

A meeting of Portage Borough Council was held on April 7, 2014, at 6:30 p.m., in Council Chambers.

Those in attendance were:

Sharon McCarthy, President
Rebecca Chobany
Mayor James Kissell

John Morgan
George Wozniak
Jerome Yetsko

Also present were: Robert Koban, Borough Manager; Michael Emerick, Solicitor; Ray Bowman, Public Works; and Sharon Squillario, Recording Secretary.

Absent/Excused: Gary Wisor, Engineer; Chief Miller, Public Safety; Michelle Claar, Borough Secretary.

I. CALL TO ORDER

Ms. McCarthy called the meeting to order at 6:30 p.m., which was followed by a roll call with all members being present.

II. REFLECTION/PLEDGE OF ALLEGIANCE

Mr. Kissell offered a reflection. The reflection was followed by the Pledge of Allegiance.

III. APPOINTMENT OF MEMBER OF COUNCIL FOR WARD 3

Ms. McCarthy asked for nominations for appointment of a member to Borough Council from Ward 3 for a two-year term through 2015. Mrs. Chobany nominated Dave Hayes, but the motion died due to a lack of a second. Mr. Kissell nominated Todd Learn, which was seconded by Mr. Wozniak.

ON MOTION OF MR. KISSELL, SECONDED BY MR. WOZNIAK, THE COUNCIL UNANIMOUSLY APPOINTED MR. TODD LEARN TO BOROUGH COUNCIL FROM WARD 3 FOR A TWO-YEAR TERM THROUGH 2015. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MRS. CHOBANY, MAYOR KISSELL, MR. MORGAN, MR. WOZNIAK, AND MR. YETSKO.

Following appointment, Mayor Kissell conducted the swearing in of Mr. Learn to Council.

IV. RECOGNITION OF GUESTS

Ms. McCarthy asked for a motion to go out of order of the agenda to recognize the guests present.

ON MOTION OF MR. WOZNIAK, SECONDED BY MRS. CHOBANY, THE COUNCIL AGREED TO GO OUT OF ORDER ON THE AGENDA TO RECOGNIZE THE GUESTS PRESENT.

Ms. McCarthy recognized the following guests: Don Squillario; Mark Chobany; Jean Kinley; Dave Hayes; Todd Learn; Mr. and Mrs. Bill Miller, Mr. and Mrs. McCool, Mr. Heinrich; Amanda Petrunak, Mainline Newspapers; Justin Dennis, Tribune Democrat; Kelly Ceretinch, Altoona Mirror.

Most of the guests indicated that they were present at the meeting to discuss the sewer project as discussed at past meetings.

ON MOTION OF MRS. CHOBANY, SECONDED BY MR. WOZNIAK, THE COUNCIL UNANIMOUSLY AGREED TO GO OUT OF ORDER ON THE AGENDA TO DISCUSS THE SEWER PROJECT.

Mr. Kissell stated that he was at the last Sewer Authority meeting with other members of Council along with Mr. Koban. The Ordinance that was previously adopted by Council was reviewed by legal counsel and there was nothing wrong with it; now all of a sudden Council has a new Resolution from the Sewer Authority that will change the way the residents of the Borough want the matter to be handled.

Mr. Chobany agreed to be the spokesperson for the visitors present. He provided a history of the discussions that have taken place in the past. He noted that everything was fine, and then Martindale had to have sewer lines placed. The Sewer Authority was going to do a pipeline to the Sewer Plant; the Borough was not involved but agreed to sign off on the loan. Mr. Chobany noted that the Borough said at that time that, if they were going to sign off on the loan, perhaps they should get new sewer mains through the town. The Borough approved that; and then it came about that everyone would have to get pressure tested and replace their lines if it came to that, which Mr. Chobany noted would be the case since the residents have terracotta pipes. At that time, Mr. Chobany pointed out, the town went into an uproar; and a meeting with the residents was held at which time the residents expressed their feelings to Council. The Council agreed that something needed to be done; and Council passed a Resolution stating that upon buy, sale or transfer of property, a pressure test had to be done. At this point, Mr. Chobany explained, the Sewer Authority indicated that they would not continue the project if this was the case. Mr. Chobany noted that there were a number of residents at that time that wanted to attend the Sewer Authority meeting but were told that there would not be enough room at the meeting room for all of the residents to attend. Therefore, Mr. Chobany and some others attended the meeting; and at that meeting the project was passed and it was agreed that the testing would be done upon buy, sale or transfer.

Ms. McCarthy commented that at the last meeting Council felt everything was addressed; and the Resolution was sent to the Sewer Authority before Council even adopted it, and then at the last meeting the discussion was reopened. Mr. Koban explained that he and others were present at the Sewer Authority meeting; and he feels that when the Authority voted, it was to move forward with the project and not everyone concurred with that. Then when Council voted, it was a majority vote to move something forward that not necessarily everyone agreed with. Mr. Koban commented that Mr. Squillario has been adamant of his feelings from the beginning; and when the Authority voted to move the project forward, the project can still get nixed by not submitting the current application.

