

## **Borough Council Regular Meeting December 13, 2016**

The regular meeting of Windber Borough Council was called to order by Windber Borough Council President, Barry Jerley at 7:00 p.m.

Pledge of Allegiance.

The following Council Members were present: Mike Bryan, John Holden, Barry Jerley, Pete LaMonaca, Ron Mash, Sonya Pekala and James Spinos. James Furmanchik, Borough Manager was present and Attorney Joseph Green was present.

### **Approval Minutes**

A motion was made by Mr. Spinos and seconded by Mr. LaMonaca to approve the minutes of November 8, 2016 meeting. Motion carried.

### **Recognition Visitors**

Mr. Paczek from EADS said the sewer project is now 99% complete. R&B is to return in the spring to address settlement that is occurring in the Stadium Terrace area and to make some minor repairs on three viewports. EADS has executed the Certificate of Substantial Completion with an attached punch list of remaining items to be addressed. Retainage will be held for each punch list item, in the amount of 1.5 times the item's value, until each item is addressed. After acceptance from Borough Council we will then provide the certificate to R&B for acceptance.

R&B is in the process of completing their as-built survey of the project area. Once provided with the as-built survey points, EADS will begin preparation of the record drawings. In addition to the standard paper record drawings, digital GIS mapping with as-built information will be complete.

### Action Items for tonight:

Execution of the Certificate of Substantial Completion.

Mr. Spinos ask if R&B is agreeing to come back in the spring and address any problems. Mr. Paczek said they are agreeing and we are holding \$12,000 retainage. Mrs. Pekala asked if there was a list of what all still needs to be completed. Mr. Paczek said yes.

A motion was made by Mr. Spinos and seconded by Mr. LaMonaca to approve Execution of the Certificate of Substantial Completion. Motion carried.

R&B Pay Request No. 7 R&B has submitted their 7<sup>th</sup> payment request in the amount of \$35,100 for approval by Borough Council.

A motion was made by Mr. Spinos and seconded by Mr. LaMonaca to approve the pay request for R&B Contracting in the amount of \$35,100. Motion carried.

### PennVest Drawdown Request No. 8

- a. Total amount of \$40,735.24 is pending Borough Council's approval consisting of the following costs:
  - i. R&B Contracting and Excavation, amount listed above = \$35,100.00.

- ii. The EADS Group, engineering, funding admin., inspection = \$4,788.09
- iii. PennVest interest = \$847.15

A motion was made by Mr. Spinos and seconded by Mr. LaMonaca to approve PennVest drawdown Request No. 8 in the amount of \$40,735.24. Motion carried.

Engineering Agreement Amendment No. 2.

EADS is requesting that Borough Council approve an amendment to the engineering budget for this project. This request includes a \$7,000 increase of the Construction Phase Budget and an \$8,500 increase in the estimated additional services budget for inspection services. These increases are being requested as a result of the increase in the duration of the construction period, unanticipated involvement in meetings and negotiations while finalizing change order No. 1, and additional anticipated effort required until R&B completes the punch list items in the spring.

**EADS  
Engineering**

The amendment will not take us above the PennVest budget. We have about \$90,000 remaining in our PennVest Budget and we do not estimate spending much more in construction.

Mr. Spinos said we took additional money out to finish the whole project, if there is money left over does the borough get the money back to be put back in the sewer fund. Mrs. Pekala said it should go towards the loan. Mr. Paczek said the way it works we have a PennVest budget of 1.197 million and the borough contributed about \$51,000 because the bids came in a little high. The way the PennVest budget was set up no matter what, we had to contribute that \$51,316 throughout the project life. It will just take off our monthly loan payment and lower it.

Mr. Paczek said he can include as much information as needed to provide for the additional increases they are looking for. Mr. Jerley had a copy of the amendment. Mr. Paczek said he believes we will still be under around \$70,000. Mr. Holden asked if there was documentation as to what the increases are being used for. Mr. Paczek said yes there are two forms included with the amendment and they can provide further information if needed.

Mr. Paczek said council can review it first and take action at the next meeting if they would like. Mr. Spinos asked when it needs to be paid by. Mr. Paczek said there is no current timeline on it. A motion was made by Mrs. Pekala and seconded by Mr. Holden to table the approval of the engineering agreement amendment No. 2 until it is reviewed. Motion carried.

2017 Sanitary Sewer Rehabilitation Project.

CFA Grant Application – An application was submitted to the PA Commonwealth Financing Authority in October for their 2016 Small Water and Sewer Grant Program. If awarded this grant would be used to fund up to 85% of a project to replace sanitary sewers on Graham Avenue, 5<sup>th</sup> Street and 6<sup>th</sup> Street. A project location map and cost estimate is included on pages 5 and 6. The project area was chosen based on the age of the sewer mains, lack of manhole access, location of the hospital, and a capped project budget of \$500,000. These applications will be reviewed in March, so we should find out end of March or early April if we are awarded the grant.

