicles. Mr. McIlhinney said it is important to note only if an individual bid would come in much less than that. We would then have the right to reject that bid.

Upon motion (Hoffman-White) to authorize the Chief of Police to sell the described motor vehicles, the estimated value of the entire lot being in excess of \$1,000, by sealed bid, as is, without warranties expressed or implied, to the best responsible bidder, in accordance with law. The Borough reserves the right to reject any bid below the fair market value of the vehicle. All Council Members present were in favor of the motion.

Mr. Thome said they would now go back to the towing ordinance. Mr. Hoffman said he would defer to Mr. McIlhinney. Mr. McIlhinney said the Vehicle Towing Services is defined as “Any business or enterprise operated by a person, partnership, corporation, or other entity which engages in the activity of towing, hauling, driving or otherwise removing any vehicle parked or left unattended on private property or on any private parking lot in violation of 75 Pa. C.S.A §3353 or who causes such activity to take place.” Mr. Hoffman said it doesn’t look like it includes storage. Mr. Douple said he thinks the title should be consistent with what’s there. So it should either be a Removal Charge or if it’s a Removal and Storage Charge then it should be for the provisions of Vehicle Towing and Storage. Ms. Clipner said she thought they were adding Storage because of the indication that the towers were going to add other charges. Mr. Hoffman said, since Vehicle Towing Services is a definition item, put Vehicle Towing Services and Storage Charges in the ordinance amendment.

Mr. Hoffman said he would amend his motion to reflect that and Mr. Ansinn seconded that. All Council members present were in favor of the amended motion. Mr. Hoffman said the only thing further is that the towers still were not happy with the current fees and requested a meeting with the Chief. So, we may have more discussion regarding

the fees but for now they are as they stand.

RECREATION, SHADE TREE AND PROPERTY - Ms. Corr - no report

STREETS - Mr. Ansinn - no report

ZONING AND PLANNING - Mr. Double

1.) Historic and Architectural Review Board Report

Mr. Double said the Board is making the final recommendations for approval:

1. **19 Pine Street - Otto Country Properties** for a new sign and new wood shutters.
2. **17 West State Street - Sun Dog Yoga Studio** for a new business sign.
3. **142 East Court Street - Scott and Kim Nichols** to replace the existing flat roof with a new standing seam metal roof.
4. **118 West Court Street - American Financial Reality Trust** to replace the existing carriage house roof with the condition that the roof is a Georgian Brick color with copper flashing.
5. **118 Mary Street - Patricia Palchan** to replace the siding on the entire residence, remove an existing out-cove, and realign the porch roof using similar roofing materials to the 120 Mary Street address. It is recommended to be approved as submitted with the conditions that the porch roof and wood railing match existing neighbors and a slate line asphalt shingle is utilized on the porch roof. Cement board will be installed at the reconstructed third floor and the soffit of the porch to be a vinyl bead board. The top fascia may be wrapped in aluminum and all gutters are to be a half round design. The house may be sided in hardy plank material, but not vinyl.
6. **18 West State Street - Doylestown Inn** to install a new door/entrance at the location of the existing center window. This will be an entrance for a long-term tenant that only has access through the current lobby. The door is proposed to have recessed steps, a transom, and side lights.
7. **84-86 Wood Street - JMCE Associates** for approval to replace the exterior siding with new vinyl siding. The Board initially tabled this application upon further review. In May, the HARB's President, Vice President, and Code Enforcement Officer, met with the applicant to discuss the options for the building. The applicant agreed to repair the existing wood siding and replace the asbestos siding with hardy plank or wood siding.

Mr. Double said all these applications are being recommend to be approved. Some with the agreed changes others with the agreed conditions.

Upon motion (Double-Bull) to approve these applications, as stated above, Mr.

Thome said he has had the pleasure of attending several of these recent HARB meetings and the people on the Board are very impressive. They do an excellent job. We have a great group of people on that Board and have had some new additions that really add to the panel. They do an excellent job of working with the applicants and being sensitive to the nature of the Historic District. It is gratifying to see them do their work.

