

Economy Borough Council
Regular Meeting Minutes
July 26, 2016

MEETING was called to order at 7:00 p.m. with Mr. R.J. 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, Borough Secretary Margie Nelko and representing the Borough Solicitor, Mr. Joshua Kail, Esq.

ABSENT: Borough Manager Randy Kunkle (Excused)
Mayor Poling (Excused)

OPENING PRAYER

PLEDGE OF ALLEGIANCE

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.

The following visitors were present:

Mrs. JoAnn Smith of 2736 Ridge Road Ext., Baden
Ray McClellan of 196 Shaffer Road, Sewickley
Okey Matthews of 335 Springer Road, Freedom
Casey Bowers, representing PennEnergy Resources Inc.

HEAR THE PUBLIC:

Okey Matthews was present to request an update regarding 345 Springer Road. The Borough Solicitor stated that this property did not make it on the list for the Beaver County Community Development Program. There was discussion regarding whether the owner was being cited. Mr. Matthew inquired if the owner can be forced to demolish the dwelling or if the Borough can do the work and place a lien against the property. Mr. Burns explained that the legal process for the Borough is a very long and hard process. The Borough Solicitor stated that there are public meetings twice a week at the Beaver County Court House that is open to the public for comments/complaints. The Borough is following the long process that is in place for condemnation(s).

Mr. Regis Leindecker (not signed in) was present to express concerns regarding the tar and chip job done on Bock Lane and Bradford Park Road. Mr. Burns stated that Bock Lane is a state road and the tar and chip was done by PennDot. There was discussion regarding the bad tar and chip jobs on Big Sewickley Creek Road and Route 989 that was also completed by PennDot.

JoAnn Smith, Senior Citizens President, was present to thank Council for their generous donation to the Senior Citizens of Economy Borough Group.

JoAnn Borato was present and asked how long does it take for the condemnation once it makes the list. There was discussion regarding the long process and it was believed to be typically forty-five to ninety (45 – 90) days.

Mr. McClellan was present and inquired if the Davis School and house are on the list for demolition, which was determined to have been discussed in the past. Mr. McClelland expressed concerns regarding the need to clean up the gravel at the bottom of Shaffer Road due to the drains not taking the water from the rain. The

Borough Secretary stated that the Borough Engineer is aware of the issue. The Borough Secretary was asked to contact the Public Works Foreman to help with a solution. Mr. McClellan stated that he noticed that the property in front has been cleaned up and now it looks impressive. Mr. Burns agreed with Mr. McClellan and that the front area should be maintained. There was discussion regarding hiring summer help versus paying the Public Works Department wages to maintain the grounds.

MINUTES of the Regular Meeting held on July 12, 2016, were presented to Council. **After some review, the motion of Mr. Googins, seconded by Mr. Morrone to approve the Regular Meeting Minutes of July 12, 2016, was unanimously carried with the exception of Mr. Fetkovich and Mrs. Mutschler who abstained due to they were not present at the meeting.**

FINANCE COMMITTEE: Mr. Bucuren, Chairperson of the Finance Committee, presented Council with an update regarding the following items:

1. Treasurer's Report for the month of June 2016, was presented to Council. After some review, this report was ordered received and filed.
2. Budget Report for the month of June 2016, was presented to Council. After some review and the discussion below, this report was ordered received and filed.

Mr. Bucuren expressed concerns regarding the \$1.9 million dollars paid to PZ Northern for the condemnation being listed as a donation, and asked if this is normal protocol for this type of transaction. Mr. Bucuren stated that further down the line, years from now, someone may look at our Budget and will want to know what this payment was for. Is there a way to identify it better? Mr. Fetkovich stated that there is a debit (income) and a credit (expense) to balance it out. The Borough Secretary explained that when the money came in, we contacted the auditors (Maher Duessel) to ask what line item should be used in order to be correct for the state audit. Their response was to use the donation line item. There was some discussion on exactly what information was given to the auditor so that they could make this decision. Mrs. Skonieczny expressed concerns regarding that Council was told this transaction is in line with the Developer's Agreement (Agreement), which she has read, and the problem is that this is not a settlement or a donation but a reimbursement of eminent domain proceedings. Mrs. Skonieczny stated that Council was never given the opportunity to approve the "so called" settlement and it should have come out of the Borough's fund first and then under the Agreement, Walmart should have reimbursed the Borough for the damages of the eminent domain proceedings. Mrs. Skonieczny stated she is also concerned about the Borough being bypassed. Mr. Kail stated that the Borough was not bypassed. Assuming that Borough Council approved the Agreement, the Borough had bound itself to act as the passer of the reimbursement. Mrs. Skonieczny stated a reimbursement is compensation for payment that has been provided, which is loss incurred by the Borough for the just compensation to PZ Northern that Walmart should have given to the Borough. Because none of that happened and Council was by passed, we didn't have any input or approval of the settlement agreement under the alleged eminent domain proceedings. Mr. Burns asked Mrs. Skonieczny if she would provide the Borough Secretary with a written copy of this so that she may contact the accounting firm for an answer. Mrs. Skonieczny stated yes and asked Mr. Burns if he signed the \$1.9 million dollar check. Mr. Burns stated that he did not and that his signature stamp was used, which is a legal binding signature. Mr. Burns stated that the Borough Secretary phoned him for his signature, but he was in West Virginia and that he gave her permission to use the stamp. Mrs. Skonieczny inquired if Mr. Burns knew whether or not Council should have been apprised of it. Mr. Burns stated that Council was apprised of it by Mr. Askar (Solicitor). There was discussion regarding whether Council was apprised of it before or after the check was written. Mrs. Skonieczny inquired if this was discussed in a public session and asked how a check can be disbursed without the public and/or Council knowing. Mr. Kail stated that this was discussed in Executive Session(s) and it is a liability as determined by Council in a public setting through the Developer's Agreement. There was discussion regarding the Agreement stating that it was a reimbursement resulting from an eminent domain proceedings and if there were concerns regarding the order in which the transaction happened (that the Borough did not pay first and get reimbursed). Mrs. Skonieczny was also concerned that the Borough (the condemner) had no