#### Dep MS4-Storm Sewer Permitting Program.

1. 2016 DEP Inspection – DEP conducted an inspection of the Borough’s MS4 Program on June 20, 2016. An inspection report was provided by DEP that included recommendations on changes that are needed. DEP required the preparation of a written plan of action to address these recommendations. EADS submitted Windber Borough’s MS4-Action Plan on September 20, 2016
2. 2016 Annual Report – EADS submitted the 2016 MS4 Annual Report to DEP on September 20, 2015.
3. 2017 Annual Report – The 2017 MS4 Annual Report is to be submitted to DEP by June 9, 2017.
4. 2017 Permit Renewal Application – The current five year permit term is ending March 16, 2018. Permit renewal applications are due on September 16, 2017.

#### Windber Flood Protection Project

1. Levee Conduit Repairs – DEP and the Army Corp of Engineers are requiring that Windber Borough make repairs to some conduits in the levee. EADS is currently reviewing video inspection reports completed by DEP and Roto-Rooter. Roto Rooter reported a more favorable condition of the levee conduits, and based on their assessment, repairs may not be warranted. If EADS agrees with the Roto-Rooter assessment a letter will be provided to DEP and the Army Corp of Engineers stating so in an attempt to have the repair requirements removed. If the requirements are not removed and Windber does not complete the repairs the federal funding would not be issued if the levee is damaged.

#### **EADS Engineering**

Mr. Furmanchik said those inspections included the insertion of a pipe camera, that is where everyone is making their judgment. He was pleasantly surprised they had a telephone call with the Army Corp of Engineers and they are receptive to our rebuttal and are looking for proof and our engineer’s approval.

Mr. Holden asked what the best case scenario is versus the worst case scenario. Mr. Paczek said the worst case scenario is if for some reason they do not agree with Roto Rooters assessment and the Army Corp says we still need to repair those pipes, we had drawn up cost estimates a few years ago on the same section of pipe and it was almost a million. We were looking at grants for it and all the grants we were looking at had to have a design plan done first and it kind of never took motion.

The worst case scenario if we decide we can’t afford that the Army Corp will say if the flood protection project is damaged in any way they will not release federal money to repair it. That is the only thing that will happen if we do not make the repairs. It does not have any impact on citizens. It is just the borough not the citizens.

#### **Correspondence**

1. Minutes from the Windber Municipal Authority’s Meeting of November 1<sup>st</sup> and 15<sup>th</sup>, 2016.
2. Property Maintenance Codes Inspections for November 2016
3. PA Municipal Code Alliance October/November Reports.
4. Windber Area Authorities Meeting Minutes of October 12, 2016.
5. Thank You Letter from Carol Berkey and Family.
6. Letter from Gregory Tunstall Regard Sale of Little League Fields.

Mr. Furmanchik said last time he spoke to Mr. Tunstall was about two weeks ago and everything was still a go. He felt blindsided by the email he received from Mr. Tunstall, not to mention frustrated. He said he had over 100 conversations with Mr. Tunstall during the course of 13 to 14 months. He was very upset that Mr. Tunstall had sent him an email stating that he was withdrawing from purchasing the little league fields instead of calling him on the phone.

**Little  
League  
Fields**

Mr. Furmanchik said he tried to call him 11 times and left four voice mails and has not had a return phone call yet. He said what he wanted to reiterate to him through a phone call was that Mr. Tunstall was the one who approached the borough about buying the ball fields, we did not approach him. The subdivision was done to accommodate him. He originally from day one said he would split the cost of the subdivision and half of that right now is \$2,799.35.

Mr. Furmanchik said he looks at it that we would split the subdivision request on the sale of the property; we did not have to have the property subdivided. That was by his request. Mr. Furmanchik said he would like to ask Mr. Tunstall to pick up the price for the entire subdivision. He said he would also like to remind him at one time he was willing to make a large donation so the fields would not be sold.

Mr. Furmanchik said being that he had not been able to have a conversation with him because Mr. Tunstall had not yet returned his phone call he asked council if they would be okay with him sending him a letter. Mrs. Pekala asked if there was anything put in writing in regards to the subdivision or was it just a verbal agreement. Mr. Furmanchik said it was verbal. She said we probably do not have a leg to stand on. Attorney Green said Mr. Tunstall has acknowledged in his email that he would pay for half of it.

Council agreed that Mr. Furmanchik should send a certified letter to Mr. Tunstall. Mrs. Pekala said we are not only out of the subdivision but there were a lot of legal fees too. Mr. Furmanchik said the subdivision and legal fees were \$8,808. Mr. Spinos said we lost the revenue that we had plans for at the park. He said we took \$20,000 and gave it to the Municipal Authority for the pool repairs and we were going to replace it with the sale of the ball fields so we are out that money also.