Mr. Thome said there was a motion and a second on the floor and called for a vote.

All Council Members present were in favor of the motion.

ENGINEER'S REPORT - no report

SOLICITOR'S REPORT - no report

ZONING HEARING BOARD REPORT - Mr. Ehlinger

Mr. Ehlinger said the Zoning Hearing Board would hold a hearing on Wednesday May 17, 2006 to consider the application of Lisa James Otto. She is the lessee of 19 South Pine Street. She is requesting a modification of a previous Zoning Hearing Board Order to permit the use of the second floor as an office instead of an apartment use. The Zoning District is Central Residential (CR).

The Board also rendered a Decision and Order relative to a previous application that occurred in March.

Robert Kear of 155 East Oakland Avenue requested multiple Variances to construct two (2) new homes in the front yard of his existing dwelling and office. This application was denied and refused.

PERSONNEL - Mr. Thome - no report

MAYOR'S REPORT

Mayor Libby White gave the report of the Police Activities in the Borough for the month of April 2006.

Mayor White said she would like to defer to the Chief of Police to report on the Town Watch Program and perhaps other things. Chief Donnelly said the Town Watch Program seems to be working very well. Currently there are two (2) shifts on Friday night and two

(2) shifts on Saturday night. Of course, we are always looking for more volunteers to work with the Town Watch group. He is really happy with the way they are performing in the town. He worked Friday night and there were maybe twenty (20) kids out there on the corner and there were no problems at all in town. It's too early to declare victory but it seems to be working well. He would encourage other people to volunteer for the Town Watch Program.

In response to Mr. Douple, Chief Donnelly said 1st Friday went pretty well. No real problems in town, no real citations were given out as a result of 1st Friday. There were a lot of people in town. State and Main Streets had to have barricades put up to maintain the safety of the people on the sidewalk. The bands at State and Main Streets at the Lenape Building caused the people to go out into the street so we had to block traffic to make sure that nobody got run over. It was well attended, nice weather, and a lot of people out.

Mr. Thome said to the Chief compliments from Council on the work your people are doing. They are doing great work on the streets. He knows Lt. Cummings worked very hard on the Town Watch and he is to be complimented.

Mayor Libby White said she wanted to let Council know there is a new initiative in the Borough. It was instituted and pressed forward by Judy Manevel who is a town resident. Mayor White said she is so happy to have that kind of interest from residents. Ms. Manevel has wanted to have a group of volunteers do clean-up in the Borough for some time. When we talked earlier this year, we decided we would indeed try to get a group of volunteers to help do this. We have gotten some very helpful assistance from the Doylestown Revitalization Board and from the Starbucks Coffee Company. A group of people representing those groups went out this past Saturday. There were twelve (12) of us over a period of three (3) to four (4) hours. We picked up all kinds of trash, cigarette butts, swept the sidewalks, and visited three (3) parking lots (Starbucks lot, Kenny's lot, and Plaza West). We visited two (2) parks (Doylestown Historical Society Park and Star Park).

They were both in pretty good shape. We went several blocks on East and West State Street, South Main Street, East and West Oakland Avenue. It is a very labor intensive job. The people doing it though are so enthusiastic. We met people along the way that said they would like to do it. We plan to do this about once a month and we would like to schedule it after the 1st Friday so as to get maybe maximum impact. We are looking forward to getting more volunteers and also cooperation from the business owners. We noticed, as we went around, that some businesses are very, very clean. Others are not so. Some businesses have wonderful floral arrangements. Others don't seem to be into that. We are going to persist in making it anti-littering, clean-up, and beautification. She said she wanted to thank John Davis for getting the Public Works Department out there to help them with brooms and gloves. Starbucks has a nationwide program set up so their employees can do good community work and the company will provide funding for a civic group in the town based on how many hours the Starbucks people volunteer and how much work we get done. She thinks they have a good thing going. She encourages Council to spread the word. We are going to try to really fight the littering that's going on.

