

A meeting of Portage Borough Council was held on Monday, June 19th, 2017, at 6:30 p.m., in Council Chambers. The 1st of the month meeting for June 5th, 2017 was rescheduled and properly advertised to this date.

Those in attendance were:

Sharon McCarthy	James Kissell (telecommunication device)	David Hayes
George Wozniak	John Morgan	Jerome Yetsko

Also present were: Robert Koban, Borough Manager; Michael Emerick, Solicitor; Gary Wisor, Engineer; Chief Edward Miller, Public Safety; Fran Steberger; Public Works, and Michelle Claar, Secretary. Absent was Todd Learn and James Kissell, and Ray Bowman, Public Works Director;

I. CALL TO ORDER

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

II. REFLECTION/PLEDGE OF ALLEGIANCE

Mr. Kissell; by telecommunication device, had offered a reflection. The reflection was followed by the Pledge of Allegiance.

III. RECOGNITION OF GUESTS

Ron Portash, Mainline Publications; Randy Griffith, Tribune Democrat; and borough residents, Kelly and Sherry Smith.

Mr. Koban introduced the Smiths to Council and Mr. Emerick. Mr. Koban informed that they were the property owners at 1511 Gillespie Avenue; whom are experiencing the water and drainage problems over the last year. Mr. Koban advised the Smiths that Council had several discussions on the issue and elaborated on what has transpired up to this point. Mr. Emerick commented that he was awaiting on information from the Township Solicitor; C.J. Webb, for clarification of the ownership of the 20' wide undeveloped alley. Mr. Emerick also commented on the eminent domain process of the alley. Mr. Smith presented a survey map for Council to review and Mrs. Smith commented that the with the latest storms, the flooding waters are now a green slime buildup. Mrs. Smith also commented that her daughter had fallen on the ice that resulted from heavy rains during the winter. Mrs. Smith is very concerned from a safety and health issue of children and elderly within the area. Mr. Smith commented that the next-door neighbors are also placing plastic in the ditch lines of the alley. Mr. Koban commented that the Smiths have been very patient since last year and that it is the borough responsibility to resolve the issue. Mr. Koban advised that with the lack of the Public Works Director, the issue is on the public works dept schedule for projects. Mr. Koban elaborated on what needed to be done to correct the water problem by installing drainage pipe within the ditch of the 20' undeveloped alley. Mr. Koban also suggested that the Smith's attend the next Portage Township meeting on July 5th, 2017 to address the supervisors for some type of resolution or decision. Mrs. Smith informed Council that Mr. Koban had always responded back to her, on any issue she had to try to get it rectified. Council thanked the Smith's for attending the meeting and will hopefully have an answer for them at the next meeting. The Smiths stayed for the remainder of the meeting.

IV. REPORTS

A. Borough Manager

Mr. Koban provided his report to Council prior to the meeting. Mr. Koban was on vacation the past week. Ms. McCarthy questioned several issues on his report that were also on the agenda.

The first was concerning the Recreation Manager Grant. Mr. Koban advised that he had a conference call with Mr. Longwill and Mr. Schriebman regarding the grant submission. Without the population figures and the support of the Portage Area School District and Portage Township Supervisors; Mr. Schriebman was very reluctant that the grant would be unsuccessful. Mr. Koban questioned Council on how they would like to proceed, and commented that it might take something catastrophic to move forward, with any issues, relating to recreation without the support of Portage Township. Mr. Wozniak questioned the timeline for the grant; to which Mr. Koban advised that it was open ended. After another discussion and suggestions, Council agreed to have Mr. Koban approach the Portage Area School District and the Portage Township Supervisors for another meeting.

Ms. McCarthy questioned the correspondence from EMC relating to the insurance. Mr. Koban advised that it was only a required notice from the insurance company that the policy will be coming up for renewal.

Ms. McCarthy commented on several comments she received from residents concerning organizational donations they were receiving in the mail.