involvement. As the condemner, the Borough has to pay the just compensation and should approve what the just compensation is, as well as, understand how the amount was arrived at. Mr. Kail stated that the Solicitor provided in Executive Session details of what the numbers were, the details of the appraisals of each side and where the Solicitor was hoping to get them to meet. Mrs. Skonieczny again expressed her concerns regarding the lack of discussion in a public session and that Council did not receive written information regarding this issue. Mrs. Skonieczny reviewed how an easement reimbursement is calculated for residents and if this was done for PZ Northern, then it would not jive. Mr. Googins suggested that these concerns be discussed with the Solicitor because he ran the Executive Session meetings and it cannot be solved at this meeting. Mr. Googins stated that there was discussion with Council regarding how the \$1.9 million was settled between the assessor's office and Walmart. There was some discussion regarding the income/expense of the \$1.9 million in the Budget and whether or not Council could/should vote to amend the Budget. Mrs. Mutschler expressed concerns regarding how it is documented, as Mr. Bucuren expressed earlier. There was discussion regarding the possibility of placing a footnote to the Budget Report. The Borough Secretary stated that she does not believe the accounting software will do that or give an option of placing a general comment at the end of a report. Mrs. Mutschler stated that the minutes need to be expanded a little bit more because of all the discussion regarding this and that the minutes are the legal documentation. The Borough Secretary explained that when the office receives money which is deposited into the bank it must be recorded in the Budget as an income, as well as, when a check is written it must be recorded as an expense. Mr. Burns stated that even though it was basically a pass through it has to be shown in the Budget because if the auditor finds a \$1.9 million dollar discrepancy there will be red flags. The Borough Secretary explained that the documentation that was received to write the check has been attached to the check stub and placed in the file as is done with all checks. The Borough Secretary explained that the Budget is a set guideline of what the Borough expects to receive and spend and gave an example of an unexpected income (donation) that would cause the Budget to be off the rest of the year. There was further discussion regarding the concerns regarding the recommendation of using the donation line item. Mr. Fetkovich stated that there needs to be more clarification from the auditor to make sure the monies are falling into the two (2) correct line items. The Borough Secretary stated that she would discuss the issue with Maher Duessel (auditors) again. Mrs. Skonieczny again expressed concerns regarding the \$1.9 million affecting the income/expense totals because a check was not written to PZ Northern from our fund and a reimbursement for that check was not received from Walmart. The Borough Secretary explained that you need to reduce both the income and expense totals by \$1.9 million. Mr. Kail stated that the revenue would be the same and asked if the office has all the documentation with the Court Order. The Borough Secretary stated yes, all of the information that was received from the Solicitor is attached to the check stub. Mr. Burns stated that he thought there was a time limit associated with this transaction. The Borough Secretary stated yes, that is my understanding and that she would contact the auditors to discuss these issues using the terminology provided by Mrs. Skonieczny. Mrs. Mutschler stated that she is hoping that with this little discussion, that when reading the minutes that it doesn't just say "discussion" and we then voted on it. There was further discussion regarding amending the Budget and it was decided to defer to the auditor for more professional advice. Mrs. Mutschler stated that she thinks the minutes need to enlighten a little bit of what the discussion was and this way you are informing the residents or anyone who reads them it isn't just "there was discussion and a motion was passed". The minutes do not need to be word for word but give the residents some idea of what we were questioning and looking into.

ORDINANCE COMMITTEE: No Report.

PARKS and RECREATION COMMITTEE: Mrs. Skonieczny, Chairperson of the Parks and Recreation Committee, presented Council with an email that she had received from the Recreation Board requesting the dollar amount available for improvements to the parks/recreation.

PROPERTY and BUILDING COMMITTEE: No Report.

