

REGULAR SESSION ** ECONOMY BOROUGH COUNCIL ** DECEMBER 9, 2008

Council President Ronald R. Rock called the meeting to order at 7:00 PM in Council Chambers of the Economy Municipal Building to conduct business of general purposes.

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT: Larry Googins, Arthur Mutschler, Audrey Mutschler, Renee Raymer, Donald Sivy, John C. Thomas, Ronald R. Rock

ALSO PRESENT: Mayor David N. Poling, Dale M. Fouse, Esq., Norman Shoup, P.E., Randy S. Kunkle, Borough Manager, Earl Fitzgerald, Road Foreman

HEAR THE PUBLIC:

John Campbell, 123 Gross Drive, asked who put the article in the Beaver County Times on the budget; felt it was lop sided on figures on one department; misleading. Mr. Rock advised Larissa Theodore, Beaver County Times, is here tonight, and wrote the article from information in the budget. Mr. Thomas agreed with Mr. Campbell and that the information printed on the fire department funding was inaccurate. Mrs. Mutschler stated the numbers should be verified before an article is written. Mayor Poling stated he called Ms. Theodore and she is here tonight to get the facts.

Brian Padgett, 2445 Herr Road, felt part of the problem is the way that the fund balance is not included on the budget report; should show revenues, expenditures and the fund balance. Mr. Sivy stated Council uses the budget as a tool, not as a check book; unexpected expense this year was the HVAC at the police department, not in the budget, but had to be taken care of. Mr. Googins requested that the next budget have a narrative attached to it to make it clearer and explain the total financial picture of Economy Borough. Mr. Padgett asked what the \$10,000 budgeted in the General Government portion of the budget for General Expenses being spent on as only \$4,411 (2007), \$3,995 (2006) has been spent in the past; should budget what is being spent. Mr. Kunkle stated this is for projected expenses that did or did not occur. Mr. Googins stated Council will look at the budget closer next year and if Mr. Padgett has any more suggestions to pass them on to the borough manager.

Tom Schroeder, 640 Hoenig Road, agreed that the budget is a tool, but has to be an accurate tool; reflecting the fund balance would be a simple practice. Mr. Rock said this will be done. Mr. Schroeder commented on raising costs, expenses and taxes; received notice from the Economy Borough Municipal Authority of rate increase from \$60.00 per month to \$62.00 per month; all these small increases add up.

Butch Thompson, 115 First Street, asked the status of the report regarding Ron Heitzenrater as to exactly what happened, how it happened, why it happened, how much money was lost; heard it was anywhere from \$10,000 to \$100,000; Mr. Fouse stated he was authorized to send a letter to Ron Heitzenrater; Heitzenrater is in Iraq, but has spoken to his wife; no reply from his lawyer yet; will speak to Council on how to proceed. Mr. Rock reported Mr. Heitzenrater has rights and does not want to put Council in liability; in the process of attempting to recoup monies with legal procedures. Mrs. Mutschler stated there would be a report. Mr. Rock said he could personally contact Mr. Thompson with the number to let him know. Mr. Thompson suggested the information be put in the Beaver County Times.

Pat Skonieczney, 104 Rockrose Drive, stated the proposed LST Tax increase is unconstitutional and she will provide the case law to Mr. Fouse after the meeting.

John Campbell, 123 Gross Drive, suggested an easy way to correct the \$10,000 budgeted in the General Government portion of the budget for General Expenses would be to amend the budget. Mr. Rock stated this is not an error and the budget has been adopted. Mr. Campbell felt the borough manager or the borough secretary wrote a check for Ron Heitzenraters benefits and Council should know what it is.

MINUTES:

MOTION by Mr. Thomas seconded by Mr. Sivy – to approve the Minutes of the November 25, 2008, Regular Session of Council, as written. **CARRIED UNANIMOUSLY**

MAYOR'S REPORT:

Mayor Poling read the Mayor's Report for the Police Department for the month of November, 2008 as prepared by Chief Harrington, which will be on file for review in the borough secretary's office.

Mayor Poling read a letter from a resident to Chief Harrington thanking Dan Viscuso and Mike O'Brien for the arrest and conviction of the person who assaulted her daughter; job well done.