Ms. McCarthy questioned if the Sewer Authority had a vote to stop the project. Mr. Koban commented that the request caught him off guard to have a Resolution to change the original. At the current time, he pointed out, the Ordinance reads upon sale or transfer pressure testing will be done, but it puts the onus back on the Borough to have that done. Since Mr. Koban himself is not qualified to do that, he believes the Ordinance needs to be updated to give it more definition. However, Mr. Koban pointed out, Council needs to be careful because if it is done the wrong way, it would give complete authority to the Sewer Authority to go around the Ordinance to get to the point we were before. Attorney Emerick pointed out that the Ordinance that Council enacted requires that the testing be done upon sale or transfer, but there is a provision to allow for inspection; and if there is a problem it can be required to be corrected (i.e., if there is a problem discovered by the flow testing). He pointed out that it does not require the test, but if the sewer enforcement officer believes there is a problem, they can require the

testing. The Resolution would have given the authority back to the Sewer Authority where they would make that determination. Currently, Council makes the determination on what the Sewer Authority will inspect. That is where Council is trying to protect what was done at the last meeting when the Ordinance was enacted because Council controls when the testing will be done. Mrs. Chobany questioned the section in the Ordinance that states this, to which Attorney Emerick replied that it is contained under Section 4. Mrs. Chobany commented that she thought the Authority could check it and be able to do the lateral testing, but could not do anything other than telling the owner of the property they had to address the problem. Mr. Koban pointed out that the Sewer Authority has the authority to do that now. If they think there is an infiltration in the system, they can make the property owner rectify the problem. Mrs. Chobany emphasized that she is trying to protect the residents that do not have the money to rectify the problem; i.e., residents with a low income and elderly residents. Attorney Emerick commented that at the current time, Council has control over that. Mr. Koban indicated that the bottom line is that the Ordinance is sound, but it needs to be tweaked to verify some items, but he does not think at this point in time Council wants to give the authority to the Sewer Authority until we get through this process.

For the most part, Mr. Koban pointed out, the way the Ordinance was drawn up and presented in the past is effective and sound. He commented that the changing point to that is when Council received the memo from the Sewer Authority and Engineer where it put the Sewer Authority in the position of making the determination and that was the game changer. Mr. Chobany noted that, since the Ordinance was passed, Council also has three new members; and it seems odd that this matter is brought up again now that there are new members of Council. Attorney Emerick indicated that the Ordinance states that the Sewer Authority can do the inspections themselves or give that authority to someone else. The Sewer Authority is asking to do that and make the determination and Council has not decided to do that. The Sewer Authority can do that or cede it to someone else.

Mr. Heinrich stated that, if we are going to give the authority to the Sewer Authority, then why do we have the Ordinance. The Sewer Authority would have the total power, he commented. Mr. Heinrich emphasized that there were a number of residents that voiced their opinion that it should not be done that way. Mr. Koban pointed out that there are two flaws in the ordinance, the first being the sale or transfer language is specified in the introductory language in the Ordinance. The Ordinance goes on further where it does not specify this but gives the Borough the authority to tell the Sewer Authority to do something about the infiltration from a certain house. Council left the ability in the Borough's hands. The problem with the Ordinance, Mr. Koban pointed out, is that the introductory language is not binding in a court of law. Attorney Emerick commented that it is in the material language of the Ordinance; others were lead ups to what was being said. He noted that it states upon sale or transfer but the first part of Section 4 allows inspections to be done by the Sewer Authority. Mr. Koban commented that his suggestion to Council would be to change the Ordinance to make it binding in a court of law and leave the sale or transfer language in the introductory language but also include it in the body of the Ordinance. We should state that it would be upon sale or transfer but turn the inspection portion of that over to the Sewer Authority to do that upon sale or transfer only. Attorney Emerick indicated that we could change the Ordinance separate from the Resolution that was discussed, and then the Resolution would be approved after that. Mr. Koban commented that this would phase the Ordinance on how Council intended it to be passed.

Mr. Koban stated that the second portion of this is, in order to keep the project moving forward, we had a workshop with the Sewer Authority. He noted that perhaps we can expand upon instead of infringing upon the Sewer Authority. The Sewer Authority wants to do the inspection. The Sewer Authority has stated that there is more infiltration coming from the houses than the main lines on the road. Members of Council met with the Sewer Authority and came up with three options in order to get the project moving forward. Mr. Koban commented that he does

not think there was anyone in the room the night of the meeting that did not want to see the project move forward. The hinge was that we did not want to impede upon the homeowners. For the most part, Mr. Koban commented, the consensus was that we want to keep the project on the table and have new sewer lines in town but we do not want people coming in and saying that the residents would have to dig up their basements. At the meeting, it was agreed and questioned what the options would be to keep the project moving but get as much infiltration out of the system without going into the home itself. Attorney Emerick indicated that Council can make amendments to the Ordinance to protect the community and make an amicable solution, but Council will have no power over the Sewer Authority when they make the determination or whether or not they want to move forward with the project or change it.

Mr. Miller questioned if there is a difference between inspection and pressure testing, to which Mr. Koban replied that there is and that pressure testing is a certain form of inspection. Mr. Miller indicated that if a home does not have any extra ground water coming in, they could still fail the pressure test. He noted that there are a lot of houses in the Borough that have extra water coming in. All of these houses will fail because of the terracotta pipes. Mr. Koban pointed out that you could have a house built five years ago; and if the joints settled the wrong way, the house would not pass the inspection. He commented that he does not think there is any debate that the majority of the houses will fail unless the homeowner had something done within the last five years. Mr. Miller questioned the inspection where the Sewer Authority can look and see water and there is a problem in the house. Mr. Squillario replied that this is still in the plans. If the Sewer Authority tests Ward 3, he explained, they will install viewports on the property. Mr. Squillario stated that, if the Sewer Authority's camera sees that a home has excess water, they can pull the viewport and put a flow meter on it and then monitor the meter.