Mayor Libby White said the Memorial Day Parade is Monday May 29th. Starting at 8:00a.m. there will be an honor guard of Veterans groups at the Courthouse, at 9:00a.m. a flag raising at War Memorial Field, and at 10:00a.m. the parade starts. Everyone on Council is invited to ride in a car. We have invited Mayor and Ms. Neis to ride in a car and she understands Mr. Thome and she are going to ride in a car. Mr. Hoffman said in previous parades it came up that not everyone knows who the Council people are and they suggested putting a sign or something on the side of the car so they know who they are looking at.

Mr. Thome said to the Mayor that they want to thank her for her efforts on the clean-up detail. A suggestion, that he is sure she thought of, but he got an e-mail regarding it,

was the youth participating in the project. He thinks it would be nice, if we have not already, to reach out to the youth on a voluntary basis and ask them to participate and show that they indeed enjoy some ownership and pride in their town also. Mr. Thome said it may be a vehicle by which, if citations start going through, perhaps Judge Daly could consider service on this committee. Mayor White said they did approach the Police Department and they will be working on that with the Youth Panel. Mayor White said they did have four (4) young people helping them their first day. Mr. Bull said he and his wife had the opportunity to walk up to town Saturday morning, although they did not participate in the actual event, they did take some trash bags and on the way up clean and on their way back. One thing he did notice, as he walked through town, was that one spot at Hamilton and State Streets where there is usually a large contingency of kids and no cigarette butt holder. He knows we have had one in the past and it was demolished at one point and removed but would there be any kind of consideration to potentially put something back there. The majority of the trash right in that area is cigarette butts. Mayor White said she would love to see that. Mr. Davis said, if that is Council's desire, we can do that and look for the sturdiest one we can find.

OLD BUSINESS/NEW BUSINESS

Mr. White said Council got a notice from Mr. Davis about FEMA Training. He was curious as to why they would have to go to Allentown to do that. He checked with the people at the state/local government office and a gentleman explained that there are probably local people that can do the training for us. Mr. White inquired here and, in fact, Kelli Scarlett can do the training here, or you can go to the county, or you can do it on-line. We might want to consider doing it with the Township. There is also some question though about who actually needs the training. He thinks that is still a little bit up in the air. Mr. Davis said they did confirm that we can do the training but we are waiting for the materials.

Mr. Hoffman said while they are on Old Business/New Business there are two items he would like to bring up. The first one perhaps Mr. Thome can direct which committee it should go to. We do participate in the Hazardous Materials Collection with the County and it came to mind that, either as a Borough or encouraging the County, with as much talk as there is on identity theft, maybe we could run a shredding operation periodically for people to bring their things to shred. He does not know what committee it should go to but he wanted to bring that up. He saw in the paper that one of the banks was offering it, as a promotion, and he thought it would be nice for the Borough to do or encourage the County. It was decided to send it to the Community and Governmental Affairs Committee.

Mr. Hoffman said another item he wanted to bring up, for the attention of Council, which Mr. Bull and he discussed, was regarding smoking in the Borough in confined public spaces. The states around us have enacted laws regarding that. He has had some discussion with the Solicitor as to whether we can or can not enact a law regarding that but there is some confusion. There is a bill in the State House. Sue Cornell has House Bill #1489 and the Senate has Senate Bill #602 and that's the prime sponsor of Stu Greenleaf. Despite what's written in the Borough Code, apparently the state had this issue with the Fire and Panic Act. It was removed from the state then because of the state wide Building Code to allow the municipalities to have more stringent regulations than the state. Apparently that was repealed and not repealed so there is a question as to who has the authority at this point. Two things he would say is maybe we could look at whether, in fact, we do have any authority on this issue and if not, maybe we could look to give our thoughts to either the House Bill or the State Bill. It will be much like we had impact on the liquor control issue. He thinks we are a good spot to have an impact on this. In the interim, he said, he has talked with a few of the established owners and the recommendation that came back was that we ask for a voluntary compliance at this point. He would pass this

