

MINUTES OF THE PUBLIC HEARING AND MEETING
SMYRNA TOWN COUNCIL
October 18, 2010

PUBLIC HEARING

The public hearing was opened at 7:01 p.m. by Mayor Patricia A. Stombaugh. Council members present were Regina I. Brown, Valerie M. White, Robert M. Novotny, William C. Raynor, Robert Riddagh, and Anthony H. DeFeo.

Also present were Town Manager David S. Hugg III, Captain Wilbert Bordley, Attorney John Terence Jaywork, and Recording Secretary Valerie L. Heritage.

Mayor Stombaugh said the purpose of the public hearing is to receive public comment on the proposed borrowing, on the full faith and credit of the Town, up to \$11,000,000.00 from a public sale of municipal bonds through negotiation utilizing an investment banking firm at an interest rate not to exceed 5.50% per annum, amortized over not to exceed 30 years. She said we are going to start tonight with a presentation from Captain Bordley.

Captain Bordley gave a PowerPoint presentation which depicted the working conditions they currently have at the police station.

When Captain Bordley finished his presentation, Mayor Stombaugh invited the visitors to come forward to speak. She reminded everyone that they must give their name and address since it is being recorded.

Melaine Minear, 41 South Main Street, Smyrna, came forward to speak. Ms. Minear asked for something to be passed to Captain Bordley - she said it was the Law Enforcement Oath of Honor. She said this is recommended by the National Association of Chiefs of Police, and she read it into the record: "On my honor I will never betray my badge, my integrity, my character, or the public trust. I will always have the courage to hold myself and others accountable for our actions. I will always uphold the Constitution, my community, and the agency I serve." Ms. Minear said that's laminated, it can go in your wallet. She said she goes by the Boy Scout Code of Honor. Ms. Minear said she would like to read a statement regarding the issue of \$11,000,000.00: "Regarding the topic of borrowing \$11,000,000.00 in order to reduce the expenses for the current debt and borrowing additional funds to build an addition on our current

Smyrna Police Department building on Glenwood Avenue, we submit the following to be included as part of the public record. We do not support the borrowing of \$3,000,000.00 to be used toward a new addition to the police department facility. 1) Our Town has serious financial problems. Now, more than ever, we must not drop a 'poll' or 'head' tax upon our citizens, especially those who have limited income. It is not in the best interest of our citizens to even consider that all property owners would be accountable for the same amount; 2) The Mayor has stated 'approximately \$6.00 per month'. It is presumed that it is based upon a cost of \$3,000,000.00. During a Town of Smyrna Finance Committee meeting held earlier this year, it was stated that that figure was an initial estimate. Furthermore, via teleconference, Councilman Novotny very clearly stated that he did not believe that we should consider building an addition, what with the current financial problems; 3) There have been numerous issues regarding the quality and ethics of our former Smyrna Police Department Chief. Considering the manner in which former Chief Baldwin departed his position, we do not assume that he took all of the long and questionable ethical footprints with him - that is sad to say, but it's the truth; 4) Based upon several recent incidents in our downtown historic district, including two incidents involving a very aggressive pit bull, there is continued concern that we may be living with 'policing as usual', which is not acceptable; 5) Considering the 'slow to no action' involving the Smyrna Citizens' Coalition 'Four Point Wish List', which includes minimal crime statistics being given to our local newspaper, the Sun Times, for publication, we continue to ask you, our Mayor and Council 'when might we expect to have a better quality of public safety? Our public safety and our First Amendment rights continue to be violated. We do not support the building of an SPD addition at this time - if space is needed please bring in a portable building or two."

Joseph Wilson, 27 Harkins Drive, Smyrna, came forward to speak. Mr. Wilson said Captain Bordley spoke about security (in his presentation), and he asked Captain Bordley when was the last time that we had a security threat in Smyrna. Captain Bordley asked what type of threat Mr. Wilson was talking about. Mr. Wilson said bombing; he said Captain Bordley spoke about barriers being put up for bombing.. Captain Bordley said we have not had one, and he hopes we don't, but he can't pray and hope that that never happens or doesn't happen. Mr. Wilson said Captain Bordley also spoke about the sewage - that the smell was coming from the sewer - he said he can appreciate that because he lives in Green Meadows II and they have a sewage problem there; they smell sewage each and every day. He said he

understands that the last time that the Council took out a loan it was to replace the whole pumping station that has needed to be replaced in Green Meadows. Mr. Wilson said he has over 91 signatures against - not against the building of the police station, but against taxing the citizens of \$6.00 more each month. He said he knows the Mayor has said that people waste more than that a month and \$6.00 may be a couple of Happy Meals, a loaf of bread, gas in your car - times are really tight right now. Mr. Wilson said people are losing jobs, getting laid off, healthcare is a problem right now, and it's hard. He said he is a diabetic; thank God he has insurance, but yet there is still a co-pay and that co-pay is \$8.00 for his insulin, so that \$6.00 would make a difference. Mr. Wilson said there are people who wonder sometime how they should pay their electric - should they pay half of their electric, should they buy food, or should they get their medicine that is very well needed. He said he is sorry to say that they used to have two promissory notes to help them out and that was taken away from them.