Mr. Chobany questioned, of the three options, are any of them (1) remaining with the Ordinance where no work will be done unless there is a buy, sale or transfer; (2) do nothing; or (3) let Martindale do the project and then come down through town. Mr. Koban pointed out that we cannot take the Borough off of the slate. It could be a fourth option. If Council says no and they take it off the table, there is a court order that says Martindale needs done either way. If it is not one of our options, Mr. Koban stated, the Sewer Authority could move forward with that project if they wanted to; and Mr. Koban thought until the meeting that the Sewer Authority needed the Borough's blessing from the loan perspective, but there are ways around that and the Sewer Authority could take that off the table. Ms. McCarthy commented that when this was discussed, if the Sewer Authority just did Martindale, the Borough wanted tier pricing because the Borough has paid, but the Sewer Authority cannot do that. Mr. Koban commented that the Sewer Authority can do tier pricing, to which Mr. Squillario stated that the Sewer Authority can but it does not work. Mr. Koban indicated that this would relate to street light districts where in certain sections of the town you could surcharge for the lights. This could also be done for the water. There are pitfalls and issues with this, however, but technically you can do it.

Mr. Chobany stated that he thought the rates would go up no matter what. Mr. Squillario explained that the Sewer Authority has to maintain a certain income to cover its debt, such as the PennVest debt. The Sewer Authority sets the rates based on what its auditors say is needed to cover the debt, and the Sewer Authority attempts to hold the rates if it can. Mr. Squillario explained that last year the rates went up 7%; 5% was for construction and 2% was for day-to-day operations. He indicated that the Sewer Authority just received the audit for 2013; and the Authority was better in 2013 than in 2012. Mr. Chobany questioned if the Sewer Authority has a fund where it saves money to pay for a project completely. Mr. Squillario emphasized that if the Sewer Authority attempted to save money for a \$3 million project, it could take over 20 years. If the Authority waited that long to do the project, a \$3 million project would most likely increase to \$12 million. Mr. Squillario explained that for the Cunnard Street project, the Authority did this \$275,000 project in-house. He noted that the Sewer Authority does have a

construction fund that is used for some projects so that it does not have to obtain a loan to complete the project.

Mr. Kissell questioned Mr. Squillario how the current sewer rates compare to the rest of Pennsylvania, to which Mr. Squillario responded that the Portage Sewer Authority is approximately \$35 per month minimum, which is more in line with Ebensburg. He noted that Forest Hills, Johnstown, and Ebensburg are much different, but Portage is much cheaper than Forest Hills and Central Mainline.

Mr. Koban indicated that, as stated in the memo from the Sewer Authority, there are currently three options on the table:

1. Replace and/or rehabilitate the existing system in kind.

Mr. Koban explained that this would mean that the existing service lines would be replaced from the main line to the private property line. If new lines are installed down the road, no pressure testing would be allowed unless it is at the time of sale or transfer. Mr. Koban pointed out that this is not to say that if there is something discovered during the process, the Sewer Authority has the obligation to find out where the concern is coming from.

2. Install a parallel sewer system without requiring testing under building foundations.

Mr. Koban noted that this would be the middle of the road option. The Sewer Authority would install a parallel system without required testing under the building foundations. Mr. Koban reviewed a copy of the diagram of how this option would work. He pointed out that there would be a main line running down the road and would have a "t" to each home. The Sewer Authority would install a viewport at the curb line to allow the Sewer Authority to view the flow. With this option, Mr. Koban pointed out, the homeowner would be required to have pressure testing conducted from where the viewport is placed to the foundation of their homes. This would require excavation in that a lot of homes do not have a way to test from the foundation currently. There are new regulations, Mr. Koban noted, that require homeowners to put a cleanout next to the house. This option would require that the homeowner pass a pressure test from the viewport to the cleanout. The Sewer Authority could not go into the home and pressure test anything under the basement. It does not mean, however, that, if the Sewer Authority is pressure testing the line, if there is a recognized problem, they can come into the home and say there is a problem that needs addressed. Mr. Koban noted that there may be many homes that fall into this category.

Mr. Kissell commented that there will be a cost to the property owner from the viewport at the curb to the foundation. He questioned if it would be the homeowner's responsibility for the installation. Mr. Koban commented that he is confident that 99% of the homes will not pass the inspection. The homeowner will be responsible for the cost from their curb box to the foundation. When these homes are checked, Mr. Koban pointed out, they probably will not pass because of the terracotta pipes.

3. Install a parallel sewer system with complete pressure testing of private property sewer systems.

Mr. Koban commented that if we wanted to keep all of the infiltration out of the system and keep rates low, option #3 is what you would want. This option basically says it is truly a closed system. Pressure testing would be required for all homes within the project area.

Mr. Koban stated that most likely the best way to move forward would be a process of elimination in looking at each of the options, or Council could address each option. However, Mr. Koban pointed out, he believes it would be best to eliminate any of the options Council is not agreeable to, or go back to the Sewer Authority and tell them that Council would only agree that the testing should be done only upon sale or transfer, which would actually be Option #4. Mr. Koban noted that the lines in the streets will continue to be a problem and will allow more infiltration. The sale or transfer is moving forward; and in 20 years you will have the majority of the Ward and that is only attacking part of the problem. Mr. Squillario noted that buy, sale or transfer would be for the entire town. Mr. Koban noted at the current time the Township Ordinance reads that if there is a new project, this applies. He indicated that Spring Hill is the worst area for infiltration. If a new line goes in, all homeowners would be required to pressure test within the house.

