

Economy Borough Council
Regular Meeting Minutes
April 25, 2017

MEETING was called to order at 7:00 p.m. with Mr. Burns presiding and the following members of Council and officials of the Borough present: Mr. R.J. Burns, Mr. Gary Bucuren, Mr. Tom Fetkovich, Mr. Larry Googins, Mr. Frank Morrone, Mrs. Audrey Mutschler, Mrs. Pat Skonieczny, Mayor Jo Ann Borato, Borough Manager Randy Kunkle, Borough Secretary Margie Nelko, and representing the Borough Solicitor Mr. Joshua Kail, Esq.

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

Mayor Borato introduced Officer P. Pollock to Council and the residents attending the meeting.

RECOGNITION OF VISITORS: Mr. Burns welcomed everyone to the meeting and requested the discussion(s) regarding Borough business be kept to 3 – 5 minutes in length.

HEAR THE PUBLIC:

Roger Kowal (not signed in) was present to express road bonding and creek silt fencing concerns regarding loads of dirt being dumped by triaxles at the Bajek residence on the bottom of the hill and to ask if a solution to the paving of Concord Church Road has been determined. Mr. Burns stated that the dirt issue would be handled by the Beaver County Conservation District and asked the Borough Manager to look into this issue. Mr. Burns stated that Concord Church Road is a Borough owned road which we receive Liquid Fuels monies for and that the paving was a misunderstanding.

MINUTES of the Regular Meeting held on April 11, 2017, were presented to Council. Mrs. Mutschler presented Council with an amendment to page 360, section 5 of New Business to clarify why the Borough Manager thought sections of the Ordinance are not valid. Mrs. Mutschler recommended adding the remaining discussion to the minutes and the Borough Secretary was asked to review the tape and make the amendment. After reviewing the tape during the preparation of these minutes, a sentence stating “Mrs. Mutschler stated that it is only on private property, you can keep the sign up for years.” was added to the minutes as the third (3rd) sentence on page 360, section 5 of New Business. “Mrs. Skonieczny presented Council with an amendment to page 354, sentence 12 of the Minutes section to change “that may be is” to “that may be” and an amendment to page 358, sentence 2 of Old Business item 1 to change “when we meet” to “when we met”. **After some review, the motion of Mrs. Mutschler, seconded by Mr. Googins to approve the Regular Meeting Minutes of April 11, 2017 as amended was unanimously carried.**

FINANCE COMMITTEE: No Report.

ORDINANCE COMMITTEE: No Report.

PARKS and RECREATION COMMITTEE: Mr. Fetkovich, Chairperson of the Parks and Recreation Committee, stated that the April 19th Recreation Board meeting did not take place and that the group seems a little disenfranchised. Mr. Fetkovich stated that he will be meeting with Mr. Hershberger to discuss the need to regroup and to see what they are going to do moving forward. Mr. Fetkovich will have more details for the next meeting.

PROPERTY and BUILDING COMMITTEE: Mr. Morrone, Chairperson of the Property and Building Committee, stated that the police department door has been installed.

PUBLIC SAFETY COMMITTEE: No Report.

PUBLIC WORKS (PW) COMMITTEE: Mrs. Mutschler, Chairperson of the Public Works Committee, presented Council with the public works bi-monthly report which was ordered received and filed.

Mr. Burns expressed concerns regarding the time and money spent on fixing Cooney Hollow Road which has been incorrectly repaired for years. Mr. Burns explained that the road is flat, it needs a crown to permit proper water run-off to the berm and that this road needs fixed correctly. Mrs. Mutschler stated that she would contact the Public Works Supervisor with this issue and then the Borough Engineer.

Mayor Borato stated that she was contacted by Mr. Mark Huey, of Lyndon Lane, regarding concerns of a continuous water flow down Lyndon Lane to his property. Mayor Borato explained that there are rivulets during heavy rains and that during the winter there are ice issues. Mrs. Mutschler stated that she would give the information to the Public Works Supervisor. The Borough Manager stated that this is one of the places that will be visited on Friday.

MAYOR'S REPORT: Mayor Borato requested an executive session to discuss a personnel grievance matter with a possible vote.

SOLICITOR'S REPORT: The Borough Solicitor presented Council with updates regarding the following issue(s).

1. **Skonieczny Lawsuit** – No other update at this time except that new documents has been filed.
2. **Knox Box Ordinance** – Fire Chief Thomas proposed an ordinance some time ago for knox boxes in the commercial district. These boxes would hold a master key(s) and be placed on the outside of the building. The master key(s) could only be accessed after a 911 call which will enable the fire department to quickly and safely enter the building in an emergency cutting down time and damage to the structure. Members of Council discussed whether this would be for either commercial and residential properties or commercial only and if the property owners have to agree to which was found to be deemed mandatory if an ordinance is adopted. Mayor Borato inquired if the owners would receive a discount on their insurance. The Borough Solicitor stated he was not sure but the owners are usually required to pay for the boxes. Mrs. Skonieczny expressed concerns regarding this being mandatory and what liabilities would be on the Borough.