Latoyia Rothwell, 905 McLane Gardens, Smyrna, came forward to speak. Ms. Rothwell said she agrees totally with Mr. Wilson; she is a single parent of three children. She said she works and she does get child support, but she scrapes, scrapes, and scrapes to pay her electric bill. Ms. Rothwell said they recently had an increase for trash and like Mr. Wilson said, \$6.00 for her is gas to go to work. She said where she lives there are a lot of unfortunate people - she says she is one of the fortunate ones because she does have a job - there are some people - elderly, or disabled - there that can't get out and work. Ms. Rothwell said she does not think it's right to add \$6.00 a month for whatever you need to fix or for you to build a police station - and she won't speak on the police - Smyrna police is just not one of her favorite things. She said she does not feel that they do their job.

Mayor Stombaugh stated that they needed to open the Council meeting, and then they would re-open the public hearing.

REGULAR MEETING

The meeting was called to order by Mayor Patricia A. Stombaugh at 7:31 p.m. Council members present were Regina I. Brown, Valerie M. White, Robert M. Novotny, William C. Raynor, Robert Riddagh, and Anthony H. DeFeo.

Also present were Town Manager David S. Hugg III, Captain Wilbert Bordley, Attorney John Terence Jaywork, and Recording Secretary Valerie L. Heritage.

Mayor Stombaugh asked everyone to rise for the Pledge of Allegiance. Mayor Stombaugh asked for everyone to remain standing for a moment of silence.

Mayor Stombaugh said we will now re-open the public hearing.

Christine Morin, 325 Julia Way, Smyrna, came forward to speak. Ms. Morin said her first issue is with the police department - there is not a lot of patrol during the day on that street (her street) or by the Smyrna Pool, especially now when the pool is closed. She said she has called the Smyrna Police to investigate suspicious cars sitting there doing nothing, and people eating lunch or doing whatever - they're just sitting there doing nothing. Ms. Morin said it is very scary for her. She said her other issue is - she guesses this is addressed to Captain Bordley - she is very interested in what happens with their vital records and how those records are rotated. Ms. Morin said it seems like there is not a big space for that to happen, and it has been brought to her attention within the last three days that some personal events that took place when she first moved to Smyrna are now on the street in the public eye. She said she would like to know - she does not know how that happened - it is a concern, people's personal information that happens in that police station should stay in that police station, and if it's a vital record it should be rotated and moved out to a vital records location that secures it from fire or any other damage to be held for the proper time that it needs to be held. Ms. Morin said she is very upset with the fact that two personal events that were serious events - happened to her and now they are in the public eye. She said within the last three days a couple of people have spoken to her about them and they know about them. Ms. Morin said she does not know how, because she does not speak about them. She suggested that the police get vital records experts in to see how they can control vital records.

Cindy Cogar, 123 West Hamilton Lane, Smyrna, came forward to speak. Ms. Cogar said unfortunately she missed most of Captain Bordley's presentation, but she wanted to just say that she is against borrowing the \$3,000,000.00 to build a police station. She said any increase to her monthly budget is just not acceptable. Ms. Cogar said she is a single mother also, and

she does get child support, and she was going to go to the bank today to deposit her \$13.00 child support check but she decided it was not worth it in gas to do that. Ms. Cogar said she would recommend that the Council votes no to increasing this; however, she thinks borrowing the money to pay off a higher interest loan is acceptable, but not at this time to build a new police station.

Trisha Savage, 25 Harkins Drive, Smyrna, came forward to speak. Ms. Savage said she has worked at a nursing home for 11 years. She asked Captain Bordley if the building we are in right now, Town Hall, bulletproof. Captain Bordley said he is not sure. Ms. Savage said Captain Bordley pointed out in his presentation that the police station is not secure, so the Town meetings as far as she knows have been held here for a considerable amount of time - nobody has ever questioned the safety of them being held here. She said she does not think there are many people here tonight that can say that their homes are bulletproof either. Ms. Savage said you're asking us to donate \$6.00 a month for at least five to six years possibly - she agrees with Mr. Wilson, there are a lot of people who have medication. She said that's why Wal-Mart made their \$4.00 program - because people can't afford medication. Ms. Savage said there are tons of points to be made; the economy is bad, nobody can afford the extra \$6.00; our homes aren't bulletproof, so if we wanted to make our homes bulletproof we're not going to ask you for an extra \$6.00 a month for six years because we want to be helped out. She said what she thinks that, and in the kindest way any of us could ask you to do is to go by the rule of 2: first ask for a loan that you guys pay yourself, pray you get it, and then pray you get a low interest rate.

Steve Wright, 767 Dorchester Court, Smyrna, came forward to speak. Mr. Wright said he knows on the agenda today is the issue that he had brought up at the last meeting, about reducing the lake level. He said after talking with a few neighbors and folks... Mayor Stombaugh said excuse me sir, this is on the police station. Mr. Jaywork stated Mr. Wright would have an opportunity to address the lake later on.

Roseann Maguire, 992 Tamara Drive, Smyrna, came forward to speak. Ms. Maguire said she is sure we need a new police station, but she is a senior citizen and they did not get a raise last year, they will not get a raise next year, and \$6.00 is really a lot of money every month. She said she thinks at this time we have to wait until we can afford a new police station.