Mr. Miller stated that historically every time it rains, the surge of water going into the sewer plant was coming from Ward 3. Now it is being said it is coming from Spring Hill. Mr. Squillario explained that there is infiltration coming from all areas of the Borough and Township. The Sewer Authority chose Ward 3 because that is where the flow indicators say it is below the creek and most of the houses are built on a creek bed, which is a major infiltration area. Mr. Squillario commented that the Authority could have chosen any other Ward, but Ward 3 is the particularly bad area.

Mr. Kissell stated that we have an existing sewer line; and different areas have different sized pipes. We have surface water running down the road into everyone's property into the foundation of the homes and into the sewer lines. By converting the old system into a storm system, it would take the water off of the street and put it into the old sewer lines. This would then take the water off the streets and prevent it from coming into the homes. There would be a parallel run to the residence, Mr. Kissell commented. Mrs. Chobany noted that the parallel line was only mentioned for option #2. Mr. Kissell indicated that option #1 was to use the old pipe and reconnect it, but you would still have the infiltration into the property. He pointed out that when water goes over the curb, the only place it has to go is into the property. It goes along the foundation of the home and into the sewer line. Mr. Kissell indicated that this is how we are trying to slow the process down. The Borough is 125 years old and most of the system is pushing that age also; and we need to keep the infrastructure going. Mr. Koban indicated that this is not necessarily the Sewer Authority's problem. The Borough requested this; and from the Borough's perspective, the Borough wanted to improve the infrastructure. Mr. Koban indicated that he does not think these are bad issues to be faced with and not do anything about.

As it relates to the above options, Mr. Koban indicated that he feels that, based on the discussions, option #3 should be eliminated, to which Mrs. Chobany agreed. Mrs. McCarthy commented that residents have been opposed to this option anyway. Mr. Morgan commented that he believes option #2 going from the foundation out should be considered. Mr. Koban indicated that under option #3 the engineers want a completely closed system, but there is a cost to that; therefore, he agrees that option #3 should be eliminated.

Mr. Yetsko questioned Mr. Squillario, as President of the Sewer Authority, what his recommendation would be. Mr. Squillario pointed out that he has stated in the past that he will not invest \$3 million and not fix the problem. He noted that to him option #2 is a good option. He explained that with option #1, the Sewer Authority will put the mains in, but the residents will have no relief for their sump pumps or floors drains. With option #2, the Authority will run new lines and the residents will run new lines. The old system will remain and will be changed into a storm sewer once everyone is connected to the new system. The Borough would then be responsible for the storm sewer. Mr. Squillario noted that, when members of Council met with the Sewer Authority, when the Council members left, Mr. Squillario questioned the Sewer Authority Board what option they were in agreement with. The consensus of the Sewer

Authority Board was for option #2 after a 4-2 vote, with one of the dissenting votes being Mr. Squillario. Mr. Koban commented that he understands that Mr. Squillario and the Sewer Authority wants to do the project 100% and have it done right. Mr. Bowman pointed out that with option #1, the residents would have no options and would have to do the testing. However, he commented, with option #2, we would still have the old system, and if a resident had to put in a sump pump they could do that.

Ms. McCarthy indicated that, with option #2, the property owner would be charged from the viewport and cleanout. Mr. Koban indicated that his thought process was that he was under the assumption that we want to move the project forward; and option #2 is basically the middle of the road. He stated that in talking with some residents, they would be doing it anyway and the excavation is already there. Mr. Koban commented that 80% of the homes in Ward 3 would be 20 feet off of the curb box. Mrs. Chobany questioned if the residents are aware what the approximate cost would be, to which Mr. Squillario replied that the 4" pipe currently costs approximately \$2.50 per foot. Mr. Koban commented that everyone's situation will be different; and there will also be sidewalk issues for some. Mrs. Chobany again questioned an average cost, to which Mr. Koban replied that he is sure the Engineer could provide an estimate on average of what it would cost for each resident. Mr. Bowman stated that he would think most of the residences could be done for \$500 or less. One resident present commented that she is currently on Social Security; and with that type of income, it would be difficult for her to pay even \$500.

Mr. Chobany questioned, with all of hours that everyone has put into this project and with all of the different meetings, has anyone put any time into trying to figure out what can be done for the residents financially. Ms. McCarthy commented that this has been discussed in the past; and First Summit Bank is willing to assist the residents. Mr. Koban emphasized that the Borough has never been faced with this type of situation before. In the past, when similar projects were done, the Sewer Authority surcharged and put liens on properties. Mr. Koban stated that what we need to decide first is what direction we are going and what option is going to be chosen. Once the option is chosen, we can then look at what is available to the residents financially because we would then know what each resident would be faced with. He indicated that this is not going to be solved at this meeting being that there are three options on the table, with a fourth option being to nix the project completely.

MR. KISSELL MADE A MOTION TO ELIMINATE OPTION #1, WHICH DIED FOR A LACK OF A SECOND.

THE COUNCIL UNANIMOUSLY AGREED THAT OPTION #3 BE TAKEN OFF THE TABLE FOR DISCUSSION. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. MCCARTHY, MRS. CHOBANY, MAYOR KISSELL, MR. LEARN, MR. MORGAN, MR. WOZNIAK, AND MR. YETSKO.