Mr. Furmanchik said he spoke to Rick Roberts. Rick Roberts was the manager for Iron Horse at one point in time and had shown interest in the property. He could not come up with the money at that time but he said he is thinking about it.

Mrs. Pekala said the people of Windber are great and if we go to them for help to get those fields up to where they need to be, people would come forward.

Mr. Mash said he had a meeting with WYBOS last week. There were 17 people there and they are going to cut the grass and paint and they will fix it up.

Council was in agreement for Mr. Furmanchik to send Mr. Tunstall a registered letter. Mr. Furmanchik asked Attorney Green if he thought they were justified in sending the letter. Attorney Green said yes, he has already acknowledged the \$2,800 in email.

Mayor Penrod asked if since the property was advertised twice and bids were received and the property has still not been sold do we have to repeat the process or can it just be put up for sale if we would decide to do that again. Attorney Green said it would have to be rebid. A bid was accepted and now that bid was accepted then stopped it gives everyone an opportunity to come back to the table.

Mr. Furmanchik said we want to support our hometown little league program and make sure the kids have a place to play. Mr. Mash said they voted to bring Windber baseball home and have 1,000 flyers going out on Friday. He said he has a meeting tomorrow with Adams Township. They would play in their league. They will come here and Windber will go there. He said he spoke to Rick Roberts about bringing some tournaments to Windber which include about 400 kids. This would probably happen next year and not this year.

Mr. Spinos said we do not have any concerns than with the grass being cut and maintained. Mr. Mash said no, WYBOS will take care of it. Mr. Mash said he would fight to not sell it and he believes they can turn it into a more profitable league.

Mr. Furmanchik said everyone seems to be on the same page to keep it for the home team and send a registered letter to Mr. Tunstall.

**George  
Ledney  
Memorial**

Mr. Jerley asked if there was any more discussion about a memorial for George Ledney. Mrs. Pekala said we need to do something because the library is not going to do anything. She said George was very involved with the library as well as the borough and they came back and said they were not going to do anything. Mr. Mash said the library board said they couldn't because of some law. Mrs. Pekala said they have rooms there named after people. Mr. Mash said they were looking at a plaque.

Mrs. Pekala said George served on the borough for 12 years and he did a lot for the borough. She would like to see us honor his memory by memorializing something.

Mr. Furmanchik said he has talked mostly to Doug Ledney, George's brother. He threw out the idea to Doug about the family buying a nice bench and sitting it out front of the door here with a brass plaque on it memorializing him. They did not like that idea. They were seeking to name council chambers after him.

Mr. Furmanchik said he tried to call Doug today to run another idea past him and he was unable to talk to him. He said at the Windber Medical Center they have their wall of fame and all their doctors, administrative people and CEO's who have left a huge mark on that corporation; they place their picture on the wall with a brass plaque. This may be an idea council may want to think about.

Mr. Holden asked if there was space here in the borough building that we can dedicate to George and people who come after him. Mr. Furmanchik said these pictures in council chambers can come down and pictures of Windber Borough government people that served the community can go on the walls.

**George  
Ledney  
Memorial**

Mr. Holden said not wishing any ill will Tony Turcato, served for how many years? People came before him and people will come after him. He said he agrees George should be memorialized in some way. Mr. Furmanchik said he agrees, he would like to do something for George to but we have to do it in a way that other families are not slighted too.

Mrs. Pekala said the building is named after James DeBiase and the gazebo after someone and we have the Art Palumbo crossing. She said Art died in office as did George and Mr. DeBiase did not die in office. Mr. Holden said Mr. DeBiase served a long time. Mr. Furmanchik said 32 years he believes. He has the longest tenure of any council person. Mrs. Pekala said she was just saying there are other things named after people. Mr. Holden said sooner or later you run out of things to name.

Mr. Jerley asked Mr. Furmanchik if he was going to talk to Doug. Mr. Furmanchik said basically Doug wanted him to run it by council to name council chambers after George. He said he was unable to speak to him about the wall of fame idea before the council meeting.

Mr. Spinos said the Wall of Fame would open up a different avenue for other people and it is a new tradition we can start with George.

Mr. Spinos made a motion to start a "Wall of Fame" for deceased members of council that served and are eligible by the present council. Family members will supply an 11" x 14" picture and the borough will purchase the plaque. Mr. LaMonaca seconded the motion. Remarks; Mr. Furmanchik asked them to add that the families who are seeking the memorial should supply the picture and the brass tag. Mrs. Gates asked if they have to dedicate a certain amount of service to get that honor. Mr. Spinos said no, that is why he worded it the way he did in his motion it will be up to the discretion of council. Mr. Mash asked if they must be deceased. Mr. Holden said he would make it a memorial. Mrs. Pekala agreed. Mr. Spinos said it is in the motion for deceased members. Motion carried.