Bill Pressley, 555 Lake Drive West, Smyrna, came forward to speak. Mr. Pressley said six years ago when he was on Council, he and other Council members tried to get this police station started back then. He said they could not get enough votes on Council to get it going. Mr. Pressley said now times are worse than it was six years ago, and now you all want to do this police station now. He said Mayor Stombaugh and a few others campaigned for re-election saying that this police station would not be done on citizen's time or money. Mr. Pressley said more than once you (Mayor Stombaugh) have said the new police station would not be done by the citizens of this town. He said what we want to do is get new businesses in town to pay for the things that we want. Mr. Pressley said we want to borrow money for things that we need. He said at this time - he and a lot of other people - it's not a good time to build a police station. Mr. Pressley said as much as he fought for a new police station - the economy is just too bad; he doesn't care how low the interest rate is, when you don't have the money to pay it back.

Kay Wyatt, 563 Kates Way, Smyrna, came forward to speak. Ms. Wyatt said she would just like to know if crime is up that much in Smyrna that we need a new police station. She said she has called the police a couple times for her neighbor's dog; she has never seen a line at the police station to pay a ticket or anything; is crime really up that much? Captain Bordley said crime is not up in Smyrna; the facility itself is not adequate, that's all. Ms. Wyatt said so you could make do with what you've got for a couple more years until the economy is better. Captain Bordley said that is the decision of the residents and Council. Ms. Wyatt said so this is a want, not a need. Captain Bordley said it is a definite need.

Latoyia Rothwell came forward to speak again. Ms. Rothwell asked why they need a new police station; from what she saw it is just due to a lack of space - storage space. Captain Bordley said it is not just space, but just the inadequacies that were in the building - it's not secure, it's not safe, we're not in compliance with a lot of sight and sound issues, and at some point hopefully the State doesn't come in and want to shut us down. Ms. Rothwell suggested consolidating some stuff in the garages in the back - that can be another room. She said she just can't see \$6.00 a month extra going to something that's not really needed. Ms. Rothwell said she would pay \$6.00 to have some daily community policing where she lives.

Christine Morin came forward to speak again. Ms. Morin said she owned the Sugar Plum Parlor on the corner; that was a

viable business on the corner. She said she put all of her hard earned money into that business; she had to shut it down because of the drugs and the activity that was going on in that business. Ms. Morin said she could not keep that business together based on the activity that was going on. She said she complied with everything that the Council asked her to do; they asked her to mover her sign to the left, she moved it to the left; they asked her to move her sign to the right, she moved her sign to the right; they asked her not to have a sign, she took the sign away; they asked her not to have picnic tables, she did that; she did every single thing she could do to keep that business clean as possible; she went into debt for that building, and if finally coming out of debt from that building; between that she got cancer and survived all of that, and she is telling everyone it is all because of the drugs - that's what made her shut her business down, because the drugs were right across the street. Ms. Morin said if anyone also realizes, we happen to live in the town where the actual community prison is, so what do you think is happening?

Jeff Flairty, 131 West South Street, Smyrna, came forward to speak. Mr. Flairty said he can't comment on the need for the police station because he is just not knowledgeable enough to do that; he is going to talk about something that he is knowledgeable about which is municipal financing. He said he is an engineer who has a number of different municipal clients here in Delaware, and this is an issue that municipalities, small towns, and counties throughout the state have to deal with on a daily basis - how do we pay for putting water pipes in the ground, how do we pay for sewer, how do we pay for police stations, new city halls, new libraries - capital improvements to keep up with the growth of this town. Mr. Flairty said we just went through a process of getting money from the state and the federal government at much better interest rates than this, and the town just kind of accepted the fact that they're going to have to pay that back, but there's not a special mechanism in order to address how we're going to pay for that. He said the same situation is happening now in that the town wants to spend \$3,000,000.00 to build a new police station and you come up with this scheme that charges people \$6.00 a month over whatever period of time to pay it off, when that's completely contrary to not only the accepted, but recommended way to do this. Mr. Flairty said you have to bill the people that use the structure, or the facility, or the infrastructure; how long Captain Bordley, do you think a new facility would be able to be used - 20 years, 10 years, 30 years? Captain Bordley said somewhere along those lines - at least 20 or 30, but nobody has a crystal

ball... Mr. Flairty said he understands that and he does not expect Captain Bordley to come up with an answer, but the answer he was looking for was more than the six or seven years that it's going to cost us to do this. He said so what, Madame Mayor, you are asking us to do is to charge all the people that are currently residents of the town this surcharge, which isn't a tax but it comes out of our pocket anyway, and you can't claim it to your federal income tax so that's a penalty too, and what happens after that seven year period that it's paid off everyone that moves into town after that, all the businesses that come into town 10 years from now - they get a free police station, and we're subsidizing their police station. Mr. Flairty said it doesn't make any sense; that's why municipal bonds are 20 to 30 years because they extend over the lifetime of the things being built with that money. He said it makes no sense to try to finance it on an accelerated path. Mr. Flairty said what this town needs to do is that we are growing whether we like it or not; whether we need a new city hall some day, whether we need a new library, whether we need pipes in the ground - there needs to be some common theme that we use to make sure that the new developments help pay for that, the fees are adequate, whether they're too high, too low, that needs to be figured out. He said we need to make sure that the burden for this infrastructure and all of these costs that we come up with that need to be done are equitable. Mr. Flairty said right now throwing the \$6.00 a month charge on the people that live here right now because it's convenient, and it doesn't look like a tax - it's not convenient and it's not proper.