Mr. Koban commented that more information has now become available; and one of the true benefits if we eliminate option #3, option #2 gives the Borough some opportunity. The downside, however, is that Ward 3 is a horrible Ward for storm sewers. Under option #2, the Council will have to accept the fact that if the Sewer Authority puts in a parallel system, the current system will be the storm sewer system and the Sewer Authority will not maintain the old system and it will become the responsibility of the Borough. Mr. Koban emphasized that this will be an infrastructure cost that the Borough has not planned for. The Borough will have to maintain the manholes, risers, etc., and it will continue to deteriorate. Mr. Koban commented that the Borough could possibly use community development funds for this cost, but it is something that Council will have to consider.

Mr. Wozniak questioned where the storm sewer will break out to, to which Mr. Koban replied that it would go into the creek. Mr. Wozniak questioned if the Sewer Authority would wash their hands of the matter and it would become the Borough's responsibility, to which Mr. Koban replied affirmatively. Mr. Squillario explained that with option #1, the Sewer Authority would still go to the property line from the sidewalk to the viewport but the Authority may not have to dig up as much because they will be able to slip line most of the pipes. However, if the homeowner then sells the house and it does not pass the testing, the resident will have to test from the viewport to the house. If there is a water problem and there is no storm sewer problem, the Borough will have to take care of the water problem. Mr. Squillario emphasized that in the winter, these types of water problems can create a lot of problems. Mr. Koban commented that in a past concern, both property owners paid for the pipes. Mr. Squillario indicated that in this situation there was a storm sewer in close proximity to their homes; however, currently on Blair Street you can go two blocks into the Township before you hit a storm drain.

Mr. Chobany indicated that under option #1, the Sewer Authority would slip line the mains; and under the buy and sale, they would have to go into the house. Mr. Squillario explained that the Sewer Authority would go from the curb to the main; and in the buy and sale, it would go through the viewport into the foundation of the residence. Mr. Chobany indicated that the majority of the water is under the house; and under option #1, that would be fixed. Mr. Squillario noted that with option #2, the resident would be able to keep their floor drains and would only have to tie in the sewer line. Mr. Chobany commented that we are under no mandate from DEP to do this, to which Mr. Squillario explained that it is really an emergency each time it rains because of the amount of water that is entering the sewer plant.

Mr. Kissell questioned, with option #2, if we are going the middle of the road, are you going to be permitted to use the old sanitary system as a storm sewer, to which Mr. Squillario responded affirmatively. Mr. Koban commented that the Borough would have the responsibility but there would be the ability to have a storm sewer system. Mr. Bowman noted that with the new storm water management, we can sell the residents some capacity, which can be set up beforehand. We could sell businesses some capacity for some fee or a one-time charge and allow them to put the water into the storm system. Mr. Koban indicated that there are some costs to option #2, both to the Borough and the residents.

Mr. Kissell noted that the Authority would run new lines up to the foundation of the house and put in a viewport. He questioned what line from the house would be tapped into. Mr. Squillario explained that this would be anything that has toilet facilities. Floor drains would be on the old system. If a resident does not have a shower or toilet in the basement, it would only cost them from the viewpoint to the foundation. If there is a shower that is not used, it can be tapped off. Mr. Koban commented that under option #2, the sanitary sewer goes into a sanitary system and any storm water would go into the storm water system. Mr. Kissell questioned if water from a toilet on the second floor of a residence would go into the new system, to which Mr. Squillario replied that if the Sewer Authority puts in a lateral system, the commode in the basement of a residence would go into the new system.

Mr. Hayes indicated that instead of deciding this matter at this meeting, perhaps a public meeting should be held so that a decision could be made. Mr. Koban commented that it is very difficult to have a positive meeting like that. The residents have already provided the necessary comments and information to Council; and it is ultimately the decision of Council. Mr. Hayes noted that a decision had already been made in November, to which Mr. Koban interjected that the landscape has changed since then. Mr. Squillario commented that the Sewer Authority would need a decision by May 13.

ON MOTION OF MRS. CHOBANY, SECONDED BY MR. WOZNIAK, THE
COUNCIL UNANIMOUSLY AGREED TO MOVE FURTHER DISCUSSION OF

THIS MATTER TO THE COMMITTEE OF THE WHOLE MEETING TO BE HELD ON APRIL 21, 2014. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MRS. CHOBANY, MAYOR KISSELL, MR. LEARN, MR. MORGAN, MR. WOZNIAK, AND MR. YETSKO.

V. RECOGNITION OF MR. SQUILLARIO

Ms. McCarthy recognized Mr. Squillario who recently retired after providing 36 years of service to the Borough. She noted that Mr. Squillario's infrastructure knowledge has been a tremendous asset to the community. Ms. McCarthy commented that Mr. Squillario has ensured that the roads were taken care of during the winter, being up at all times during the night. On behalf of the entire Borough Council, Ms. McCarthy thanked Mr. Squillario for everything he has done for the Borough during his tenure. The Council presented Mr. Squillario a plaque acknowledging his service to the Borough.

Mr. Squillario thanked the Council for the acknowledgement. He thanked Council for the opportunity to work for the Borough over the last 36 years and he is available at any time if he is needed for anything. Mr. Squillario also thanked Council for the recognition luncheon that was held on his behalf.

Mr. Squillario stated that he had received a telephone call from a member of the Sacred Heart Usher's Club concerning the procession that will take place on Holy Thursday from St. Joseph's to Sacred Heart Churches. The Usher's Club was requesting the presence of the fire police to be present at the various intersections to block traffic during the procession. Mr. Squillario commented that this request would be weather pending.