**Approval  
Payroll**

A motion was made by Mr. Mash and seconded by Mr. Spinos to approve payroll for November 10, 23, and December 9, 2016. Motion carried.

**Approval  
Bills**

A motion was made by Mr. Holden and seconded by Mr. Mash to approve the bills for November 2016. Remarks: Mr. Spinos asked about the allotment for uniform allowance for one of the officers who has not been working as much. Mrs. Pekala said it is \$450 for him. Mr. Spinos said he hasn't been working as much. Mrs. Gates said the uniform allowance is based on their hours from the previous year. Mr. Spinos said okay he wasn't sure how that worked. Motion carried.

**Cash Bal./  
Treasurers**

There were no questions at this time on the Cash Balance/Treasurer's Report.

## Report

### Council Liaison Reports

#### **Bryan/ Fire Dept**

Mr. Bryan said on November 9<sup>th</sup> Mr. Furmanchik and he met with the fire department for a meet and greet and then stayed for their regular meeting.

Mr. Bryan said he was very impressed with their activities for fundraising and he feels they are doing a fantastic job. They are really trying to generate interest and income for them to operate. They were very grateful for the line item included in the budget for the new fire truck.

Mr. Bryan said they also talked about how their alarm card has changed and is actually getting them further out and putting them on a prioritized list for fire calls. Jerome was mentioned as one of their first alarm stations and the zones in the area they will help if called out.

Mr. Bryan said they are looking at getting certifications that will put them on par with Johnstown in respect to how their fire preparedness would help the residents of Windber with respect to insurance coverage.

Mr. Bryan said there are a lot of things that were very noteworthy and he thanked council for appointing him as the liaison for the fire department.

#### **Holden/ Municipal Authority**

Mr. Holden said the Municipal Authority held two successful events the one partnered with the fire department, Oktoberfest and the Winter Wine Fest at the Community Building. They netted after bills somewhere around \$8,000.

Mr. Holden said there was a basketball tournament last weekend. He was not able to attend. They were challenged because there was another tournament going on at East Hills. There is another one this weekend and they are doing the best they can to raise money.

#### **LaMonaca/ School**

Mr. LaMonaca said the kids will be going back to the high school early next year. The high school is nearly done. Mr. Jerley asked if they had a date. Mr. LaMonaca said February or March everything will be done. He said it is very impressive.

#### **Jerley/ WAA**

Mr. Jerley said the Hoffman Water Tanks are done and completed. The next project they are discussing now is replacing the water line down into Seanor but they are holding up on it at this time because there is going to be a refuge dump going in there and they may need a bigger line than an eight inch but they will pick up the cost. Refuge dump would be for stone, building products, concrete, and brought it in by rail car. Mr. Furmanchik said he heard there will be like 45 jobs.

Mrs. Pekala said we haven't seen many trains coming through but the railroad got a contract so you will see a pickup in train activity.

#### **Mayor's Report**

Mayor Penrod said the Economic Development Committee will be raising money for the hotel feasibility study by holding a cash bash April 1, 2017 at the American Legion. They will be selling tickets in the near future.

Mayor Penrod said our new Chief is transitioning very well and he asked Chief Frear if he had any response. Chief Frear said he spoke with Mr. Furmanchik today about using council chambers for a class that one of the ADA's from the Attorney General's Office will be in to teach our part-time guys. The class will teach them how they want the reports to be done and the criminal complaints, search warrants and stuff like that. It will be a lot of good experience for them and will help them. We will get them all signed up with the Attorney General's OCDETF Staff. The good part about that is the money. He was told Somerset County whenever they get their monthly monies is around \$3,000 for drug work. They pay for the overtime there is no cost to the borough for that.

Chief Frear said Christmas for Kids is going super. He said there is approximately \$18,000 in that account. He said he was totally amazed how much money comes in for it and that is awesome.

Mayor Penrod invited council to come down to the community building next Monday during the event and see the faces on the kids and how nice the event is. It will be Monday at 6:00 p.m.

Mr. Spinos said he has had a lot of residents approach him as to how impressed they are with Chief Frear. Mrs. Pekala said she also had similar comments from residents. Mrs. Pekala asked Chief Frear how he likes it here. He said he tells people all the time how nice it is to work with the people here and he is happy.

## **Manager's Report**

**LITTLE LEAGUE FIELDS** - As I have recently conveyed to you, Greg Tunstall has backed out of the arrangement for the sale of this property. I have contacted WYBAS and other parties regarding this change. I believe it requires discussion, to see where we are and what direction we want to proceed.