Ms. McCarthy questioned if the Pro Disposal would be offering any electronics/technological recycling or collection. Mr. Koban advised that the Cambria County Solid Waste Authority has electronic recycling during normal business hours Monday-Friday from 9:00 – 4:00 p.m. Mr. Koban also commented that Pro Disposal provides curbside recycling every other Friday. The current agreement with Pro Disposal also offers a hazardous waste pickup each year at the Puritan Road plant. Mr. Koban will check with Mr. Bellvia on the electronics collection.

Ms. McCarthy commented on the grant for the Restroom Project at Crichton McCormick Park. Mr. Koban advised that the grant was unsuccessful. A lengthy discussion took place on moving forward with the project, even without the assistance of Portage Township. Ms. McCarthy commented that it would be very beneficial to the community to have another restroom. Mr. Koban commented that the area near the little league field would be a perfect location.

B. Solicitor

Attorney Emerick provided a report to Council in written form prior to the meeting. Mr. Emerick advised that the Borough Roof litigation will be held later in an executive session.

Mr. Emerick informed Council that the Nicholson Estates is moving forward with at least 2 of the brothers waiving any ownership. The complaint was amended to reflect the changes. Mr. Emerick presented the amended verification for signature.

ON MOTION OF MR. WOZNIAK, SECONDED BY MR. MORGAN, COUNCIL UNANIMOUSLY AUTHORIZED MS. McCARTHY TO SIGN OFF ON THE AMENDED VERIFICATION COMPLAINT FOR THE NICHOLSON ESTATE PROPERTY ON MAIN STREET. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN, AND MS. McCARTHY, MOTION CARRIED 5-0.

Mr. Emerick provided an update on the 616 Dulancey Drive property owned by Mr. Clair Adams. Mr. Emerick confirmed that the last owned property owner was listed as Clair Adams (deceased). In addition to the 616 Dulancey Drive property; 3 other properties on record were also listed for Mr. Adams. Caldwell-Branch; Gillespie Avenue, and McClellan Street. An inheritance tax return was filed by Mr. Adams daughter who resides in Florida. However; there was no estate ever opened or property transferred to her. A discussion took place on either moving forward or waiting for the next upset sale.

ON MOTION OF MR. WOZNIAK, SECONDED BY MR. YETSKO, COUNCIL UNANIMOUSLY APPROVED TO HAVE MR. EMERICK SEND A LETTER TO MR. ADAMS DAUGHTER; SHIELA ALEXANDER, ADVISING THAT SHE IS VIOLATION OF SEVERAL BOROUGH ORDINANCES FOR THE 616 DULANCEY DRIVE PROPERTY. COUNCIL MEMBERS VOTING

AFFIRMATIVELY INCLUDED MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN, AND MS. McCARTHY, MOTION CARRIED 5-0.

Mr. Wozniak informed Chief Miller that the Gaunt property on Dulancey Drive is starting to accumulate junk in the back yard and the grass is getting high.

C. Engineer

Mr. Wisor furnished a copy of his written report to Council prior to the meeting.

As it relates to the Mark Kissell Property at 1315 Jefferson Avenue, Council motioned at the May meeting to have Mr. Wisor perform a field study to determine if the structure meets the Borough's Dangerous Buildings Ordinance criteria. Mr. Wisor performed a field view of the structure on Wednesday, June 14th, 2017. Mr. Wisor presented several pictures of the structure, inside and out. Mr. Wisor then presented an Engineer's report for Council to review. Mr. Wisor commented that the structure meets the Dangerous Structure Ordinance; specifically, sections B, D, E, F, H and I. It is at the recommendation of Stiffler, McGraw that the structure be demolished.