along for consideration as to if that is something we would want to do. Mr. Thome said he thinks this type of matter would be a zoning matter. The contemplation of some regulation of activity on real estate. Mr. McIlhinney said not necessarily. In the context of the Fire and Panic Act perhaps it would come under that. Mr. Ehlinger said we have a Fire Prevention Code, a separate existing Building Code, and that has been adopted and authorized by the state wide Building Code Act. Under that it does regulate existing buildings and existing occupancies. Because there is an underlying public safety interest and a fire safety interest that could be a vehicle to regulate smoking in buildings. It does regulate smoking in many type of occupancies as it is. The question is whether that would be expanded to assembly uses such as restaurants. Mr. Thome said this is indeed a zoning matter is it not? In a sense, any time you attempt to restrict the use of property in some fashion would be a zoning matter. Mr. McIlhinney said this would not necessarily be under our Zoning Ordinance but it might come under the Building Code. Mr. Thome said he is trying to determine what the best committee is to explore these issues. Mr. Hoffman said he thinks the Solicitor needs to give us some direction as to whether or not we have legal standing. If we don't, then maybe it is just a recommendation to the state. To be silent on the issue he thinks is a little derelict in their duty.

Mr. McIlhinney said the Borough Code under Section 46202 has language that "prohibits the smoking or carrying of lighted cigarettes, cigars, pipes, or matches and the use of matches or fire producing devices in retail stores arranged to accommodate one hundred (100) persons or more or employing ten (10) people." That relates to the grant of our power to regulate this matter. In the first instance, at least, there is language that says we have the right to do it - to prohibit smoking where it relates to places that are designed to accommodate one hundred (100) or more people or employ ten (10) or more employees. By implication, if the place did not have that number of people or employees, we would not

have the power under this particular action to do it. In addition, there is a restriction that says “any ordinance under this clause shall not prohibit smoking in any restaurant, rest room, beauty parlor, executive office, or any room designated for smoking in such store.” Although we have some difference of interpretation, it is my opinion that means what it says. If you have a restaurant and a store, you can’t regulate the smoking, even if it takes up one hundred percent (100%) of the store. Having said all that, when you get to the Fire and Panic Act, the Section 1230.1, which relates to Clean Indoor Air, it defines certain areas; “Bar Areas,” “Public Place”. “Public Place”, for our purposes, what we are talking about here, would mean “an enclosed indoor area which is not owned or operated by a State or local government agency, which is used by the general public and which is any of the following.” One of the following is “a workplace”. It also includes various other things but for our purposes “a workplace”. Because a workplace is defined as “an enclosed indoor area serving as a place of employment, occupation, business, trade, craft, or profession”. That would pretty much apply to any retail stores, bars, restaurants, etc. The prohibition under this State law is that “no person shall smoke in an area designated nonsmoking by the proprietor or person in charge in a public place or at a public meeting.” So, an area which is designated as nonsmoking by the proprietor can not have smoking in there. However, it then has certain places that are exempt from that and two of those are; “restaurants seating fewer than seventy-five (75) persons” and “bar areas in a liquor licensee establishment”. It goes on to say that “the regulation of smoking in restaurants with seventy-five (75) or more seats shall be governed by the following:” in this case, “restaurants shall provide for their patrons smoking and nonsmoking areas.” So, under seventy-five (75) it is sort of discretionary with the proprietor. Over seventy-five (75) they have to provide smoking and nonsmoking areas reasonably calculated to address their needs. Also, restaurants are supposed to make a reasonable effort to prevent smoking in

