

## Borough Council Regular Meeting September 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, Barry Jerley, Pete LaMonaca, Ron Mash, Sonya Pekala, and James Spinos. James Furmanchik, Borough Manager, and Lois Caton, from Fike, Cascio, and Boose were also present. Mr. Holden was absent and Mayor Penrod was absent.

### **Approval Minutes**

A motion was made by Mr. Mash and seconded by Mr. LaMonaca to approve the minutes of August 23, 2016 meetings. One absent, Mr. Holden. Motion carried.

### **Visitors**

Vinnie Paczek from EAD's updated council on the Sewer Project. He said R&B is currently working in the Stadium Terrace area and is expected to be relocating to the work area between Jackson Avenue and State Route 56 in the next few weeks. R&B is requesting a thirty (30) day time extension to the contract. This time extension would change the completion date from September 25, 2016 to October 25, 2016. The justification for this request is unforeseen site conditions in the Stadium Terrace area resulting in extensive amounts of rock excavation.

### Action Items for tonight:

#### Change Order No. 2

- a. A change order has been proposed by R & B Contracting & Excavating to increase the contract time by thirty (30) days. Justification for this request is unforeseen site conditions.

#### R&B Pay Request No. 4

- a. R&B has submitted their 3<sup>rd</sup> payment request in the amount of \$233,781.16 for approval by Borough Council.

#### PennVest Drawdown Request No. 5

- a. Total amount of \$245,910.81 is pending Borough Council's approval consisting of the following costs:
  - i. R&B Contracting and Excavation, amount listed above = \$233,781.16.
  - ii. The EADS Group, engineering, funding admin., inspection = \$11,813.66
  - iii. PennVest interest = \$315.99

A motion was made by Mr. Spinos and seconded by Mrs. Pekala to approve Change Order No. 2 increasing the contract time by thirty (30) days. One absent, Mr. Holden, motion carried.

A motion was made by Mr. Spinos and seconded by Mr. LaMonaca to approve the payment request submitted by R&B Contracting in the amount of \$233,781.16. One absent, Mr. Holden, motion carried.

A motion was made by Mr. LaMonaca and seconded by Mr. Spinos to approve the PennVest Drawdown Request No. 5 in the amount of \$245,910.81. Mr. Holden absent, motion carried.

**CFA  
Grant**

Mr. Furmanchik said the Commonwealth Finance Agency Grant (CFA) has grants that range from \$30,000 to \$500,000. We have two areas in mind where we could upgrade our sewer project. The catch is there is a \$2,500 application fee. Everything for the grant application would be handled by the EAD's firm. If you are selected as the successful applicant then the \$2,500 is rolled into the cost of the project.

Mr. Furmanchik said the two areas we are looking at are the alleys between 22<sup>nd</sup> and 26<sup>th</sup> Street and an area by the hospital between 4<sup>th</sup> and 6<sup>th</sup> Streets. He said there is a 15% match to that grant. After we some serious discussion, we felt it might be best to go for the full \$500,000. So 15% of \$500,000 would be \$75,000 and those funds would come directly out of the sewer fund.

Mr. Furmanchik said a little over a year ago there was a meeting at the Scalp Fire Hall regarding issues concerning municipalities having to air test sewer laterals especially in construction situations, and especially on the purchase and sale of homes. We agreed that night that we would do everything we could do to stave off DEP and their attempt to air test sewer line laterals. Our bargaining chip in our argument is to attempt repairs to our antiquated main line sanitary sewer system. Main purpose of this is for water infiltration.

Mr. Furmanchik recommends we take the \$2,500 out of the sewer fund and make application for the \$500,000 grant.

A motion was made by Mrs. Pekala and seconded by Mr. Spinos to approve taking \$2,500 out of the sewer fund and apply for the \$500,000 grant. One absent, Mr. Holden, motion carried.

**Correspondence**

1. Windber Municipal Authority's August 16, 2016 Meeting.

Mr. Furmanchik said he received a letter from Noretta Haydu, President of the Windber Area Museum requesting their annual donation of \$4,000 as is budgeted for the Windber Museum in the boroughs budget. The money is needed for fuel oil for winter.

A motion was made by Mrs. Pekala and seconded by Mr. Spinos to give the budgeted donation of \$4,000 to the Windber Museum. One absent, Mr. Holden, motion carried.

**Approval  
Payroll**

A motion was made by Mr. Spinos and seconded by Mr. Mash to approve payroll for September 2, 2016. One absent, Mr. Holden, motion carried.