Jim Strong, 829 Fayette Road, Smyrna, came forward to speak. Mr. Strong said he has great respect for Mr. Flairty - they are both members of the Utility Committee. He said he does want to pick up on one comment Mr. Flairty said, which he may disagree with, he said this isn't a tax this is a surcharge regarding the \$6.00. Mr. Strong said it just reminds him of the old saying if it walks like a duck, quacks like a duck, it's a duck. He said you can put whatever name you want on it, but it's going to cost \$6.00 a month more for a lot of us. Mr. Strong said another speaker mentioned the latest trash rate increase - it all adds up. He said he just thinks people should be aware of all of this - can they afford all of these increases. Mr. Strong said what he is hearing from people tonight is they're not satisfied with the way the police are performing now. He said tell him how the new police building is going to help businesses succeed in Smyrna - that needs to be addressed. Mr. Strong said people live paycheck to paycheck and

you are asking for more, but what are you going to give them in return.

Melaine Minear came forward to speak again. Mayor Stombaugh said because she let other people speak twice she will let Ms. Minear, but Council has just asked that it be limited to one time per person. Ms. Minear said we also have an issue about the egg timer problem, but we'll deal with that one later. She said she is back up here again because she recently signed up to enroll in the citizens police academy in Dover; she attends classes at the Dover Police Station and she went on her first ride along Friday night - it was Delaware State and Wesley College's homecoming so it was rather a busy night. Ms. Minear said she is not here to trash the police, she is in support of the police, but she knows the difference between good quality and poor quality service. She said those of us who live in the historic district either are like this with blinders - everything's lovely, or we do see what's going on including some scary evidence left in people's yards to scare them, two pit bull incidents - she hopes she gets to chat about it with Captain Bordley - and in the Public Safety minutes, Councilman Riddagh, you left out some of the information including what was stated about the aggressive pit bulls - there were 32 of them removed from one property three years ago - the state had to come in and do it. Ms. Minear said now they're back being raised again; our citizens are being put at risk, including the elderly, children, young people wanting to be downtown and enjoy their ice cream cones, but we don't have an ice cream parlor - why is that - it's called eminent domain. She said Mr. Hugg, our Town Manager, and Mr. Jaywork were quoted in an article from 2007 regarding their status about eminent domain - let our downtown die, which is very obviously happening, selectively enforce, allow the prostitutes to do 24/7, allow those that for some reason are not busted to sell the drugs and the rest of the property owners that do care about our history and try are left in the lurch. Ms. Minear said we are victims of poor service for some reason it is documented, it is nonfeasance and for our Mayor and Council, and our Captain Bordley and everyone else up here that so obviously support lack of enforcement and placates is an atrocity.

Mayor Stombaugh asked if anyone else would like to speak. No one came forward. Mayor Stombaugh said seeing no one else step forward we will close the public hearing at 7:56 p.m. and we will open the regular Council meeting.

ADDITIONS/DELETIONS TO PUBLISHED AGENDA

Mayor Stombaugh asked if there were any additions or deletions to the published agenda. There were none.

Mayor Stombaugh asked if there was a motion to accept. Councilman Raynor said so moved. Motion was seconded by Councilman DeFeo and carried unanimously.

MINUTES OF PREVIOUS MEETING

Mayor Stombaugh asked if there were any additions or deletions to the minutes of August 16, 2010. There were none.

Mayor Stombaugh asked if there was a motion to accept. Councilman Novotny said so moved. Motion was seconded by Councilman Raynor and carried unanimously.

REPORTS

A. Bills & Financial Statement - Mr. Hugg said he believes Mr. Stulir has emailed Council both the current account balances report on Friday and today the update on the real estate transfer tax information for the last month. He said Mr. Stulir also put on Council's desk for tonight, for consideration by the Finance Committee as it moves forward, a first draft of the 2011 budget based on our discussions from last week.

B. Presiding Officer - Mayor Stombaugh said she would again like to thank Kraft Foods and KaBOOM! for the \$40,000.00 grant that they gave to the Boys & Girls Club. She said last Saturday we built the playground and it is quality equipment and it's a very nice addition to our town. Mayor Stombaugh said we had a problem with a lot of the young children trying to cross the four lane highway to get to this side of the town to go to our parks, and now they have a nice little park over on the east side of town. She said she also would like say that there was a very nice affair last Monday night at the Opera House. Mayor Stombaugh thanked the Opera House and Alice and Bill Hill for the refreshments that they provided for the welcome home ceremony for the Marine who returned home from Afghanistan. She said it was the first welcome home ceremony; they're forming a committee and there are going to be more it was a wonderful ceremony.

C. Town Attorney - Mr. Jaywork said he had nothing to report this evening.

D. Police Chief - Captain Bordley said he had nothing to report other than the homecoming festivities went well, very few incidents.

E. Town Manager - Mr. Hugg said Council has his report in their packets. He said we did meet with Levy Court Commissioner Brooks Banta and actually toured the lake, following which they (Mr. Hugg and Commissioner Banta) contacted Health & Social Services regarding some trees that have fallen from their property and also Capano Homes regarding some tree that have fallen from their development project and got their assurances that they would take care of those issues. Mr. Hugg said also, we aggressively followed up on the Woodland Manor issues; he is please to report that in Phase I, which is the part that is the Town's responsibility, while there weren't a large number of issues to resolve, the Public Works crew completed most of the Friday, finished up today and thanks to a much more responsive project manager at that site the paving crew was out today working on those parking pads and taking care of the problems that were in Phase II which is the developer's responsibility. He said hopefully we've gotten ahead of that problem. Mr. Hugg said we will be flushing hydrants beginning tomorrow so there will be some possible short-term problems with - you might see some sediment in the water or what have you as we do the routine flushing. He said that will be for the next three days. Mr. Hugg said he is please to say that we signed an extension to the existing trash contract with Waste Management at the same rates we're paying now for an additional six months. He said finally, the town staff worked with the Division of Archives to see if we couldn't get some additional storage space here in Town Hall - we archived 36 boxes of materials today that went to the State Archives, so we made a major dent in some of our filing needs downstairs, and he wanted to thank Mr. Stulir and his staff and Public Works because they helped out as well.