Mayor Poling asked if there is a policy on the meeting recordings as he requested a copy of the last meeting and did not receive it. Mr. Googins stated since this subject concerns the Open Meeting and Open Records Act, and before any recordings are permitted to be released, Council should discuss and establish a borough policy during a public meeting where Council can be afforded the advice of the solicitor. Mayor Poling stated he has taped meetings in the past to make sure the minutes are accurate before approval; feels this is a hassle for him to tape himself. Mr. Rock stated the public can record the meetings or come in and listen to the tape. Mr. Fouse stated this was talked about and the conclusion was that the recording is for the purpose of the borough secretary to help produce the minutes; there is not a policy with regards to the borough secretary and specific recordings. Mrs. Mutschler said if she misses a meeting, and as a boss, she would want to listen to the tape of the missed meeting or use the tape for research. Mr. Fouse stated that was an accepted policy. Mr. Googins stated the tape is not the official record and can't be used for any other purpose other than an aid by the borough secretary to produce the minutes; the written minutes are the official record; this should be an open meeting and open discussion; not to be used for he said, she said, you said. Mayor Poling said the tape could be used for reference to go back to make sure of accuracy; feels they should be kept on record. Mr. Sivy suggested keeping the recording until the next meeting then record over. Mr. Thomas suggested the tapes be reviewed only in the office and not be removed from the office. Mr. Googins suggested the solicitor drafts a policy so all have an understanding of the policy. Mr. Fouse will add to the draft something to establish a reasonable time to retain the recording. Mayor Poling would like CD's kept for 1 year. Mr. Googins suggested 30 days or 2 meetings, then rerecord. Mr. Fouse verified he has been authorized to form and prepare a draft policy for Council.

MANAGER'S REPORT:

1. 2009 Tax Ordinance No. 420: Mr. Kunkle advised the ordinance has been advertised and is ready for adoption.

MOTION by Mrs. Raymer, seconded by Mr. Mutschler – to authorize the adoption of Ordinance No. 420 setting the tax millage for 2009 at 14 mills; no tax increase. CARRIED UNANIMOUSLY

2. LST Ordinance No. 419: Mr. Kunkle reported this ordinance would increase the LST tax from \$10.00 to \$26.00 and was adopted at the November 26, 2008 meeting; Mayor Poling indicated he would veto the ordinance; Mayor Poling read the following letter:

December 8, 2008

Mr. Ronald Rock, President
Economy Borough Council
2856 Conway Wallrose Road
Baden, PA 15005

Dear Mr. Rock:

After careful consideration, I am submitting to you, in writing, my veto of Ordinance No. 419 of 2008, the Borough of Economy Local Service Tax Ordinance. My reasoning for this veto is as follows:

1. Stated there is a substantial deficit. However, there should be a project fund balance at the end of 2008 greater than the deficit. This amount was not taken into consideration.
2. No money was allocated for traffic light at 989 at Dunlap Hill.
3. Fuel and diesel prices have dropped and this should save up to \$40,000. on budgeted amounts.
4. Over expenditures on salt shed with no accountability on total project costs. One example is 500% over budget for electric.
5. Vacation and sick day cash outs. (Without Council's knowledge or contractual obligations.)
6. Four and a half years of unauthorized disbursements of medical benefits. (Without Council's knowledge or approval from department head.) Approximate cost to taxpayers was \$60,000.
7. Unauthorized disbursement of military pay to one employee. (Time cards altered without knowledge of department head.) Amount undetermined.
8. No increase in budget for recreation. I feel recreation is vital for community growth, especially with young families.
9. Mishandling of scrap money. Amount undetermined.
10. Unjustified overtime for borough employee to attend council meetings.
11. Paying \$20.00 more a ton for salt by no using state contract price.
12. Frivolous spending on purchase of a crack sealer rather than leasing same as needed. Saving to taxpayer of \$40,000.

When I took my oath of office, I promised I would work for the betterment of Economy Borough and I can not with a clear conscience allow this ordinance to be enacted without my veto.