ON MOTION OF MR. WOZNIAK, SECONDED BY MR. HAYES, COUNCIL UNANIMOUSLY APPROVED TO MOVE FORWARD WITH HAVING MR. EMERICK PROCEED WITH LEGAL PROCEEDINGS ON THE MARK KISSELL PROPERTY AT 1315 JEFFERSON AVENUE IN ACCORDANCE WITH THE BOROUGH'S DANGEROUS BUILDINGS ORDINANCE. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN, AND MS. McCARTHY, MOTION CARRIED 5-0.

Mr. Wisor advised that he met with Mr. Koban and Mr. Vince Greenland & Bruce Schweitzer; with PennDot District 9-0. The grant application and support documentation was submitted to them and Mr. Wisor provided the borough with a copy. Mr. Wisor commented that the PennDot representatives were very receptive to working with the Borough on some amount of curb and sidewalk work, given the borough's commitment of funds for the project.

D. Chief of Police

Chief Miller provided a copy of his written report to Council prior to the meeting. Ms. McCarthy commended Chief Miller for his efforts during a gun related incident on Friday morning. Mr. Wozniak had no knowledge on the incident at the time and commented that he had several people contacted him concerning a man with a gun they saw on social media "Facebook". Mr. Koban commented you can't believe everything you read on Facebook. Chief Miller also confirmed that the incident was blown out of proportion. Mr. Wozniak questioned the protocol when dealing with public dangers and public safety. Mr. Wozniak commented that since he is the Emergency Management Director; when or whom would notify him of any public security and dangerous situations. Chief Miler advised that the incident was immediately resolved. If there was a public danger, Chief Miller advised that 9-1-1 would notify residents and that it would also be his call. Mr. Wozniak requested Chief Miller to check with the Cambria County 9-1-1 Center for protocol on public dangers. Mr. Wozniak will also contact Allen Kline with the County.

E. Director of Public Works

Mr. Bowman was absent. Mr. Fran Steberger represented the Public Works Department. The Public Works Department provided a written report to Council prior to the meeting. Ms. McCarthy commended Fran and Scott for their efforts. Ms. McCarthy questioned the status of the new part time laborer; Jamie Cadwallader. Mr. Steberger commented that Jamie is working out well with the department. Ms. McCarthy also questioned if summer-helper Mr. Layo would be able to maintain cleaning services within the administration building while the others are performing other

projects. Mr. Koban advised that issue is being addressed for the maintenance and janitorial duties for the administration building.

V. CORRESPONDENCE

The Trout Run Watershed Association sent a thank you card for the assistance provided during the annual earth week clean-up on Main Street and Crichton McCormick Park.

Comcast sent notice that the Olympic Channel HD will be available on or around July 13th, 2017 and the Universal HD will be ceasing operations. Ms. McCarthy questioned if Comcast would be reimbursing for the latest outage.

Cambria County Planning Commission sent notice of a snack and chat about the future of our region to be held at 3 locations on Wednesday, June 28th from 6:00 – 8:00 p.m. Johnstown WORX Building; Carrolltown Boro Municipal Building; and Portage Township Municipal Building.

The PA Dept of the Auditor General Office sent the compliance audit for the Portage Volunteer Fire Company No. 1 Relief Association for the period of January 1, 2014 through December 31st, 2016. The report is on file for any member of Council to review. Mr. Koban commented that Council should take the opportunity to review it since there were two “findings” noted in the report.

VI. MINUTES OF PREVIOUS MEETING

As it relates to the minutes from the May 1st, regular and the May 15th, 2017 committee meetings.

ON MOTION OF MR. WOZNIAK, SECONDED BY MR. YETSKO, COUNCIL UNANIMOUSLY APPROVED THE MINUTES FROM THE MAY 1ST, REGULAR AND THE MAY 15TH, 2017 COMMITTEE MEETINGS. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN, AND MS. McCARTHY, MOTION CARRIED 5-0.