Mayor Stombaugh said she would like to thank Mr. Jester, Mr. Vigneri, and everyone that was concerned with helping out with the Woodland Manor project - a job well done.

F. Committees - Councilman Riddagh said the Public Safety Committee met on October 14, 2010. He said they had a very good attendance; they touched on a couple things - it was explained that the state has changed their statute concerning parking violations, changing the statute to read civil instead of criminal and they are going to recommend to Council at the next meeting that we do the same to be in compliance with that. Councilman Riddagh said they also touched on Section 1-11,

Chapter 1, where there has been much discussion about changing the wording from civil to criminal for a number of reasons - just because it is on the agenda to be read a second time does not mean we are changing it, we are in conversation with the Chief Justice of the JP Courts, so we're investigating that. He said a couple Homeowner's Association Presidents attended; their problems were taken care of satisfactorily, according to them. Councilman Riddagh said they also discussed a curfew - there are many pros and cons, and they believe Captain Bordley's come up with a suitable alternative. He said Ms. Minear spoke on a couple of things; there's been some concern about the minutes not getting posted on time - he brought extra copies and put them over on the table if anyone would like them, or give him an email address and he will send the minutes each time. Councilman Riddagh said he writes the minutes; he does not write it word for word - he paraphrases it. He said if in your case, Ms. Minear, you would like something to be in it all you have to do is ask him - he has no problem putting it in there, but he doesn't put it in word for word. Councilman Riddagh said just to answer a couple of people - the ones that are complaining about things not being done, you are more than welcome to come to the Public Safety Committee meetings and bring that to their attention; there could be a number of reasons why things are not being done - good or bad, but if you bring it to their attention at least it's some place to start.

Councilman DeFeo said the Utility Committee will be meeting again on October 20, 2010. He said there are a couple things on the agenda and one is that they have been looking at the water rates now for seven months, and we will be discussing the results of those calculations. Councilman DeFeo said he thinks that Mr. Flairty did some very good research, came up with some numbers, and they will be discussing them; also long term outlooks for the town utilities will be discussed. He said options for yard waste, as well as recycling will be discussed.

Councilman Novotny said the Long Range Planning Committee did not meet tonight due to the public hearing this evening. He said they will be meeting next week. Councilman Novotny said they are starting to receive pieces by the various departments, and they are putting together a long term plan.

Mayor Stombaugh said the Finance Committee met, and they've been working on the budget for 2011. She said they are having another meeting - a special meeting on November 25, 2010. Mayor Stombaugh said they are trying to get the budget ready and out to the public - she would like to have it to Council at the

first meeting in November, and vote on it at the second meeting of November, which would put us a month ahead of what we have done in the past. She said we have cut the budget for the last three years, and she is proud to say that our town has come through it unscathed. Mayor Stombaugh said with the help of the employees they have come in under budget almost all three of those years. She said where we are right now, unless something changes, is where we're going to be forever - people don't want their taxes raise, people don't want to - she doesn't want to see any jobs lost, that doesn't help the economy, but looking at the budget and looking at everything we're trying to find the best places to save money, to cut money, to do whatever we can do to move forward, because as it stands right now with the budget we have with no tax increases, what you see in this town is what you get until the economy comes back. Mayor Stombaugh said there will be no improvements unless there's a grant that comes out - there is no money left in the budget - we are maxed out. She said we used every dime of the budget at least the last two years from the employees' sacrificing and not getting things that they needed which they can't do forever, we've had a little bit of a surplus, but that surplus isn't enough to get these major jobs done. Mayor Stombaugh said she thinks that a couple of the points that people really missed tonight was - she came up with the idea of how to pay for this police station; she was trying to be innovative, trying to think outside of the box. She said we can't continue to do it the way it normally is done. Mayor Stombaugh said if we take a loan for 20 or 30 years we are going to be paying that loan for 20 to 30 years - what happens when we need something else? She said what happens if one of the water towers goes; are we going to go out and get another loan? Mayor Stombaugh said that is what has put the country and the world where we are today, because everybody just got a loan to fix a loan to fix a loan. She said her proposal was not for 20 years; it was anywhere from five to a maximum of ten years. Mayor Stombaugh said then it would have given us the opportunity to move on and do another major job that needs to be done. She said there are some people that wanted to know why our police force was not accredited; well by the PowerPoint that Captain Bordley did tonight our police force will never be accredited the way things are right now. Mayor Stombaugh said we are not in compliance with a lot of laws with the police station. She said she was on Council in the 80's when the police station was in the basement of the library; their radios didn't work because they were in the basement, but when we wanted to build the police station that they are in now we got the same thing that happened here tonight. Mayor Stombaugh said our town has the ability right now - before she became Mayor, the population was

a little over 5,000, and in less than five years it doubled. She said before she was elected every piece of land that could be annexed was annexed into the town, developers have their site plans and developments already in the pipeline - they've been approved - right now there are over 5,000 homes scheduled for the area south of town, past Carter Road down by the new school. Mayor Stombaugh said up north at Duck Creek the is more than that scheduled and we told the developer up there he's not building a development - it's going to be larger than the Town of Clayton - he's building another town. She said our town has the possibility of going to 25,000 people, and when this economy breaks when housing comes back it's going to happen and we are not going to be ready for it. Mayor Stombaugh said you talk about security of the town, safety of the town, well after what she heard here tonight nobody better call her - that was in this room tonight - because you get what you ask for.