**SANITARY SEWER PROJECT** - The November 8th walkthrough was completed and was a success. There were only a few problems to be addressed.

**ROUTE 56 PROJECT** - ongoing with no issues

**1321 MIDWAY** - The sale is completed and the deed has been transferred into the Borough's name. The demolition process has begun.

**2017 BUDGET** - The budget and tax ordinance has been advertised and is ready for council's approval at our December meeting.

**NEW VEHICLES** -The new police vehicle and public works truck have been ordered and should be here early in January 2017. All arrangements have been made to up fit the vehicles, when they arrive.

**REQUEST FOR DONATIONS** - All social clubs, in the Borough, have been contacted regarding donations for the new police vehicle. All of their monthly meetings take place at the beginning of the month and I believe they will respond shortly.

**BOROUGH BUILDING ROOF** - Construction has been completed and the workmanship is outstanding.



**LEDNEY FAMILY** - The family of George Ledney is asking that the Borough council consider naming council chambers in his honor.

**PROPERTY MAINTENANCE OFFICER.** Mr. Furmanchik said he thinks everyone would be in total agreement that Mr. Fischer's presence throughout the borough has been extremely beneficial. With all the compliments we heard earlier towards Chief Frear and the things going on around town and compliments about how good Windber looks and is proceeding. The only complaints you do hear is from our flagrant violators of property maintenance issues.

**Manager's Report**

Mr. Furmanchik said some of those instances with flagrant violators have become a little dicey. Tyler sort of has all those by the horns and citations were given, court appearances, some pending. The property on the corner of 18<sup>th</sup> and Graham Avenue has been subpoenaed. According to Magistrate Seger in a few more days if the property owner does not respond to the subpoena there will be a bench warrant issued and she will be placed under arrest.

Mr. Furmanchik said as you see it can get interesting and there could be a time or two when police presence will be necessary because people who have been doing this for 20 years or so think that it is normal.

Mr. Furmanchik said in your 2017 budget under building codes line item number 416.200 we budgeted \$8,640. Year to date we have spent \$6,986 to have Mr. Fischer here and it is extremely beneficial. Now except for court cases and citations Mr. Fischer will be gone over winter.

Mr. Furmanchik asked council to approve Tyler Fischer to come back in March as the property maintenance officer. A motion was made by Mr. Holden to bring Mr. Fischer back weather permitting March of 2017. Motion seconded by Mr. LaMonaca. Motion carried.

**POLICE DEPARTMENT.** Mr. Furmanchik said Chief Frear, Lieutenant Croyle and himself have had some conversation regarding the situation at the police department with Chief Frear and Lieutenant Croyle sharing an office. It is probably not the best way. The Chief should have his own space, his own confidentiality and his own privacy. Lieutenant Croyle as our criminal investigator should also have his own office where he could keep it locked and have documents secured where no one else should have their eyes on. We are working in the direction of basic construction of two walls and a door with some light switches and wall outlets for another office.

Mr. Furmanchik said Mr. Beahr has been very gracious about the whole situation. He said they had an hour and a half meeting the other day. He said to make council aware that lease ends December 31, 2018. There is a stipulation in that lease that you begin negotiations on or before January 1, of 2018. Mr. Furmanchik said one of the things he talked to Mr. Beahr about the other day was where he wants to be four or five years from now. Does he wants to continue to be a property owner or if we can make a lease possibly sooner than later to make him more comfortable. He is kicking around some things and will get back to him.

Mr. Furmanchik said looking into the lease himself and putting a pencil to some of the figures it is a really fair agreement for both parties.

What it pencils out to be is \$6.78 per square foot and there is about 5,000 square feet. The common rule of thumb in the Johnstown area for any office space is right around \$10 or \$11 a square foot. We are paying \$2,400 a month. We have a nice agreement. We will see what happens when Mr. Beahr comes back.

## **Manager's Report**

Mr. Furmanchik said he was extremely adamant to Mr. Beahr that no one has any complaints with the property and everyone really likes the location. Mr. Holden asked Mr. Furmanchik if he is suggesting we do not change the square feet. Mr. Furmanchik said no and the new office is basically just putting up two walls and a door in the back. It is basically a storage area right now. All improvements have been and will be up to code.

**RECREATION PARK ROAD.** Mr. Furmanchik said if you take a ride around town compared to any other community the roads in this town really are not that bad. We do have problem spots. Last year we spent like \$81,000 on paving. He said he is just throwing this out there and he is not saying we should but a piece of road around here is the road to the park. Just for his own piece of mind he got Quaker Sales to put a pencil to that and if you want to overlay that road you looking at about \$35,000.