Very truly yours,

Mayor David N. Poling

DNP/ka

cc: Attorney Dale M. Fouse, Esquire
Mr. John C. Thomas
Mr. Larry Googins
Mr. Arthur D. Mutschler
Mrs. Audrey Mutschler
Mrs. Renee Raymer
Mr. Donald Sivy
Mr. Randy Kunkle, Borough Manager

Mr. Googins stated he agrees on the fuel and recreation, but none of the other items have anything to do with the LST Tax. Mrs. Mutschler stated this is Mayor Poling's statement and opinion. Discussion followed. Mr. Rock stated at the November 25th meeting the ordinance passed by a 4 yes, 2 no vote and Mayor Poling has now presented his veto. Mr. Fouse advised the veto is now on record; this is a 7 member Council; after a motion and a second, needed would be 5 yes votes to override the veto; if not the ordinance fails. Mrs. Mutschler questioned if the deadline to Harrisburg was missed. Mr. Fouse stated the State has agreed to delay the recording of the Economy Borough tax levy until December 11th.

MOTION by Mr. Mutschler – to override the veto of Mayor Poling for Ordinance 419, increasing the LST from \$10.00 to \$26.00.

Mr. Rock called for a second to the motion.

Mr. Rock again called for a second to the motion.

Mr. Rock reported no second to the motion, the motion fails.

3. Light Grant: Mr. Kunkle reported he obtained a \$7,000 grant to replace the light fixtures in our three oldest buildings (Municipal Building, Community Building, Road Department); the grant will pay for the hardware, Economy Borough will have to pay for the removal/installation; estimate from Yates Electric is a high \$14,000; removal/installation will be bid out as the estimate is over \$10,000; grant is upfront and then reimbursed; grant must be finished by October 2010, but will press to get this done in 2009.

MOTION by Mr. Thomas, seconded by Mr. Sivy – to accept the grant for \$7,000 to replace light fixtures and Economy Borough to pay for removal/installation at an estimated cost of \$14,000.
CARRIED UNANIMOUSLY

4. Crack Sealer: Mr. Kunkle reported he needs to let Harrisburg know if Economy Borough will be proceeding with the \$20,000 2% loan; the price of the crack sealer through state contract is \$46,512.00 with a 20 year life expectancy. Mrs. Mutschler asked if there was a warranty; talked to other municipalities and they rent vs. purchasing; feels Economy Borough would be better off renting. Mr. Thomas felt if there is no money to pave the roads and if they are not crack sealed in 2-3 years, Economy Borough will be replacing roads. Mr. Sivy reported to pave ½ mile of roadway is approximately \$150,000. Mayor Poling suggested tar and chipping the roads; feels we should rent and not buy.

MOTION by Mr. Mutschler, seconded by Mr. Googins – to authorize the purchase of one Crafc0 Super Shot 125DC at a cost of \$46,512.00.

ROLL CALL VOTE:

Mr. Googins – Yes

Mr. Mutschler – Yes

Mrs. Mutschler – No

Mrs. Raymer – Yes

Mr. Sivy – Yes

Mr. Thomas – Yes

Mr. Rock – Yes

MOTION carried by a 6 Yes, 1 No vote.

5. IRS Compliance Review: Mr. Kunkle reported Christine Ehringer, Hallett & Associates, informed him the IRS is looking at government pension plans to see if they comply with IRS codes and if the plans contain the appropriate language; spoke to Mr. Fouse about this who suggested contact with Rhoades & Wodarczyk, Pittsburgh, who specialize in this area; they have reviewed our plans over the net and have determined that a number of changes/additions need to be made; cost would be \$1,500 or less to complete the police pension work or update both plans for \$2,500 or less; their current rate is \$185 per hour plus expenses. Mr. Sivy verified that the cost could be paid out of the pension plans. Chad Lively suggested a 50/50 split of the costs.

MOTION by Mr. Sivy, seconded by Mrs. Raymer – to authorize Rhoads & Wodarczyk to update both the Police Pension Plan and the Non-Uniformed Pension Plan to be compliant with IRS codes for a cost of \$2,500 or less. CARRIED UNANIMOUSLY

6. Right to Know Resolution No. 422: Mr. Kunkle reported last year the state updated the Right to Know Law, detailing how we are to deal with residents request for information; one of the requirements is to develop a written policy in this regard, which Mr. Fouse has done in the form of Resolution No. 422.