Councilwoman White asked if they could please move on; there's too much negativity. Mayor Stombaugh said they asked for some answers - she hopes that this answers some of the residents' questions. She said also, it was said that her proposal was not tax deductible - she and Mr. Jaywork have been working on ideas and the proposal that they were going to make would be tax deductible.

Mayor Stombaugh asked if there were any other committee reports. There were none.

RECOGNITION OF VISITORS

Visitors present were Daryl Jester, Roseann & Joseph Maguire, Al Kemp, Jim Strong, Joe Wilson Sandra Wilson, Florence Twardowski, Melaine Minear, Seth Clevenger, Julia Cahill, Howard Fortner, James E. Veit Sr., Hope Hicks, Shirley Wilson, William Wilson, Bill Pressley, James Markow, Al Pickett, Kay Wyatt, Chris Martin, Roshell Jones, Jeff Flairty, Larry Thornton, Latoyia Rothwell, Cindy A. Cogar, Grant Prichard, Rita Purie Foy, Christine Morin, and Frank Brower.

Mayor Stombaugh said this is the time that we open to visitors for other subjects. She said you have three minutes; step to the microphone, and give your name and address.

Melaine Minear, 41 South Main Street, Smyrna, came forward to speak. Ms. Minear said Mayor Stombaugh told her during dinner on several occasions that the taxes in our town were going to double or triple in the next year or two; she asked

Mayor Stombaugh if she recalled those conversations. Mayor Stombaugh said she told Ms. Minear that she had a fear that that could be a possibility. Ms. Minear stated she is passing out for all of you (Council) - she put names on the back - this is the Town of Smyrna Oath of Office. She said these are for your wallets. Mayor Stombaugh said she believes most Council members already have it. Ms. Minear said Mayor Stombaugh mentioned several meetings ago that she would be reading the oath at each Council meeting, so she would like to read it for everyone tonight. Ms. Minear read the Oath of Office for everyone. She said the evidence is in and it is stacking up by the foot - this Mayor and Council so often have not supported our constitution, nor our Town Ordinances or Codes, or our Charter. Ms. Minear said the evidence is in and it will be up to the townspeople to make their decisions, but she is very disappointed in the behavior of most of you up here; she can only say she gives an A+ to a couple of people that sit on our Council. Councilwoman White said she did not get one. Ms. Minear said you will be - at least you communicate, whereas Councilwoman Brown doesn't. She said the last thing that she would like to bring up is that we do have a law about vicious dogs in the town - it's Article II under 'Dogs'. Ms. Minear said Section 14-31, keeping of vicious dogs - it shall be unlawful for any owner to keep any vicious dog within the town; any dog catcher or any police officer after making a reasonable effort to impound a vicious dog or rabid animal may kill any such vicious or rabid animal in as humane a manner as possible. Ms. Minear said on October 5th at 4:15 p.m. while she was sitting in the car with her friend, they came within one foot - on two occasions within five minutes - of having the dog in the car and tearing them apart. She said if she had had her loaded revolver with her, she would have not hesitated to shoot the dog - and she loves animals.

Steve Wright, 767 Dorchester Court, Smyrna, came forward to speak. Mr. Wright said after talking with folks they found that there are some folk who have some concrete bulkheads that do make it quite difficult to work on. He said after finding out this information, he thinks it would be appropriate to have at least this year's lake lowering. Mr. Wright said if in the future if we could not do it they would appreciate it, or lengthen the time in between the lowering of the lake levels from five years to ten years.

Cindy Cogar, 123 West Hamilton Lane, Smyrna, came forward to speak. Ms. Cogar said Mayor Stombaugh was talking about how the budget is maxed out, employees are sacrificing, budget cuts, and she does not want to come across in a negative light, but at

the last Council meeting there was an approval for a donation to the Boys & Girls Club for what she considers a large amount of money to do a playground. She said she was disappointed that that was approved. Ms. Cogar said it seems to her that there might have been a grant or some other way from the community business that might have been able to supplement that. She said a playground is a wonderful thing for children, but she does not think that a playground is going to prevent children from crossing the highway.

Ms. Cogar said her main reason for coming up here this time is to address the Smyrna website. She said this is her third time using the Town of Smyrna website to initiate an issue - the website informs her that there are electric wires in the trees that the town will come and gladly trim them for her. Ms. Cogar said she put in her request on 9/13/10; on 9/25/10 she checked again and it said it was completed - she had not heard anything by phone, by email, nobody left a notice on her door, so she replied on 9/28/10 and asked for somebody to please respond to her. She said on 10/11/10 she requested again through the internet for someone to please respond to her message. Ms. Cogar said she did call Town Hall and they forwarded her to the IT Department - she called her back and said she spoke to somebody and they said they came out and there were no electric wires in the trees. Ms. Cogar said there are electric wires in the trees. She said she would like someone to please come out and look at her property again, and she would like a response via email or letter explaining to her what was done, when it was done, and by whom it was done.

Mayor Stombaugh asked if anyone else would like to address Council. No one came forward.