Mrs. Pekala said something has to be done with some of these alleys they are really bad. Mr. Furmanchik said we are and if you know of any bring them to his attention. Mrs. Pekala said she is in a minivan and she bottoms out.

Mr. Furmanchik said we have 70 tons of millings up there at the shed. Millings are a perfect repair for alleys because when you put it in place and compact it, it stays there. It is almost like paving it. A few really bad alleys we have used the millings on, the people have been more than satisfied. Mrs. Pekala said she will compile a list and give it to him.

Mr. Holden asked if the park road would fall under liquid fuels since it is not a borough roadway. Mrs. Gates said no. Mr. Furmanchik said your liquid fuels money comes from the commonwealth and those are municipal roads for general traffic. Mr. Holden asked where we would find \$35,000. He said the road is bad. Mr. Furmanchik said if and when the opportunity arises it will have to be taken care of sooner than later.

Mrs. Pekala asked if Mr. Furmanchik remembers the alley their church paid for. She said the one house at the corner of 7<sup>th</sup> and that alley, have a rain spout right there and when it rains there is a flood there. It is going to damage the road. The rain spout is going straight out onto the road. Mr. Spinos said he thought there was an ordinance that you were not allowed to do that. Mr. Holden said it will cause ice. Mr. Spinos said there have been issues with that house before.

Mr. Green asked if it travels across their ground. He said if this is their building is there a space between or does it come straight off the alley. Mrs. Pekala said it's on their grass. Mr. Holden said it elbows the bottom of the building right out towards the alley but sits about a foot off the alley. Mr. Green said it is illegal to divert your water onto another person's property.

Mr. Furmanchik said he will drive over there tomorrow morning and take a look at it. Mrs. Pekala said she would get the address.

**DAN HITESHEW.** Mr. Furmanchik said Dan Hiteshew deserves some notoriety. He said what would we do without him. He said he talked to Bill Bahorik who is on the Board at the Arcadia Theater and he is going to run it by his Board to see if the borough would pay for a plaque to recognize and thank Dan for everything he has done for this community, if they would put it up in the Arcadia Theater.

**Manager's  
Report**

Mr. Furmanchik said he was trying to think of a place where a lot of people would see it and he could not think of a better place than the Arcadia Theater. Mr. Holden said he thought we had already done a plaque for him but some kind of proclamation should be made. He said he has driven through a lot of towns in Pennsylvania and there is nothing like Windber.

Mrs. Pekala said as soon as he is done with this Christmas he starts planning for next Christmas. Mr. Holden said Dan was the one who raised all the money for the new decorations.

Mr. Holden said Barclay Electric has been coming out because some of the decorations were not as bright as some of the others on the poles. Mr. Spinosa asked what the reason was the lights were staying on down here all day. Is that why Barclay was here. Mr. Furmanchik said Barclay was here because some of the lights are not burning at all and some were going out when it rains.

Mrs. Pekala said she has received so many compliments on the new decorations. Mr. Spinosa said drive past Dan's house once and see how he decorates his house too. Mrs. Pekala said it is not only Christmas; Dan also decorates for summer and spring.

Mr. Furmanchik asked if everyone agreed then to proceed with getting him a plaque and present it to him formally. Council agreed.

**WINTER WEATHER.** Mr. Furmanchik said in case anyone asks after today's bad weather the plows were out today and stayed late because the roads were bad right around quitting time today. The bad news is we had one salt spreader break down about two days ago and today we had the other one break down. Right now we are distributing salt on the roads because the conveyor operates but the broadcaster that spins on the back the motors are bad. We should have a motor for the one tomorrow and have it installed.

Mr. Furmanchik said if anyone asks you we are having a bit of technical difficulty and that will be resolved in the very near future.

**BOROUGH GARAGE LIGHTS.** Mr. Furmanchik said there are serious light issues in that garage. The one bay where the police car used to park, none of those lights work. They can't be repaired they basically have to be replaced. We will have to spend more than a few hundred dollars in the new budget year to fix them.

Mr. Furmanchik spoke to Jeff Lively from Jesco and he sent Joe Felix up there because he is their light man. They recommend a certain type of fixture. Joe Felix is going to show our guys how to replace one and we are going to borrow some scaffoldings from Greg Guy and our guys will install the other lights.

Mr. Furmanchik said if someone has to pull a truck in there, it is bad, and someone will get hurt and it will be our fault. He asked council if they were okay with replacing the lighting fixtures. Council agreed.

## **Manager's Report**

**WELCOME TO WINDBER SIGNS.** Mr. Furmanchik said he was at Bill Sipco's yesterday and he took Dave with him because Bill is making us welcome to Windber signs and arrangements have already been made to install them on Horner Street and 4<sup>th</sup> Street by the old Dalla Valle sign. They will be on a single 4" pole and probably 4 x 4 very ornate and laser cutting, very nice. Minahan Signs is going to do the actual sign. They will say "Welcome to Windber a Great Place to Work and Live and Raise a Family" and on the back side it will say "Windber Pride Experience It". Public works will install them. Bill Sipco is picking up the entire bill and will not cost us a penny.