**Approval  
Bills**

A motion was made by Mr. Mash and seconded by Mr. LaMonaca to approve the bills for August 2016. One absent, Mr. Holden, motion carried.

Council convened to an executive session at 7:10 p.m. for personnel.

Council reconvened from an executive session at 7:43 p.m.

**Cash Bal./  
Treasurer  
Report**

Mrs. Pekala passed out a form with budget line items to watch that have gone or begun to go over budget.

**Mayor's  
Report**

Mayor Penrod was absent. Mr. Spinos asked Mr. Mash how his event went and if he thought the Dog Run had hurt or helped his event; Bluegrass in the Park. Mr. Mash said the Dog Run had definitely helped the event and they had a great turn out. Mr. Mash said they had no issues and the police would stop every hour or so and walk the parameter to show their presence there. Mr. Spinos said that was a great idea for the two events to work together.

Mr. Furmanchik said when he was down town earlier Saturday; Chief Skiles had asked him about keeping four officers out until midnight. Mr. Furmanchik told him that with the amount of people in town for the Dog Run and with what was going on at the park it was a good idea.

**Council Liaison Report**

Mr. Furmanchik said Chief Haddad asked if Mr. Bryan would be interested in becoming the liaison for the fire department. He said he would be taking the place of Mr. Hunter who had done it before. Mr. Bryan asked what all was involved? Mr. Furmanchik said he would not have to go to all the meetings. Once in a while they might contact him and ask him to come to a meeting because there is something they want to talk about with the borough. Most communication is done with you and Chief Haddad or the President and most of the time that is done through text. They are very good about keeping you informed. Mr. Bryan agreed to be the liaison with the fire department.

Mr. Holden arrived at 7:50 p.m.

**Manager's  
Report**

**LITTLE LEAGUE FIELDS** - Richland Twp. and Mr. Tunstall are negotiating on the ability to rebuild dugouts and fencing, within the setback area. When that agreement is Reached, the sales agreement will be signed.

Mr. Furmanchik said we are waiting for Richland Township to respond with a decision made by their zoning hearing board.

**SANITARY SEWER REPLACEMENT** - We have won our argument, regarding permanent hard (asphalt) restoration on the west end of the project. All streets and alleys have been paved their entire width. Soft (soil and seed) restoration will begin by month's end. Phase one of the east end of the project (stadium terrace area) has been completed, with only phase two remaining. The project should be completed on schedule.

Mr. Furmanchik said a lot of residents were wondering when soft restoration would be done, that includes soil and seed and will take place once they are finished with Stadium Terrace.

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

**NEW ROOF ON BOROUGH BUILDING** - Construction will be started this month.

**SCI PRISONERS** - Arrangements are being made to have waterways cleaned out regarding vegetation. Inmates will also paint roof supports on Borough building. They will be painted a dark shade of gray to go with the roof.

Mr. Furmanchik said the Prisoners will also be coming in to clean vegetation from the banks of the levee. They cannot go into the water. The water cannot be disturbed because of the vegetation and there are fish in there.

**FLOOD CONTROL LEVEE** - There is ongoing discussion between the Borough and The U. S. Army Corp. of Engineers regarding the status of the levee.

Mr. Furmanchik said this has been one of the most confusing parts within his six month position. There has been a lot of miscommunication, and records not kept and not kept in the borough building and sort of mishandled. What we have done as of late is the borough office has compiled all of the information together and upon review by our borough engineer EAD's they will be sent off to the Army Corp. of Engineers for further evaluation.

In shorter version what happened was the Army Corp. of Engineers stuck a pipe camera into the levee pipe and found some deficiencies. The borough at some point in time shortly thereafter employed Roto Rooter who found only two or three deficiencies. To replace the levee piping system would be something we would never be able to gain funding for or afford. You would be talking about millions of dollars.

Mr. Furmanchik said the bad part about that is if it is totally ignored, and again it is every municipality's decision in what direction they want to go, if there was a natural disaster and there was flood water damage the borough, not the private citizen would not be available for any federal free monies for rebuilding. He said he will keep council apprised of the situation.

Mr. Furmanchik said Brad Steinbiser and Vinnie Paczek from EAD's have been great through this whole process. Some of those people from the Army Corp of Engineers are adamant that they are right. When we have more news he will pass it on to council.

**NEW STREET SWEEPER** - Financing arrangements are complete and it was delivered today. There was a training period and all public works employees were present. The new sweeper has been placed on the borough's insurance. We have a dealer plate on it now until our plate comes in. Public works speaks very highly of it. It is easy to operate, great cleaning power, nice adequate size hopper and nice and low to fit under the trees on the street.