Mayor Stombaugh said seeing no one step forward we will close this portion of the meeting and open the regular Council meeting.

OLD BUSINESS

A. Borrowing Resolution - Bond Sale Not to Exceed \$11,000,000.00 - Mr. Hugg said he would defer this to Mr. Jaywork, but a couple of weeks ago Council passed the first step of a borrowing resolution authorizing the holding of a public hearing and the consideration of a borrowing up to \$11,000,000.00 as outlined in the resolutions before you. He said the borrowing resolution includes two parts: Part (a) is the refinancing of the existing loan - and he does want to

remind Council that existing loan that was taken out a couple of years ago is properly called a bond anticipation note, so it was clearly with the intention that we would be doing tonight's action at some time between now and the time that the balloon payment would have otherwise been required; and the second piece is the additional borrowing, if Council so desires, for the design and construction of a new police station or addition to the existing police station. Mr. Hugg said he believes Mr. Jaywork has prepared alternative resolutions for Council's consideration.

Mr. Jaywork said yes he prepared, and Council should have them in their packets, two different bond resolutions. He said one would be the full \$11,000,000.00, and one would be the \$7,800,000.00 which would simply be the refinancing of the existing bond anticipation note. Mr. Jaywork said he did that because he knew the public hearing was coming up and the Council - from his perception - that the issue was not whether the town should do the refinance, the issue was whether the town should borrow money to build a police station, so he prepared a resolution so you (Council) could go either way depending upon how you wanted to go.

Mayor Stombaugh asked if there was a motion. Councilman Novotny made the motion to accept the \$8,000,000.00 refinancing that would cover our existing loans and avoid the balloon payment. Mr. Jaywork said if he could just clarify - you said it is \$8,000,000.00 face, but the refinance amount would be \$7,800,000.00. Councilman Novotny said that is correct. Motion was seconded by Councilman Riddagh. Mayor Stombaugh asked if there was any discussion. There was none. Motion carried unanimously.

Mr. Hugg said before we move forward he wanted to make sure it is clear that the motion that Councilman Novotny made to accept the \$7,800,000.00 resolution voids the consideration of the \$11,000,000.00 resolution. Mr. Jaywork said that is correct.

B. Appointments to Tree Commission and Ethics Commission - Mayor Stombaugh said this needs to be tabled.

C. Discussion of Lake Como - Mr. Hugg said as he indicated earlier we have made contact with some of the public and private owners of property along the lake. He said we are scheduled, assuming Council doesn't instruct us otherwise, to begin the process of lowering the lake tomorrow morning; it will take

approximately two weeks after which property owners have up to 30 days to make repairs, and we will then begin the process of refilling the lake - closing the gate.

Mayor Stombaugh said we had voted on this previously and it was voted to lower the lake this year, and she received a number of letters from people that have gotten permits and requested that we do lower the lake this year. She said unless anyone objects to our vote that we made before...

Councilman Novotny said the one thing that he does want to say is he understands the situation for not lowering the lake, but there are people who have made contracts with various construction companies and they will be losing money by not lowering the lake. He said in the future though, he is not sure that this should be done every five years. Councilman Novotny said if someone wants to have some work done they should come to the town, ask for a permit or whatever is appropriate, and then let's see how many people we have that need to do work and how imperative it is to do the work right now. He said maybe we won't lower the lake for eight or ten years, but he thinks Council should look at this again within five years.

Councilman Riddagh complimented Mr. Wright on the way he handled this situation.

D. SECOND READING: Ord. No. 014-10, Chapter 1, General Provisions, Section 1-11, General Penalty, Continuing Violations

- Mr. Jaywork said he would like to discuss this a little bit. He said he was really surprised that this got as much play as it did; he went back into his files and he located a file from 2001. Mr. Jaywork said basically the genesis of this - this is a memo from Chief Baldwin - he read the memo to Council. He said in response to that we drafted an ordinance amendment; he had a signed copy of it, but he went through and spot checked it - the ordinance that you have in the Code book today has all of the amendments. Mr. Jaywork said what this ordinance did in May of that year, it said that 'any violation of this code shall either be a civil violation or a criminal violation, unless otherwise designated as a criminal violation it shall be in the nature of a civil action for the imposition of a civil monetary penalty, and not a criminal proceeding'. He said then it went on for 15 or 20 sections of the code that were actually amended to specify that they were criminal. Mr. Jaywork said these are the sections of the code that the police department told us were the ones that they wanted to enforce in Court #8, so we converted all of them to criminal in nature. He said he thought

the problem was resolved and until it was recently mentioned he had not heard any more about that.

Mr. Jaywork said there was some concern about DELJIS - he spoke with a lady named Peggy Bell at DELJIS today and believe it or not, a violation of a Town Ordinance, if it's deemed criminal then that is recorded in DELJIS and if someone request your rap sheet it would show up that you had been arrested or charged with having failed to move the snow off your sidewalk. He said Captain Bordley is requesting a list of all the ordinances that DELJIS has showing as criminal. Mr. Jaywork said he then spoke with the Chief Magistrate of the JP Courts, and he indicated that he seemed to think that in fact that we may be getting less than totally correct information from Court #8, and that he thinks that we should be able to prosecute any violation at Court #8. Mr. Jaywork said he is going to follow through with that to see if in fact that is the case.

Councilwoman White said so we can table this. Mr. Jaywork said yes. Councilman Novotny said it doesn't sound like we have all the facts yet.