Mr. Furmanchik said it works out well we will have signs on all sides of the community. We still have to get that one sign that the Dog Run donated back in place for next summer that is on 160.

**769 RAILROAD STREET.** Mr. Furmanchik said he talked to council about this before this is the property with all the animals on it. The only thing you can lean on in this situation is your zoning ordinance and the zoning ordinance says that in the conservation district it allows for agriculture; agriculture possibly being farm animals. Under our attorney's guidance he informed me that you have to have a place for agriculture.

Mr. Furmanchik said he has a copy of an ordinance from another municipality that says you are not allowed any hoofed animals and was like two sentences.

Mr. Furmanchik said these people are relatively close to the conservation district. Attorney Green said they are right up against it. Mr. Furmanchik said they were there and there was no smell but there was a large amount of animals there. The person who was complaining lives hundreds of feet down the road. He believes it is a personal issue for lack of terms. Being again that there is nothing you can do because they would be grandfathered up there. Mr. Furmanchik advised council to seriously consider some sort of ordinance to that affect.

Mrs. Pekala said if the conservation line is very close to that property why not move the line over. Mr. Spinosa said the question is, where the line is, no one knows. Mr. Furmanchik said if you want to push that issue you are talking about huge sums of money. Attorney Green said it would be called spot zoning and you are not allowed to do it.

Attorney Green said zoning is designed so you can count on for example; not have an outhouse next to your home. That is what it is designed for. In this situation it is the last house on the left before you hit Miller Block the next closest house is about 500 feet away. He said they had the windows down and there were no smells. Most of the animals were miniature goats, donkeys, and one full sized donkey there. It was clean and the humane society was there yesterday. Mr. Furmanchik said Children and Youth Services were there last Tuesday. Attorney Green said while we do have a technical infraction of our zoning code he doesn't know if we have to force the issue. It is council's decision not his. You always have to be careful trying to enforce something and a judge gets a hold of it and says you have to be kidding me right.

Attorney Green said we do have a technical violation here, no question. Is it harming something and we have to consider whether we are setting precedence. Are we saying this person can violate the zoning code and this person can't?

Mr. Furmanchik asked if we stay with the zoning ordinance and proceed from there or actually enact an ordinance. Mr. Holden asked what we need to do to protect ourselves. Attorney Green said our zoning ordinance is fine it says conservation district you can do agricultural business. Agricultural business is defined as the keeping of livestock etc. Is this livestock, I guess. Mayor Penrod asked if miniatures animals are considered livestock. Mrs. Pekala asked if you can milk a goat. Mr. Holden said he doesn't know if you can milk a miniature goat. Attorney Green said these animals are pets. Mr. Furmanchik said he has been there like four times and there are about 50 animals up there and they call them their pets.

Mr. Furmanchik said he talked to the lady from Children and Youth. She said they have 11 dogs in the house. They have three special needs children, like two 17 year olds and a 12 year old. The lady from Children and Youth Services concerns were are these special needs children being taken care of when you have to take care of 50 some animals. She said the house inside is in some disarray, it wasn't spotless but it was a lot better than she thought it would be. So she called the humane society to go. They were there yesterday and that lady called him today and she said from an animal care perspective she sees no issues. There was heat for the animals, food for the animals and fresh straw for the animals and there were animals there that were ill in a special area that they were attending too.

Mrs. Pekala said she doesn't see what the big deal is. If they are not hurting anyone and there is no smell and they are being taken care of. Mayor Penrod asked if the smell was the complaint. Mr. Furmanchik said it is like they do not think it should be allowed because it is residential. Mayor Penrod said the animals and kids are safe. Attorney Green said that is his point, Miller Block is industrial and their property abuts Miller Block the conservation district. The person complaining lives 500 feet down the other way. Mr. Furmanchik said further than that.

Mrs. Pekala said can we not just send them a letter telling upon investigations we have found no reason to force them to give up the animals. Mr. Furmanchik said we do not have to do anything. He said the house in question was the Miller house. It sits off the road 200 feet. We did have some issues up there because there were four sheds up there and they did not have zoning permits. So they dropped a couple of hundred dollars and got the zoning permits. He also told them to save themselves some headaches and get rid of the full size animals and she said she would consider it.

Attorney Green said we will continue to watch it. Mr. Green said it would break their hearts to get rid of those animals. Mrs. Pekala said if you have special needs children those animals may be everything to those children. Mr. Spinos agreed. Mrs. Pekala said that could be therapy for those children and she doesn't want to make a child go backwards. Council decided they will monitor the situation.

