

## **Mayors Quarterly Newsletter December 2010**

### **Hunting in the Borough:**

As reported by a number of residents, there appears to be an ongoing problem with hunting in the Borough. While I have asked the Police to be on alert for this activity, which they are as a matter of course, it appears that some hunters are unwilling to follow PA Fish and Game regulations and are unwilling to recognize the significant safety hazard they create when attempting to hunt in Indian Lake Borough. The Borough has limited hunting authority in its Ordinances. For deer, only bow hunting is permitted, only in designated areas, and only with a daily permit issued by the Borough Manager. Restricted goose hunting is also permitted. Because no hunters have availed themselves of the legal hunting opportunities within the Borough, and because the existence of a hunting ordinance potentially confuses the issue as to whether hunting is permitted, I have asked Council to consider repeal of the current hunting Ordinance and replacing it with a strict no-hunting Ordinance. I have additionally asked that the Ordinance be drafted with clear definitions of what constitutes "hunting" to ensure that our Police can properly enforce the Ordinance. Those with comments can direct them to me, or more appropriately, to Council.

### **Resolution:**

At a regular meeting last month, Council unanimously adopted a resolution supporting the conclusion that developments including the St. Clair, Pine Cove, and planned private golf course developments are in the Borough's best interests and that the litigation challenging the development efforts at the lodge were not in the Borough's best interest. While of no legal effect, it does provide a strong statement of support for those willing to invest in the Borough and increase our tax base. Those investing in the Borough deserve our support. With taxes increasing, we need to seek as many opportunities as possible to increase our tax base while preserving the character of the Borough. I am encouraged that the entire Council recognized this simple truth by affirming the resolution proposed.

### **Litigation:**

As you may have heard from the Borough Council President, the Borough was successful in its defense of the validity of Ordinance 144. The Commonwealth Court rejected each argument raised by the Appellants. We anticipate favorable rulings soon on the remaining pieces of litigation appealed to the Commonwealth Court.

It is true that two additional pieces of litigation have been filed recently although the suggestion that the Borough could have avoided this litigation is misleading. The only way to have avoided litigation in one case was to refuse to enforce our Zoning Ordinance. In the second, Council would have been required to violate its own Ordinance and impose a planning provision that does not apply - thus creating the potential for additional litigation, litigation the Borough would have likely lost.

In the first case, Mr. Rohrich violated an express provision on a permit application in constructing living space and installing plumbing in a detached garage. The suggestion that the Borough should close its eyes and ignore such a willful violation of the Zoning Ordinance in order to avoid litigation is not only ridiculous, but contrary to the duty imposed on the Borough and its elected members of Council under the Borough Code.

In the second case, Mr. Lyons through Mrs. Takacs is once again challenging the issuance of a permit requested by St. Clair Development to construct the next Townhome building. It was suggested that if Council forced Mr. St. Clair through the Planned Residential Development provision of the Zoning Ordinance that the appeal might go away. Unfortunately, the PRD provisions of the Zoning Ordinance are not applicable in this case and Council received a well detailed opinion from its solicitor supporting this conclusion.

While unfortunate that the residents of the Borough have to bear the cost of this incessant and fruitless litigation, the Borough must follow and enforce its Ordinances. If doing so results in litigation, then litigation is unavoidable. Rather than cast blame at the Council for doing what it was obligated to do, blame should be leveled at those who continue to file these actions. I am confident that the Borough's position will be upheld in the Courts. Maybe someday, these individuals will recognize the harm they are doing to all of the residents and cease such activity. It is the Christmas season and therefore the time to believe in miracles.

**Drive Safely:**

During the winter season, the roads here at the lake can get slippery. Our road crew does an excellent job at maintaining the roads; however, please remember to slow down in inclement weather. We have had one accident this year caused by a driver who was traveling too fast for the road conditions. Fortunately, no one was hurt. Do yourself and others a favor. When there is snow on the roads, drop your speed to 25 and let's all be safe this winter.

**Ice Fishing:**

While portions of the lake are already ice covered, exercise caution. Ensure that the ice thickness is at least 4 - 6 inches thick before going out on the ice. The ice thickness can vary, especially near the center of the lake. Use good judgment and remember that going out onto the ice is at your own risk.

**Snow-Mobiling:**

Snowmobiles have been out already. Make sure that you obtain permission from the respective golf courses as these are private property. You may not run a snowmobile on the roadway but you can ride down the side of the road as long as you are to the side of the berm and within the Borough's road easement. Be courteous to adjacent property owners and above all, remember that snowmobiles and other motorized vehicles are not permitted on the hiking/biking trails.

**Merry Christmas and Happy New Year!**