Mayor Stombaugh thanked Mr. Jaywork for all of his work. She said this item will be tabled.

NEW BUSINESS

A. Expanded Payroll and HR Services - Proposal from Paychex Corp. - Mr. Hugg said Council has in their packets some information from Paychex who is the company that does our payroll processing for us. He said in prior Personnel Committee meetings and he thinks Finance Committee meetings, there was a question of obtaining updated job descriptions, salary surveys, and additional kinds of assistance. Mr. Hugg said Paychex has offered to address a number of those things. He said the individual that he was hoping would attend tonight's meeting was not able to be here tonight, so he would suggest that this matter be put on both the next Finance and Personnel Committee agendas, and then we can decide if Council wants to move in this direction, whether we want to contract with Paychex to provide additional services, or whether we still want to look somewhere else, or do we want to do nothing. Mr. Hugg said if it is okay with the two Chairs he will go ahead and put it on those two agendas.

B. Quarterly Assessments - Mr. Hugg said as you are aware we do a quarterly assessment to pick up properties that have been

added to the tax rolls in the preceding quarter. He said the assessors Mr. Whitaker, Ms. Williams, and Ms. Adams have reviewed the assessment list. Mr. Hugg said we would like to recommend to Council to get this noticed and posted so we can have the appeals, if there are any, and proceed with this quarterly assessment. He said it would be Monday, November 15th from 4:00 to 7:00 p.m.

Councilwoman White made the motion to post the quarterly assessment for November 15th from 4:00 to 7:00 p.m. in the Council Chamber. Motion was seconded by Councilman Novotny. Mayor Stombaugh said discussion; she said we had talked at one time - was that going to be a Charter change about setting times? Mr. Hugg said one of the proposals, he believes the Charter Review Committee has looked at and Mr. Jaywork has sent some information - this is a rather complicated and perhaps excessive mechanism and that we probably do need to come up with something that is a little more progressive.

Mr. Jaywork said what we want to do is that the assessment would be posted and anyone wishing to appeal their assessment would contact the town and say they wanted to appeal, and then a time and date would be set. He said that way the appeals board would know which properties were coming in instead of having to sit here unprepared.

Motion carried unanimously.

Councilwoman White said she did not know what the executive session is about, and asked if Council could do 'Other Council Business' first. Mayor Stombaugh said she did not have a problem with it and asked if anyone else did. No one had a problem with it.

OTHER COUNCIL BUSINESS

Councilwoman White said her son is a member of the Smyrna High School and he is a member of the band. She said she would like to congratulate the band - they took first place at their competition on Saturday, their drum line place second, and they had the best drum majors overall, which her understanding for Smyrna High School is a very big step - they have not done that well in very, very many years. Councilwoman White said she would like to congratulate them on a job well done. She said the Smyrna High School band is not a high school band like Dover; they are a competition band. Councilwoman White said next week they start with the tournament of bands called

Chapters Competition. She said last year was the first time in, she believes, 20 years that they were invited to Hershey Park, so this year they are hoping to not only be invited, but to win a spot there.

Councilwoman White said Mayor Stombaugh stated that there was no more money to do anything else, to fix anything else, that nothing else was going to happen in this town except for what is here right now. She said she just wanted to clarify that; she asked Mr. Hugg if that is correct. Councilwoman White said we have money funneled through to continue with some repairs and upgrading and infrastructure things still... Mr. Hugg said yes we do. Councilwoman White said the last request is a request that she sent via email to Councilman Raynor which was a request, as a member of Council, for a list of names only - not of applications - of all applicants who submitted an application for the Chief's position. She said as she stated at a previous Council meeting she did not think it was appropriate that the applicants only went to one Council member - whether he is the Chair of the Personnel Committee or not. Councilwoman White said she was denied the list, so she is asking for it again; she understands that it is confidential; she has been on this Council long enough to know what executive session means and what confidential information means.

Councilman Raynor said number one, what is your need to know. Councilwoman White said she is a member of this Council - that's why. Councilman Raynor said he is not going put this town in jeopardy by giving out information that can be used in any other manner. Councilwoman White asked if he was implying that she intends to use that information in any other manner. Councilman Raynor asked what she would do with it if she did have it. Councilwoman White said she, as a member of Council, would like to know the names of the applicants who applied so that she has that information. She said she was not asked to be on that committee or to participate in the negotiations, and she as a member of Council cannot believe that she is being denied any type of information. An animated discussion ensued. Council discussed the Negotiating Committee and the fact that there were consultants brought in without first consulting with Council as a whole.

Mr. Jaywork said he understands Councilwoman White's concern that she feels like she is on the outside. He said his understanding that the majority of Council basically charged this committee with this job, and that means at some point that committee is going to bring - the committee can't hire anybody.

Mr. Jaywork said they can screen, negotiate, they can put it all together, but ultimately it is not going anywhere until it gets the majority vote of this Council.

EXECUTIVE SESSION

A. Executive Session to Discuss a Personnel Matter in Which the Name, Competency, and Ability of an Individual Employee(s) will be discussed - Mayor Stombaugh asked if there was a motion to go into executive session. Councilman Riddagh said so moved. Motion was seconded by Councilman Raynor and carried unanimously. Council went into executive session at 8:58 p.m.

Council came out of executive session at 9:23 p.m.

ADJOURNMENT

Mayor Stombaugh adjourned the meeting at 9:24 p.m.

Council Secretary