MOTION by Mr. Thomas, seconded by Mrs. Mutschler – to adopt Resolution No. 422 adopting a Right-To-Know policy for public records requests made pursuant to the Right-to-Know Act. CARRIED UNANIMOUSLY

7. Sewage Enforcement Officer: Mr. Kunkle reported Daniel C. Baker & Associates requests to be reappointed as Economy Borough's SEO for 2009; recommend that Council approve this with one exception; Baker recommends a third party as a backup or in the case of a conflict; since Joe Luff is a certified SEO, suggest Joe be the back up and do this work when time permits.

MOTION by Mr. Sivy, seconded by Mr. Googins – to appoint Craig A. Baker, SEO 02653, Michael J. Groves, SEO 03273 and Ronald L. Robinson, SEO 03486, employed by Daniel . Baker Associates, Inc. for the Sewage Enforcement Officer Technical Services and Joseph Luff as Alternate SEO, for the calendar year 2009. CARRIED UNANIMOUSLY

8. Garbage Rates: Mr. Kunkle reported under the terms of the contract, and due to high diesel fuel prices, Reid Powell is authorized to raise his rates in 2009; Reid has agreed not to raise rates next year, but will likely have to in 2010; commends Mr. Powell for his dedication to the Economy Borough residents.

Mrs. Mutschler reported the Planning Commission is working on a wind energy ordinance and requested from Mr. Kunkle the statistics on the Economy Borough turbine and a report on the output.

COMMITTEE REPORTS and OTHER BUSINESS:

PUBLIC UTILITIES:

Mr. Googins reported the Economy Borough Municipal Authority (EBMA) has raised rates to \$62.00 per month and has so notified the users.

Mr. Googins reported the EBMA is recommending that J. Carl George be reappointed to another 5 year term to the Authority. Mr. Fouse advised this can be done at the January, 2009 meeting as the term continues until reappointment.

PROPERTY and BUILDING:

Mr. Sivy reported the hot water tank has been replaced in the Community Building by the Road Department, saving money on labor; they added a separate shut off valve to the EBMA.

Mr. Sivy reported the door he wished to donate did not fit due to the hinge position. Mr. Thomas reported this door does not have to be fire rated as it is not used by the public.

Mr. Sivy reported the estimate to repair the vehicle used by the borough manager in order for it to pass the emission inspection is \$1,600; book value is \$1,325; recommends not fixing. Mrs. Mutschler suggested paying the mileage or sharing use of the CEO car; also obtaining another opinion, i.e. Stanley's. Mr. Rock advised Mr. Kunkle to take the car to Stanley's for a 3rd estimate.

Mr. Sivy asked Mr. Kunkle for a status report on the health insurance research. Mr. Kunkle stated Economy Borough can save some money going to a higher deductible as the premium will go down; the contract employees can not be harmed; Economy Borough would pay the deductible and still save money keeping the coverage the same; MEIT & HHM have given the same proposals; have invited the police and followed up with the non uniformed; HHM is better equipped to help guide Economy Borough; MEIT is not as aggressive in pursuing the coverage; has talked with a police bargaining unit member; the police are willing to help save money and are willing to discuss it being done in a way the contract negotiations are part of it and how it will affect them; available to meet after Thursday.

PUBLIC SAFETY:

Mrs. Mutschler reported 18 traffic vests were ordered at a cost of \$648.00 plus shipping and handling and have not been received yet; trouble obtaining a bill; if not paid in 2008 would like to roll over into 2009.

MOTION by Mrs. Mutschler, seconded by Mr. Sivy – to authorize approximately \$700 to be paid from 01.410.260 for 18 traffic vests if not paid in 2008, rolled over into 2009. CARRIED UNANIMOUSLY

Mrs. Mutschler reminded Council the Obama/Palin/Click it or Ticket reimbursement amendments need to be made before the end of the year to reimburse the police overtime line item.

FINANCE COMMITTEE:

Mrs. Mutschler questioned the Planning Commission Remuneration on the list of bills. Mr. Fouse stated the increase motion made last year was for all the members at the same time; the Planning Commission Members are appointees serving at Councils wishes.