OLD BUSINESS:

1. **Northern Lights Shopping Center (NLSC) Citations** – The Borough Manager stated that he has no update at this time regarding the demolition permits or start dates. Mayor Borato presented Council with an overview of her conversation with Mr. Drew Pearson regarding a grant that was applied for to fix the parking lot/lighting, citations possibly having an adverse effect on funding, Council's position and how to possibly help it the situation. Mrs. Skonieczny thanked Mayor Borato for her attempt and stated we are now back to where we were two weeks (2 wks.) ago. Mrs. Skonieczny stated that they borrowed six million dollars last May and we didn't see any of that in the shopping center, with this being said **Mrs. Skonieczny made a motion to start citing them starting tomorrow, Mrs. Mutschler seconded the motion.** The Borough Solicitor recommended amending the motion to have the Code Enforcement Officer pursue the matter aggressively due to citing is not a function of Council it's a function of the Code Enforcement Officer. Members of Council discussed the clarification of aggressively and the way citations are/could be handled. **After some review, Mrs. Skonieczny re-worded her motion to instruct our Code Enforcement Officer to enforce our Ordinances, with a yes vote meaning to enforce our Ordinance and a no vote meaning not to enforce our Ordinance was made and seconded by Mrs. Mutschler.** Members of Council discussed if an updated list of violations should be completed before a citation and that the commercial violations follow the 2002 International Uniform Construction Code. Mr. Burns, before voting, stated that the owners NLSC have been very generous by giving the Borough approximately

\$29,000.00 a year towards the Borough. Mrs. Mutschler stated so you're basically saying that it's almost like a bribe, don't give me a ticket or what have you. Mr. Burns stated no, I just said they have been generous to the Borough. Mrs. Mutschler stated that this wasn't out of the goodness of their heart it was a contract that Tom Harrington made with the previous NLSC owners. Mr. Burns stated that we have to provide them with services since they are tax payers in this community and they do not have to give us \$29,000.00. Mrs. Mutschler stated what is \$29,000.00 when we spent \$20,000.00 paving a road down there, \$29,000.00 is not a lot. Mrs. Mutschler stated we have an eye sore down there and she would rather have the whole thing demolished and have a flea market every weekend which would look a lot nicer than it does down there. Mrs. Skonieczny stated that if they are cited and they start developing then we would get more than \$29,000.00. A roll call vote was requested on the motion to instruct our Code Enforcement Officer to enforce our Ordinances. Mrs. Skonieczny asked the Borough Secretary to repeat the motion to make sure it is correct and stated that as per Resolution No. 438, the President of Council should vote last so as not influence the rest of Council on a roll call vote. **A roll call vote was taken of the members of Council present. The motion passed after receiving five (5) affirmative votes and two (2) negative votes.**

Mr. Bucuren – Yes
Mr. Morrone – No

Mr. Fetkovich – Yes
Mrs. Mutschler – Yes

Mr. Googins – Yes
Mrs. Skonieczny – Yes

Mr. Burns - No

2. Non-organized Employee Resolution No. 457 – This matter will be discussed in executive session as a personnel matter.
3. Bonding for Borough/Employee Dishonesty Rider – The Borough Manager stated that he has received two (2) of the three (3) quotes and is expecting the last one soon.
4. Public Works Department Position – The Committee is not prepared to make a recommendation at this time.
5. Assistant Code Enforcement Services – The Committee is not prepared to make a recommendation at this time.
6. Reducing the Number of Bank Accounts – The Borough Manager stated that he was unsure if the Borough Solicitor has had an opportunity to review this matter.
7. Ambridge Water Authority Fire Hydrant Agreement (AWA) – The Borough Solicitor suggested discussing this matter in executive due to it regarding a contractual dispute with potential litigation unless Council has no issue discussing in public. Mrs. Skonieczny stated that the issue she has is in regard to we put in a hydrant, then dedicate it to them and then pay them to maintain the hydrant(s) when they are already required to maintain them in the contract. Members of Council and the Borough Solicitor discussed if the hydrants are dedicated to AWA then why would they not maintain them and if AWA is/would be providing a service of functioning hydrants that benefits the community. Mr. Burns expressed concerns regarding section 4C of the agreement that refers to a quarterly report containing the results/summary of hydrant testing and maintenance and which hydrants were tested being provided to the Borough with the quarterly hydrant bill which has not been received. Members of Council discussed the expiration date of the old contract, the continuous holding of fees in escrow until past reports are provided and that AWA has broken the contract by not supplying the referenced reports holding them accountable. The Borough Solicitor stated that the new agreement includes language to mandate certain requirements and that he will proceed in the nature of Council's wishes.
8. Petty Cash Policy – This was forwarded to the Finance Committee for review.
9. Fee Resolution – This matter is still on hold due to input from the Planning Commission has not yet been received.