ON MOTION OF MR. KISSELL, SECONDED BY MRS. CHOBANY, THE COUNCIL UNANIMOUSLY APPROVED THE BLOCKING OF INTERSECTIONS FOR THE PROCESSION ON HOLY THURSDAY AS OUTLINED BY MR. SQUILLARIO ABOVE. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MRS. CHOBANY, MAYOR KISSELL, MR. LEARN, MR. MORGAN, MR. WOZNIAK, AND MR. YETSKO.

VI. REPORTS

A. Borough Manager's Report

Mr. Koban commented that a copy of his report was provided to Council prior to the meeting.

Mr. Koban reported that the Mountain Avenue project was let on March 27; and he provided a copy of the bid results with his report. The bid was let to M and B Services, LLC for a total project cost of \$220,732.14. The estimated cost of the project was \$228,703 plus construction inspection and consultation of \$36,063.11, for a total estimated project cost of \$264,766.11. Mr. Koban commented that this project is included for approval under New Business at this meeting.

B. Solicitor's Report

Attorney Emerick reported that he provided a copy of his report prior to the meeting.

As it relates to 1024 Gillespie Avenue, Attorney Emerick commented that he sent a letter to the property owner, Melissa Weymer, indicating that corrective action should be taken. If not, Council can proceed with further action.

Concerning 1013 Hopher Avenue, Attorney Emerick stated that this matter has been resolved and can be removed from the agenda.

Attorney Emerick noted that bond counsel has made the changes and amendments to the Portage Municipal Authority revenue bond guaranty that Council requested.

As it relates to Portage v. Sekerak, Attorney Emerick indicated that responses to the interrogatories are due closer to the time of the May Council meeting. If a response is not received, a reminder will be sent. If no response is received after the reminder is sent, Attorney Emerick indicated that this would be contempt and the case will go back to court.

Concerning Kowalczyk v. Portage, Attorney Emerick reported that this matter is in the pretrial discovery stage.

Attorney Emerick indicated that the competitive bidding ordinance was included under New Business for tonight's meeting. He questioned if Council wanted this matter addressed now or wait until New Business. Mr. Koban commented that this was the first opportunity to review the Ordinance; and it was included under New Business as it relates to advertising of this Ordinance. Council agreed that Attorney Emerick address this matter during his report.

Attorney Emerick explained that he used the former Borough Ordinance to develop the proposed Ordinance. He noted that the competitive bidding threshold went from \$10,000 to \$19,000. The threshold can be lower, but it cannot be higher than the \$19,000. The revised Ordinance also allows the Borough to accept electronic bids. The Borough does not have to necessarily accept electronic bids, but it will have the option to do that via Resolution such as the format, bond, deadlines, etc. Attorney Emerick indicated that this section does not require Council to do that, but gives Council the option.

As it relates to bid opening, Attorney Emerick indicated that the revised Ordinance provides for the opening of bids by the Borough Manager, as long as two other Borough officials are present with everyone being given the date, time and location of the bid opening. Concerning the awarding of bids, Attorney Emerick noted that this section follows what is required by statute.

Attorney Emerick reviewed with Council pertinent sections that have been removed from the previous Ordinance. He noted that Section 5 of the current Ordinance relating to performance bonds has been moved to Section 6. Sections 6 and 7 from the former Ordinance were removed because they call for a performance bond and maintenance bond at a limit of 50% of the contract price; however, the statute allows up to 100% of the value. The performance bond (100%) has been included under Section 7. Section 8 talks about review by the Solicitor and requires the Solicitor to review contracts over \$10,000 and approval as to form. Attorney Emerick noted that, while this is a good idea, the Ordinance requires that; however, he removed that as Council could have that option. If Council wants this added back in, Attorney Emerick commented, and wants to change the value, that would be the Council's option. Mrs. Chobany indicated that she would prefer this option with the Council being able to do this via Resolution. Attorney Emerick stated that Section 9 was removed because it talked about exceptions to competitive bidding, which is already included under Section 3.

Mr. Yetsko questioned the competitive bidding limits, to which Attorney Emerick replied that \$19,000 is the threshold for competitive bidding -- \$10,000 - \$18,999 would allow for telephone quotes and anything below that. As it relates to the telephone quotes, Mr. Bowman questioned if you contact three contractors and two do not respond, can the two that do not respond be logged as a non-response, to which Attorney Emerick responded affirmatively. Attorney Emerick stated that Section 4, *Procedure for Purchases Which Require Written or Telephonic Price Quotations*, is a new section and he reviewed this information with Council, along with

Sections 5 and 6. Mr. Koban questioned if the requirements for the bid bond could be adjusted being that bid bonds are difficult to obtain and we would not want to be bound by the Ordinance depending on the project. Attorney Emerick indicated Section 6 could be adjusted but we would want to be careful in the bidding process the requirement for a bid bond. Mr. Koban indicated that there will be certain services that we would require a bid bond, to which Attorney Emerick commented that he would take a bid bond on all projects unless there is a good reason not to take it. Mrs. Chobany questioned if Mr. Koban felt this should be removed from Section 6, to which Mr. Koban replied affirmatively.

Attorney Emerick noted that Section 7 allows the Borough to go from 10% to 100% on the performance bonds, which was previously 50% in the Ordinance. Mr. Koban questioned if this would be required on every project, to which Attorney Emerick replied that this would be at the Council's discretion. Attorney Emerick indicated that Section 8 deals with purchase orders relating to bulk purchases. As it relates to Section 9 on blanket purchase orders, Mr. Koban indicated that he felt that the limit of \$100 should be changed to \$500 due to past experience.