Mayor Poling questioned the Goodyear bill. Mr. Kunkle stated this is for the work done on the manager's car while waiting for a decision on the emissions test results.

MOTION by Mrs. Raymer, seconded by Mr. Thomas – to authorize payment of all bills listed and properly signed off and approved by the appropriate supervisor of that department. CARRIED UNANIMOUSLY

ROAD DEPARTMENT:

No Report

ORDINANCE and RECREATION:

Mr. Thomas reported \$6,358.85 is remaining in the Recreation-General line item in the budget; the new sign for Meddock Recreation Park will be approximately \$1,200 or \$1,300; does not want this to come from the 2009 budget.

MOTION by Mr. Thomas, seconded by Mrs. Raymer – to authorize approximately up to \$1,500.00 for the new Meddock Recreation Park sign to be paid by December 31, 2008 or carried over to 2009.

CARRIED UNANIMOUSLY

Mr. Rock reported Mr. Meddock called him to again thank Council for what was done in Jeffrey's name.

Mr. Thomas reported they will be working on the tennis courts. Mr. Shoup stated the tennis court is beyond resurfacing; they will have to be torn out and rebuilt. Mr. Kunkle stated since this would have to be bid out he can not get an exact dollar amount for the tennis courts.

REPORTS:

SECRETARY:

No Report

ENGINEER:

Mrs. Mutschler asked the status of the Richard Mattern drainage problem. Mr. Shoup stated Scott and Earl met on this drainage issue and the next rain they will revisit it to take a look at it; hasn't rained enough yet.

Mr. Shoup reported a fresh date is needed for the E.V.F.D. Plan of Lots, subdividing a portion from the Economy Borough Civic Club.

MOTION by Mrs. Mutschler, seconded by Mr. Thomas – to authorize Council to fresh date the subdivision known as the E.V.F.D. Plan of Lots. CARRIED UNANIMOUSLY

Mr. Thomas reported the EVFDD would be out of the building by December 31, 2008; verified the electric, gas, water and insurance will be put in Economy Borough's name effective January 1, 2009.

SOLICITOR:

Mr. Fouse reported the Ambridge Water Authority is ongoing; they still have to file an answer to our complaint.

Mrs. Mutschler requested an Executive Session regarding personnel, with a vote.

PRESIDENT:

Mr. Rock reported the next scheduled meeting is December 23rd and recommended canceling it unless an urgent matter or emergency comes up; the next meeting would then be January 13, 2009.

MOTION by Mr. Mutschler, seconded by Mr. Thomas – to cancel the Regular Session of Council scheduled for December 23, 2008. CARRIED UNANIMOUSLY

HEAR THE PUBLIC II:

Tom Schroeder, 640 Hoenig Road, advised Council he works for the U.S. Census Bureau; the Economy Borough Municipal Building is being scheduled for use as a testing site and Mr. Kunkle and Mrs. Blum have been very helpful in the process.

John Campbell, 123 Gross Drive, advised he feels tape recordings of the meetings should be considered as a public record.

MOTION by Mrs. Mutschler, seconded by Mr. Sivy – to enter into Executive Session to discuss a personnel retirement issue, with a vote to be taken tonight. Time: 10:05 PM CARRIED UNANIMOUSLY

MOTION by Mrs. Mutschler, seconded by Mr. Sivy – to return to the regular order of business. Time: 10:12 PM CARRIED UNANIMOUSLY

Mr. Fouse reported Council discussed in Executive Session, a request made by a police officer.

MOTION by Mrs. Mutschler, seconded by Mrs. Raymer – to grant Officer Jason Woods request to bring back vacation days from 2009 to be used in December, 2008; his wife has significant medical concerns relating to a pregnancy, is bedridden and the officer is the family caregiver; contingent upon Officer Woods setting forth his specific request in writing. CARRIED UNANIMOUSLY

ADJOURNMENT:

MOTION by Mr. Sivy, seconded by Mrs. Mutschler – to adjourn the meeting. Time: 10:14 PM CARRIED UNANIMOUSLY

Respectfully submitted,

Susan A. Blum
Borough Secretary
January 8, 2009