VII. BILLS AND TREASURER’S REPORT

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

ON MOTION OF MR. MORGAN, SECONDED BY MR. WOZNIAK, COUNCIL UNANIMOUSLY ACCEPTED THE TREASURER’S REPORT IN THE AMOUNT OF \$135,312.37; AND APPROVED THE BILLS AND ADDITIONAL BILLS BE PAID; AS PRESENTED IN WRITTEN FORM, IN THE AMOUNT OF \$45,442.03. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN, AND MS. McCARTHY, MOTION CARRIED 5-0.

VIII. REPORTS RECEIVED

Ms. McCarthy noted that reports were received from the Portage Water Authority (Apr); Portage Sewer Authority (Apr); and LMIA (Apr-May); and Portage JRC-May 2nd & 15th, 2017. Ms. McCarthy questioned the LMIA minutes reflecting the lack of a quorum for the board members. Ms. Claar advised that she has not been able to attend some of the meetings as well.

ON MOTION OF MR. HAYES, SECONDED BY MR. WOZNIAK, COUNCIL UNANIMOUSLY ACCEPTED THE REPORTS FROM THE PORTAGE WATER AUTHORITY (APR); PORTAGE SEWER AUTHORITY (APR); AND LMIA (APR-MAY); AND PORTAGE JRC-MAY 2ND & 15TH, 2017 COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN, AND MS. McCARTHY, MOTION CARRIED 5-0.

IX. UNFINISHED BUSINESS

Mr. Koban provided an update as follows:

- A. Update on Recreation Manager/Director position: Mr. Koban discussed earlier in the meeting.
- B. Update on Borough Building Roof: There was an executive session at the end of the meeting.
- C. Update on Trout Run Rehabilitation: Mr. Wisor advised that once the CFA Flood Mitigation program begins accepting applications, the revised application will be resubmitted.
- D. Update on promoting tourism in Portage: Mr. Portash advised that he will be meeting with Mr. Kissell within the coming weeks.
- E. Sacred Heart Tax Appeals-There was no update. Still waiting the Tax Assessment Office to schedule an appeals hearing.
- F. Update on declaring a snow emergency-Mr. Wozniak advised that the operations is a work in progress.
- G. PennDot/Boro Main Street Phase II-Discussed earlier in the meeting under the Engineer.

BUILDINGS

Mr. Koban provided the following update:

- A. Update on Nicholson property on Main Street-discussed earlier in the meeting under the Solicitor's report.
- B. Update on Mark Kissell property at 1315 Jefferson Avenue: Discussed earlier under the Engineer's report.
- C. 1007 Conemaugh Avenue (Vivis) property. Placed on the judicial sale at Cambria County. Mr. Koban advised to leave the issue on the agenda so we don't forget about the sale.
- D. Sacred Heart properties-The appeals have been submitted to the County and now awaiting On the appeals hearing date.
- E. Shoenfeld property at Orange and Grove-Mr. Wozniak questioned the ruling from the previous DJM Decort regarding the compliance of the borough weed ordinance. Chief Miller provided a timeline on the rulings to Council and Mr. Emerick. Chief Miller advised that the last ruling (2 years ago) came from Cambria County Judge Long that the area in question was exempt from the ordinance since it is termed as "Undeveloped Land". Mr. Emerick requested additional information so he could follow up with the rulings.

X. NEW BUSINESS

- A Discussion on EMS/Fire Volunteer Tax Credits
Mr. Koban informed Council that Ms. Claar researched various websites searching additional information on the First Responders getting a tax break on local taxes. Ms. Claar also contacted PSAB researcher; Shelly Houck, who advised that even though the HB 1683 (Act 172 of 2016) was signed into law on November 21st, 2016, most local municipalities have not adopted an ordinance due to the implementation of the Act. Ms. Claar provided documentation from Tucker Arensburg Attorneys; a sample of a local ordinance, The Act, and the process to implement the Act. Mr. Koban commented that

the tax break only affects local taxes, not federal, state, or county. Mr. Koban urged Council to read the material provided so they have a better understanding on how to implement, time constraints, structure, communication between the municipalities and the emergency personnel. After a brief discussion, Council suggested leaving the issue on the agenda and to gather additional information for discussion. Ms. Claar advised that PSAB will be contacting her when they have a formal template for an ordinance.