NEW BUSINESS:

1. Werner Plan of Lots Subdivision Modification – The Borough Manager presented Council with an update regarding the discussion(s) he had with the Planning Commission Consultant who has reviewed this matter several times. Both the Planning Consultant and the Borough Manager recommend denying the subdivision modification due to our ordinance requiring a twenty foot (20 ft.) cart way for a private drive and the proposed plans show an existing ten foot (10 ft.) cart way that is to remain. The Borough Manager explained that in order to seek a modification you are required to prove a hardship which is not on the plans. The Borough Manager recommended the Werner's revisit the matter with their engineer in the event Council denies the request and they wish to pursue the project. Members of Council discussed if the reason for a denial is just that the cart way is not wide enough and the cart way being approximately nine hundred (900) plus feet with no public access. The Borough Manager stated essentially yes if the cart way was widened there would not be an issue. **After some review and discussion, the motion of Mrs. Skonieczny, seconded by Mr. Googins to deny the Werner Plan of Lots Subdivision Modification was unanimously carried with the exception of Mr. Burns who opposed.**

OTHER BUSINESS:

Mrs. Skonieczny expressed concerns regarding the Borough Solicitors fees almost doubling for the month of March. After reviewing the itemized invoices, Mrs. Skonieczny asked questions regarding the fire hydrant, defamation liability against the Borough regarding matters in a public meeting and four (4) items regarding the Skonieczny litigation charges. Mrs. Skonieczny asked if Council tasked the Borough Solicitor to research the defamation liability and if not then why was it billed. The Borough Solicitor explained that when concerns are presented by anyone on Council he likes to come to the meetings prepared to discuss these matters. Mrs. Skonieczny, as a Council Member, raised issues with the Borough Solicitor conducting/charging for work done on the Skonieczny litigation that PIRMA is getting paid to do and that PIRMA should then be paying for the Borough Solicitor fees in this matter. Mayor Borato asked if the Borough Solicitor is not attuned with things going on in a lawsuit then how can he keep us informed about what is going on. The Borough Solicitor explained that he reviewed what they are stating for accuracy since he has more information with Council dealings than the attorney from Westmoreland County. Mrs. Skonieczny stated that PIRMA should be sending the Borough Solicitor a report to distribute to Council. The Borough Solicitor stated he would request a report from the PIRMA attorney.

EXECUTIVE SESSION: Mr. Burns requested Council go into Executive Session regarding a personnel matter and a police personnel grievance matter with a possible vote at 7:56 p.m., as per the motion of Mr. Fetkovich, seconded by Mr. Morrone.

Mrs. Mutschler stated that a couple people here are involved in the matter and asked if they should stay for executive session. The Borough Solicitor stated that this is up to Council's discretion and that it not a right at this time. Members of Council discussed this matter and concluded that if the people don't mind staying in case Council has any questions that they could answer in executive session. The Borough Solicitor stated that this would be wise and if there is an opportunity for one side to be heard then he would advise the other side also have the same opportunity. The Borough Solicitor also advised that this be done in a narrow manner.

On the motion of Mrs. Mutschler, seconded by Mr. Fetkovich to reconvene at 9:01 p.m. was unanimously carried.

Upon re-entering the public meeting the following item was reviewed:

1. Police Association Grievance – Mr. Googins thanked Chief O'Brien and Mr. Justin Skonieczny for both of their packets being superbly written. **After some review the motion of Mrs. Mutschler, seconded by Mrs. Skonieczny to accept the grievance to remove the reprimand from the record and to direct the head of the political subdivision as required by the contract was made. A roll call vote was requested. A roll call vote was taken of the members of Council present. The motion failed after receiving three (3) affirmative votes and four (4) negative votes.**

Mr. Bucuren – Yes Mr. Fetkovich – No Mr. Googins – No Mr. Burns - No
Mr. Morrone – No Mrs. Mutschler – Yes Mrs. Skonieczny – Yes

Mrs. Skonieczny stated that she does not believe the Council President is the head of the political subdivision that Council is the head of the political subdivision. **After some review, the motion of Mrs. Mutschler, seconded by Mr. Googins to designate the Council President as head of the political subdivision as it relates to the grievance process in the police contract was unanimously carried.**

After some review, the motion of Mr. Googins, seconded by Mr. Burns to deny the grievance in standing with the Chief's recommendation and charge the designated head of Council to respond as such was made. A roll call vote was requested. **A roll call vote was taken of the members of Council present. The motion passed after receiving three (4) affirmative votes and three (3) negative votes.**

Mr. Bucuren – No Mr. Fetkovich – Yes Mr. Googins – Yes Mr. Burns - Yes
Mr. Morrone – Yes Mrs. Mutschler – No Mrs. Skonieczny – No

There being no further business, the motion of Mrs. Skonieczny, seconded by Mr. Morrone o adjourn the meeting at 9:11 p.m. was unanimously carried.

Margie L. Nelko
Borough Secretary

Randy Kunkle
Borough Manager

Motion(s) made and/or Council consensus decision(s):

1. Approve the Minutes of April 11, 2017 as amended.
2. A motion to instruct the CEO to enforce our Ordinances, included a roll call vote.
3. Deny the Werner Plan of Lots Subdivision Modification.
4. Failed motion to accept a grievance and remove the reprimand from the record, included a roll call vote.
5. Approval to designate the Council President as head of the political subdivision.
6. Passed motion to deny a grievance and charge the head of the political subdivision to respond, included a roll call vote.