ON MOTION OF MRS. CHOBANY, SECONDED BY MR. KISSELL, THE COUNCIL UNANIMOUSLY APPROVED THE ADVERTISING OF THE ORDINANCE AS PRESENTED WITH THE REVISIONS AS NOTED INCLUDING THE REMOVAL OF SECTION 6 AND THE CHANGE TO SECTION 9 FROM \$100 TO \$500. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MRS. CHOBANY, MAYOR KISSELL, MR. LEARN, MR. MORGAN, MR. WOZNIAK, AND MR. YETSKO.

Attorney Emerick commented that the only other matter in his report was the sewer testing amendments. He questioned if Council wanted the amendments for the May meeting or the next meeting of the Committee of the Whole. Mr. Koban indicated that the Ordinance needs changed for the protection of the Borough as discussed earlier in the meeting. Attorney Emerick stated that if the goal is to change it over to the Sewer Authority for the inspection, then Section 4 should be removed and it be made very clear that the only time the testing is required is upon sale or transfer of the property. Attorney Emerick indicated that, if the ultimate goal is to turn over the power and duty to the Sewer Authority and make sure there is no unauthorized testing, then Section 4 needs to be gutted and completely redone. If Council wants to maintain contact, Attorney Emerick pointed out, Mr. Koban could act as the Borough's compliance officer. Mr. Koban commented that the easiest way is upon sale or transfer the Sewer Authority has the authority to test; and the remaining Authority remains at the Borough, and anything above and beyond that would come back to the Borough for approval. Attorney Emerick stated that if you keep the authority with the Borough, then you allow some leverage. Ms. McCarthy indicated that if there are changes made to the Ordinance, we would have to go through the entire process of re-advertising, etc. Mr. Koban indicated that he was suggesting that Attorney Emerick needs to start crafting the language, but he still needs the direction of Council. Mrs. Chobany commented that the direction of Council would be known after the Committee of the Whole. Attorney Emerick stated that he could have a draft available for review at the April 21 meeting, but Council would not be able to approve its enactment at that time. Mr. Koban interjected that the real target date would be the Sewer Authority's deadline of May 13.

C. Engineer's Report

In the absence of Mr. Wisor, Ms. McCarthy stated that Mr. Wistor did provide a copy of his report prior to the meeting.

D. Police Chief's Report

In the absence of Chief Miller, Mr. Koban reported that a copy of the Police Chief's report was provided to Council prior to the meeting.

E. Director of Public Works Report

Mr. Koban commented that Mr. Squillario provided a copy of his report prior to the meeting. Mr. Koban indicated that Mr. Bowman will be the Acting Director until a permanent appointment is made.

Mr. Bowman apprised Council that the street sweeping is on schedule. He thanked Mr. Steberger for his work in getting the street sweeper ready. Mr. Bowman apprised Council that restoration should begin within the next two weeks on Grant Street, Johnson Avenue and Park Avenue.

Mr. Morgan questioned when a permanent appointment of the Director of Public Works will be made. Mr. Koban responded that he has been conducting interviews; and will be conducting four interviews over the next two weeks. He is hopeful that a decision can be made prior to the May Council meeting. Mr. Koban pointed out that the qualifications contained in the applications he has received brings the potential candidates down. If he receives eight applications, only four of the eight applicants are actually qualified. Mr. Yetsko questioned when the deadline for applications was, to which Mr. Koban replied that the deadline was actually back in March. Mr. Bowman stated that we also had to readvertise the position. Ms. Chobany questioned who has been sitting in on the interviews, to which Mr. Koban replied that he has been conducting the interviews himself but he invited any Council member available to attend any of the interviews. Mr. Koban stated that his plan is to trim it down to one or two applicants; and then Mr. Bowman will also be involved in the final interviews.

F. Treasurer's Report

ON MOTION OF MRS. CHOBANY, SECONDED BY MR. WOZNIAK, COUNCIL UNANIMOUSLY ACCEPTED THE TREASURER'S REPORT IN THE AMOUNT OF \$105,857.42. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MRS. CHOBANY, MAYOR KISSELL, MR. LEARN, MR. MORGAN, MR. WOZNIAK, AND MR. YETSKO.

VII. CORRESPONDENCE

No correspondence to be presented.

VIII. CITIZEN'S INPUT ON AGENDA ITEMS

Residents present addressed Council earlier in the meeting.

IX. MINUTES OF PREVIOUS MEETINGS

A correction was made to the minutes of the March 3, 2014 meeting minutes; i.e., Mr. Slonac was not present at the meeting and the minutes read that Mr. Slonac seconded a motion.

ON MOTION OF MR. KISSELL, SECONDED BY MR. YETSKO, COUNCIL UNANIMOUSLY APPROVED THE MINUTES OF THE MARCH 3, 2014 MEETING AS PRESENTED, WITH THE CORRECTION AS NOTED ABOVE. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MRS. CHOBANY, MAYOR KISSELL, MR. LEARN, MR. MORGAN, MR. WOZNIAK, AND MR. YETSKO.

X. BILLS AND TREASURER'S REPORT

Ms. McCarthy noted that copies of the bills and Treasurer's report were distributed for review by Council members prior to the meeting.

ON MOTION OF MRS. CHOBANY, SECONDED BY MR. MORGAN, COUNCIL UNANIMOUSLY ACCEPTED THE TREASURER'S REPORT AND AGREED THAT THE BILLS AND ADDITIONAL BILLS BE PAID AS PRESENTED IN WRITTEN FORM. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MRS. CHOBANY, MAYOR KISSELL, MR. LEARN, MR. MORGAN, MR. WOZNIAK, AND MR. YETSKO.