**Approval  
General  
Fund  
Budget**

A motion was made by Mr. Spinos and seconded by Mr. Holden to approve the General Fund Budget in the amount of \$1,498,277.27 for the Year 2017. Roll call vote: 2017. Roll call vote: Mr. Spinos, yes; Mr. Holden; Mr. Bryan, yes; Mr. Jerley, yes; Mr. LaMonaca, yes; Mash, yes; and Mrs. Pekala, yes. Motion carried.

**Approval Sewer Fund Budget** A motion was made by Mrs. Pekala and seconded by Mr. Spinosa to approve the Sewer Fund Budget in the amount of \$222,705.00 for the Year 2017. Roll call vote: Mrs. Pekala, yes; Mr. Spinosa, yes; Mr. Bryan, yes; Mr. Holden, yes; Mr. Jerley, yes; Mr. LaMonaca, yes; and Mr. Mash, yes. Motion carried.

**Approval Liquid Fuels Budget** A motion was made by Mr. Holden and seconded by Mr. LaMonaca to approve the Liquid Fuels Fund budget in the amount of \$143,095.58 for the Year 2017. Roll call vote: Mr. Holden, yes; Mr. LaMonaca, yes; Mr. Bryan, yes; Mr. Jerley, yes; Mr. Mash, yes; Mrs. Pekala yes; and Mr. Spinosa yes. Motion carried.

**Approval Millage** A motion was made by Mrs. Pekala and seconded by Mr. Mash to approve Ordinance No. 2016-2 levying a tax for general fund purposes at a rate of 15.42 mills for each \$1,000 of assessed valuation and setting the penalty at (10%) per centum of the face of amount of taxes charged for the year 2017. Roll call vote: Mrs. Pekala, yes; Mr. Mash, yes; Mr. Bryan, yes; Mr. Holden, yes; Mr. Jerley, yes; Mr. LaMonaca, and Mr. Spinosa, yes. Motion carried.

**Approval Advertise Ordinance** A motion was made by Mrs. Pekala and seconded by Mr. Mash to approve to advertise Ordinance No. 2017-1 Removal of Illegally Parked Vehicles. Remarks: Mr. Furmanchik said this Ordinance was brought to our attention by Chief Frear. This is not towing of vehicles involved in accidents but vehicles that have to be towed due to DUI's impounding and vehicles of that nature. When that vehicle is impounded they have to pay a bill to the towing service to get that vehicle back and an additional cost of \$50 to the borough. This money will be used towards police training.

Mr. Holden asked if that included public and private property. Chief Frear said no. It would be like DUI's, driving without an inspection or suspended plates. Parking wise would only be like cases where someone is blocking a driveway and would have to be towed.

Mrs. Pekala asked if vehicles without registrations would fall under that. Chief Frear said registrations do not. It would fall under different sections of the vehicle code and you would have to give 24 hour notice of that. Mr. Jerley asked if the vehicle was allowed to be held until it was paid. Chief Frear said yes. Motion carried.

Chief Frear said they met with three towing services in Windber Borough; Jerley's Auto, Zimmerman's Sales and Service and Thomas'. The coverage areas were set up by boundaries. West of 9<sup>th</sup> Street is Thomas', from 9<sup>th</sup> Street to 21<sup>st</sup> Street including Baumgardner Heights is Jerley's and Zimmerman has everything east of 21<sup>st</sup> Street. The reason for that is instead of a rotating system is when officers leave the building right away for an accident and no one checks that and that doesn't work. We will revisit this after a year. If the towing service that is called doesn't answer they will immediately call the next one and if that happens frequently obviously that service will not be a tow service for us anymore.

**Appointment WAA Board** Mr. Furmanchik said that Mr. Jerley's term on the Windber Area Authority Board ends on December 31, 2016 and asked council. A motion was made by Mrs. Pekala and seconded by Mr. LaMonaca to appoint Barry Jerley to a (five year) term beginning January 1, 2017 through December 31, 2021. Roll call vote: Mrs. Pekala, yes; Mr. LaMonaca, yes; Mr. Bryan, yes; Mr. Holden, yes; Mr. Jerley, Abstained; Mr. Mash, yes; and Mr. Spinosa, abstained. Motion carried.

Mr. Jerley abstained because the motion was concerning him. Mr. Spinos abstained because his son works for the Water Authority and he is on council so that is why he is abstaining.

**Next Meeting**

The next council meeting will be held on January 10, 2017 at 7:00 p.m. in Council Chambers.

**Adjourn**

Meeting was adjourned at 8:45 p.m. by Council President, Barry Jerley.

Respectfully Submitted By:

Robin S. Gates