the designated areas by posting signs and arranging seating so that nonsmokers are with nonsmokers, etc. They are also supposed to “ask smokers to refrain from smoking in nonsmoking areas”. The regulation of smoking in restaurants with fewer than seventy-five (75) seats shall be left to the discretion of the proprietor provided that; if he doesn’t have any restrictions, if he chooses not to, then he has to have a no smoking policy and post a notice of a lack of a policy at each of his entryways. Restaurants which choose to provide nonsmoking, even if they are under the seventy-five (75) seats, would do it the same as those that have over the seventy-five (75) seats. The last item is that the actions are also limited. If there is a violation in any of these areas, there is no citizen right, for example, to take action. In fact, the actions are limited to the Department of Health or local board or department of health under this section. That seems to be a fairly comprehensive analysis dealing with the situation. Mr. Thome asked if the Borough has the authority to vary from what the state says? Mr. McIlhinney said Section 1235.1 is entitled Preemption and it says “This act shall preempt and supersede any local ordinance or rule concerning the subject matter of sections 3.5 and 10.1 of this act.” It would seem that this act here preempts the field with respect to this subject matter. Mr. Hoffman said the Fire and Panic Act did preempt. The state wide Building Code removed that preemption because that allowed us to have stricter standards. It has been back and forth with some messy repeals. Mr. Thome suggested to Mr. Hoffman that there are some primary issues that need to be mulled through. We can submit this to the Zoning Committee subject to anyone who wants to do further investigation on what Mr. McIlhinney is telling us here tonight and come in with a contrary view.

In response to Mr. Thome, Mr. Hoffman said he did check this with the Boroughs’ Association and they could not find a Borough in Pennsylvania, at this point, but there is no clearing house for that information. Mr. Thome said he thinks they all recognize that

before they even get to the discussion of the merits of any such thing we need to come to some conclusion as to whether we have any authority to act. With everybody's agreement, let's refer it to the Zoning Committee for further discussion and investigation into what authority, if any, a Borough has in these circumstances. We could send out a reminder letter to all our restaurants of what these requirements are. He does not know if they are complying or not complying now. Mr. Hoffman said they do have the option, as many of our establishments already have chosen, to become nonsmoking in total. The feedback he has gotten, from some unlikely sources, is that they would be willing to have a voluntary compliance on that issue.

Mr. Bull said, along those lines, coupling that with a healthier community movement he thinks we are all trying to get from a littering standpoint, and the teen issues, effectively that could be coupled on those kind of establishments. This would be from a purely voluntary perspective at this point.

Mr. Thome said in terms of official Borough Council action, we will refer this for further study. Obviously, any suggestion or request or coordination of any voluntary effort on behalf of all of our restaurants would be great.

Mr. Double said he has one item that is either Old or New Business depending on how you look at it. In just three (3) weeks we are going to have our first annual Doylestown Kids Triathlon. It is a partnership between the Borough, the Township, Cycle Sports of Doylestown, and Fanny Chapman. It is on Sunday June 4th from 8:00a.m. to 12:00noon. We have three (3) age groups; 7 to 9, 10 to 12, and 13 to 15. The 10 - 12 age group is getting close to being filled. We still have room in all three but more so in the 7 to 9 and 13 to 15 year olds. He said he suspects that all of Council will be getting a message asking them if they are all available that morning to come out and help volunteer for this first event.

PUBLIC COMMENT

TREASURER'S REPORT - Ms. Leiter

Ms. Leiter said the Treasurer's Report for the month of April was included in Council's Packet showing revenues and expenditures for that month and also vouchers payable after approval.

Upon motion (Ansinn-Bull) to approve the expenditures all Council Members present were in favor.

EXECUTIVE SESSION

1.) Real Estate

Mr. McIlhinney said this agenda item was regarding the acquisition of real estate.

Upon returning from Executive Session no action was taken.

ADJOURNMENT

Upon motion (Hoffman-Clipner) to adjourn the May 15, 2006 Council Meeting all Council Members present were in favor.

Respectfully submitted,

John H. Davis
Borough Manager