XI. REPORTS RECEIVED

Ms. McCarthy noted that the Water and Sewer Authorities reports for February 2014 were received, along with the Portage Library report for December 2014 and January 2014; Portage Ambulance report for January, February and March, 2014; and the Laurel Inspections report for March 2014.

ON MOTION OF MRS. CHOBANY, SECONDED BY MR. MORGAN, COUNCIL UNANIMOUSLY ACCEPTED THE REPORTS RECEIVED AS NOTED ABOVE. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MRS. CHOBANY, MAYOR KISSELL, MR. LEARN, MR. MORGAN, MR. WOZNIAK, AND MR. YETSKO.

XII. UNFINISHED BUSINESS

Mr. Koban provided an update as follows:

- Item A: Mountain Avenue Sidewalk Project – update provided earlier in the meeting.
- Item B: Short and Long Range Goals Based on Long Range Plan – to be discussed at a future meeting.
- Item C: Dulancey Drive Intersection Project – ongoing.
- Item D: Sekerak Legal Fees – discussed by Attorney Emerick.
- Item E: Comcast Cable Agreement – Mr. Koban indicated that he sent information to the law group; they sent Mr. Koban an email on Friday and he will keep Council updated.
- Item F: Lee Street Arch/Norfolk Southern – Mr. Koban stated that he has not received a response as to moving the lease agreement forward and what the actual plans for the project are.
- Item G: Caldwell Avenue Flood Wall Replacement Project – Mr. Koban is awaiting an agreement from Mr. Raptosh.
- Item H: 1024 Gillespie Avenue – discussed by Attorney Emerick.
- Item I: 1014 Hopfer Avenue – this item can be removed from the agenda.

- Item J: 835 Main Street - property was purchased in Sheriff's sale. This item can be removed from the agenda and reopened in the future if the need arises.
- Item K: LERTA – Mr. Koban reported that he took the opportunity to discuss this matter with the County Commissioners recently. Mr. Koban has invited the Commissioners to another meeting, but with their schedules, it may be difficult to have all of the Commissioners available. Mr. Koban commented that he will continue to address this matter.
- Item L: Sewer Testing of Properties – discussed earlier in the meeting.
- Item M: Sign Inventory and Plan to Meet FWHA Compliance by June 14, 2014 – discussed in the Engineer's Report.

XIII. NEW BUSINESS

- Competitive Bidding Requirements

ON MOTION OF MR. KISSELL, SECONDED BY MR. YETSKO, COUNCIL UNANIMOUSLY APPROVED THE ADVERTISING OF THE ORDINANCE AMENDING THE SYSTEM OF COMPETITIVE BIDDING REQUIREMENTS AND PROCEDURES FOR PURCHASING GOODS AND SERVICES. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MRS. CHOBANY, MAYOR KISSELL, MR. LEARN, MR. MORGAN, MR. WOZNIAK, AND MR. YETSKO.

- RUS Guaranty Agreement

ON MOTION OF MR. KISSELL, SECONDED BY MR. YETSKO, COUNCIL APPROVED THE ADOPTION OF ORDINANCE 1-2014 BY ENTERING INTO A RUS GUARANTY AGREEMENT WITH THE MUNICIPAL AUTHORITY OF PORTAGE BOROUGH FOR THE WATER CONSTRUCTION PROJECT. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MRS. CHOBANY, MAYOR KISSELL, MR. MORGAN, MR. WOZNIAK, AND MR. YETSKO. MR. LEARN ABSTAINED FROM VOTING.

- 2013 Audit

ON MOTION OF MR. WOZNIAK, SECONDED BY MRS. CHOBANY, COUNCIL APPROVED THE ADVERTISEMENT OF THE 2013 AUDIT COMPLETED BY DENNIS P. KOTZAN & ASSOCIATES. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MRS. CHOBANY, MAYOR KISSELL, MR. MORGAN, MR. WOZNIAK, AND MR. YETSKO. MR. LEARN ABSTAINED FROM VOTING.

- Mountain Avenue Enhancement Project

ON MOTION OF MRS. CHOBANY, SECONDED BY MR. MORGAN, COUNCIL UNANIMOUSLY APPROVED PROVIDING CONCURRENCE TO PENNDOT OF AWARDED THE MOUNTAIN AVENUE ENHANCEMENT PROJECT TO M AND B SERVICES, LLC IN THE AMOUNT OF \$220,732.14. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MRS. CHOBANY,

MAYOR KISSELL, MR. LEARN, MR. MORGAN, MR. WOZNIAK, AND MR. YETSKO.

XIV. GOOD OF THE BOROUGH

Ms. McCarthy announced that the Cambria County Borough Association dinner will be held on April 22, 2014 at The Boulevard Grill in Johnstown starting at 5:30 p.m.

Mr. Kissell questioned if there are any plans for the Borough's 125th anniversary. Mr. Koban stated that this matter has not been discussed as yet but should be placed on the agenda for discussion. Mr. Kissell stated that we could perhaps do something in conjunction with Summerfest. Ms. McCarthy commented that letters should be sent to the various Authorities in town as well asking for their involvement.

XV. ADJOURNMENT/EXECUTIVE SESSION

THERE BEING NO FURTHER BUSINESS, ON MOTION OF MRS. CHOBANY, SECONDED BY MR. KISSELL, THE MEETING WAS ADJOURNED AT 8:52 P.M.

Respectfully submitted,

Sharon Squillario
Recording Secretary