B. Rotary request for the annual K5 race

The Rotary Club of Portage is requesting permission to use the streets or portage for the Annual 5K Race starting at the Wild Cherry Inn and finishing at the Portage Foot Stadium.

ON MOTION OF MR. MORGAN, SECONDED BY MR. YETSKO, COUNCIL UNANIMOUSLY APPROVED THE ROTARY CLUB OF PORTAGE REQUEST TO UTILIZE BOROUGH STREETS FOR THE ANNUAL 5K RACE ON SATURDAY, AUGUST 12TH, 2017. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN, AND MS. McCARTHY, MOTION CARRIED 5-0.

c. Request from the Portage Volunteer Fire Company to place an ad as a sponsor for the Cambria County Firemen's Convention.

ON MOTION OF MR. WOZNIAK, SECONDED BY MR. MORGAN, COUNCIL UNANIMOUSLY APPROVED TO SPONSOR AN AD; IN THE AMOUNT OF \$150.00, FOR THE CAMBRIA COUNTY FIREMEN'S CONVENTION HOSTED BY THE PORTAGE VOLUNTEER FIRE COMPANY. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN, AND MS. McCARTHY, MOTION CARRIED 5-0.

D. Discussion on residency restrictions for sexually violent offenders

Chief Miller informed Council that he received a community notification order from PSP Megan's Law Unit that a registered sexual violent offender will be released from prison and moving into the borough. Chief Miller then advised the PSP that the borough's Ordinance 8-2007, has restrictions of 1,500 feet of any school, child care facility, church, community center, public playground, park or recreational facility. In accordance with the PSP, they advised that the ordinance is unconstitutional after court challenges; especially in Allegheny County, PA. Ms. Claar had researched the American Civil Liberties Union of PA (ACLU) website and located a lawsuit filed challenging Allegheny County's Sex-Offender Residency Restriction Ordinance. Copies were provided to Council and the Solicitor. Council questioned Mr. Emerick on the validity of the ordinance. Mr. Emerick advised that our Ordinance is different that Allegheny which limits offenders to areas without access to public transportation or services. Mr. Emerick suggested that before he would take on any challenge to court, he would have to have his ducks in a row. Mr. Emerick suggested we provide certain locations of where and where not offenders can reside without violating the ordinance. Mr. Koban suggested leaving the ordinance as it is until it is challenged. After a discussion, Council suggested leaving the issue on the agenda until additional information is obtained.

XII. GOOD OF THE BOROUGH

A. Reminder that the July meeting will be held on Monday, July 17th, 2017.

X. ADJOURNMENT/EXECUTIVE SESSION

ON MOTION OF MR. WOZNIAK, SECONDED BY MR. MORGAN, COUNCIL UNANIMOUSLY AGREED TO GO INTO EXECUTIVE SESSION FOR LITIGATION PURPOSES. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN, AND MS. McCARTHY, MOTION CARRIED 5-0.

ON MOTION OF MR. WOZNIAK, SECONDED BY MR. HAYES, COUNCIL UNANIMOUSLY AGREED TO GO OUT OF EXECUTIVE SESSION FOR LITIGATION PURPOSES. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN, AND MS. McCARTHY, MOTION CARRIED 5-0.

ON MOTION OF MR. WOZNIAK, SECONDED BY MR. YETSKO, COUNCIL UNANIMOUSLY AGREED TO GO INTO THE REGULAR MEETING. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN, AND MS. McCARTHY, MOTION CARRIED 5-0.

THERE BEING NO FURTHER BUSINESS, ON MOTION OF MR. WOZNIAK, SECONDED BY MR. HAYES, THE MEETING WAS ADJOURNED AT 8:56 P.M.