PUBLIC SAFETY COMMITTEE: Mr. Googins, Chairperson of the Public Safety Committee, requested an executive session to discuss contract negotiations.

Mrs. Skonieczny stated that there were some concerns from other Council members regarding her participation in the police contract negotiation due to her son is part of the police force. Mrs. Skonieczny stated that she did contact the Ethics Commission and that she received two (2) opinions (citations) from the commission, which she is willing to give to anyone who wishes to review them. Mrs. Skonieczny stated that as per the opinions, she is permitted to attend the executive session, participate in negotiations and vote, due to there is an exception to the rule because her son is part of a group. The Borough Solicitor inquired if the commission was aware that he is part of the bargaining negotiations. Mrs. Skonieczny stated that she does not remember but she will contact them again to review.

PUBLIC WORKS (PW) COMMITTEE: Mr. Fetkovich, Chairperson of the Public Works Committee, stated that he had a few residents in his neighborhood contact him regarding concerns about the milled roads and that they cannot take out their low riding vehicles due to the height difference. Mr. Fetkovich inquired as to why was it scheduled so far apart and why the delay between milling and paving. Mr. Burns stated that there were problems with the road and the base repairs. Mr. Burns explained that Shields Paving, Inc. pulled out to give the public works department time to fix the base repairs and that Shields Paving, Inc. is scheduled to be back in the Borough on Friday. Mrs. Mutschler inquired if there is a way to not mill as many roads at one time and she discussed the portion of the Public Works contract that references from March to September that only one (1) employee is off. Mrs. Mutschler stated that if there are more employees off, it is ok, but if we need you back to do work then you are called back to work and that there was sometimes there were three (3) employees off and that is bad scheduling. Mr. Burns agreed and explained that it is too costly to bring in a milling machine to do a small job.

MAYOR'S REPORT: No Report.

SOLICITOR'S REPORT: The Borough Solicitor stated that the only item to discuss is the letter Council requested to be written to the Ambridge Area School Board at the regular scheduled Council Meeting of June 28, 2016. The letter is expressing concerns regarding the increase to the school taxes and it is ready for Council's signatures.

OLD BUSINESS:

1. Former Employee Life Insurance – This issue was tabled, due to the Borough Manager was not present to present Council with an update.
2. West View Water Authority (WVWA) – Mrs. Skonieczny reviewed an email that the Borough Secretary sent to Council regarding a Street Opening Bond from Rudzik Excavating and that Rudzik Excavating believes they would be reaching the Borough owned portion of Tevebaugh by the end of the week (July 29, 2016). There was discussion regarding Rudzik Excavating not having a street opening permit and that they cannot be issued one until the amendment to the Ordinance No. 217 has been completed. The Borough Secretary stated that the Borough Manager informed her that they were given a street opening permit which was then revoked and as of this time they do not have a permit.

NEW BUSINESS:

1. Towing Companies – Mr. Fetkovich inquired if there was approval made to have two (2) towing companies within the Borough. There was discussion regarding if it is an emergency then the police request the towing company, if it is a non-emergency situation then the individual involved in the accident is legally permitted to choose the towing company. Mr. Fetkovich stated that he received a bill in the amount of approximately \$1,375.00 for towing service of approximately two (2) miles performed by Harvey's Auto Body. Mr. Fetkovich stated that there needs to be some competition and that the amount of bill he received seems wrong for towing a vehicle from Walmart to Baden. Mr. Burns stated that individuals are able to contact the PUC or another agency regarding insurance fraud.

OTHER BUSINESS:

Mrs. Skonieczny stated that there was a request made to the insurance company to obtain the deposition of the federal case we have for the Borough and we need a vote by Council to obtain copies of the deposition for the federal law suits for our records. There was some discussion regarding the Mayor being told he could not request a copy due to he was not part of the governing body. Mrs. Skonieczny stated that we paid the insurance company to represent us, but we were also sued in our own individual capacities, and would you agree, that it is our individual right to obtain a copy of the depositions. Mrs. Mutschler stated that this is something that we paid for and it should be on file with the Borough for future reference. Mrs. Skonieczny stated that she wanted to make a motion for Council to approve the request for a copy of all the depositions that were in that case for our records. (No action taken). There was some discussion regarding the reasoning for this request and it was stated that the Borough has paid for the service and there was acknowledgement of wrong doings. Mr. Burns stated that he could not vote on this issue until after he seeks legal advice due to the instance of something coming back on him. The Borough Solicitor recommended discussing this issue further in executive session with a possible vote.

EXECUTIVE SESSION: Mr. Burns requested Council go into Executive Session regarding police contractual matters at 8:00 p.m., as per the motion of Mr. Bucuren, seconded by Mr. Fetkovich.

There being no further business, the motion of Mr. Bucuren, seconded by Mr. Fetkovich to adjourn the meeting at 9:10 p.m. was unanimously carried.

Margie L. Nelko
Borough Secretary

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

1. Approve the Minutes of July 12, 2016.