Mr. Furmanchik said it sets a good image to the borough that we are moving forward and keeping the services to the citizens high on our priority list.

Mr. Furmanchik said with some brain storming with Robin we came up with a way to purchase the street sweeper that will not put any economic impact on this borough or our taxpayer.

**NEW BACKHOE** - It has been delivered and is in service. We had the hood treated with the same material the back of the cab is treated with. This is to stave off corrosion issues caused by salt. He was told every municipality they deal with; the hoods corrode from loading salt. We spent \$250 to put an anti-corrosive on there that you can't even tell is in place.

**CHIEF'S LETTER OF AGREEMENT** - It has been approved and prepared. It will be formally signed by Mr. Frear, after his retirement on Sept. 16<sup>th</sup>. The new chief once retired, will on his own time, between now and October 24<sup>th</sup> get a lay of the land. He asked Mr. Furmanchik if he would take him around and introduce him to some of the people that he thought he should be introduced to and give him some background from his view of being a lifelong resident.

Mrs. Pekala said she liked his idea of having a meet and greet with the community by having people come down and meet him. He wants the residents to know that he is here for the people.

**TAX SALE OPPORTUNITY** - The property at 1321 Midway Ave., owned by Mr. Novak, has been removed from the auction. Mr. Novak has been placed on a payment program.

Mr. Furmanchik said the property has been a blight issue for some time. Council had authorized him to go to the auction and bid up to \$10,000 on it. The opening bid on that property was \$3,100 plus dollars. The sum was the total of back taxes for 2014, 2015, and 2016. Mr. Furmanchik said they had found out the property was pulled from the tax sale because a payment arrangement was made.

Mr. Furmanchik said he sent the property owner a certified mailing letting him know the property is not compliant with the International Property Maintenance Code because of paint flaking issues, no gutter down spout and etc. Ms Steffish contacted him yesterday and she told him that Mr. Novak the owner of the property has given her complete control over that property and what the sale of the property will be. She said that when they initially talked she said the sale of the property would be like \$15,000 to \$18,000. She said in order to move things along and cause herself less anxiety she would be prepared to offer him the property for \$10,000. Mr. Furmanchik told her that he had a figure in his mind and it wasn't \$10,000. He said he could run by council a figure of \$5,000. She told him if it was approved she would sell it to the borough for that price.

Mr. Furmanchik said he had Frank Donitzen who has demolished odds and ends for us in the past come down and take a look at the property today. Frank gave him a quote of \$5,500. He said that would be good and give us a temporary parking area. Next year he would urge council to add that to our paving list.

**Manager's  
Report**

A motion was made by Mr. Spinos and seconded by Mr. LaMonaca to approve purchase of 1321 Midway Avenue for \$5,000 to be taken from the Capital Improvement Fund. Mr. Spinos, yes; Mr. LaMonaca, yes; Mr. Bryan, yes; Mr. Holden, yes; Mr. Jerley, yes; Mr. Mash, yes; and Mrs. Pekala, yes. Motion carried.

A motion was made by Mr. Spinos and seconded by Mr. Holden to approve Frankie's Hauling and Excavating to tear the building down and put the 2B gravel in. Monies to come out of the Capital Improvement Fund. Mr. Spinos, yes; Mr. Holden, yes; Mr. Bryan, yes; Mr. Jerley, Yes; Mr. LaMonaca, yes; Mr. Mash; and Mrs. Pekala, yes. Motion carried

Mr. Furmanchik said the alley would have to be blocked for two days max.

**OLD STREET SWEEPER** - It has been put out for bid.

Mr. Furmanchik asked Mr. Donitzen if he would be interested in the street sweeper. He told him if he wanted the sweeper he would trade it for him taking the building down. Mr. Donitzen said he would think about it. He said he would go up and look at it.

A motion was made by Mr. Spinos and seconded by Mr. LaMonaca to give permission to Mr. Furmanchik to make this exchange if Mr. Donitzen is interested in the street Sweeper. Motion carried.

Mr. Furmanchik said in the next couple of weeks we will have upward of four to five homes condemned in the borough. One that is condemned right now is 593 Railroad Street. You might remember at one point in time it was the Faith/Blough/Burkett residence. The other half of the structure was already torn down a few years ago.

Mr. Furmanchik said he had Mr. Donitzen take a look at that and it is similar to the situation that we had with the Muscatello property. No one in the family wants anything to do with it and if it comes to the point where we have to eat that cost it is going to be a \$7,500 demolition. We have it blocked off to keep people away from it and we can just sit on it for a while.

**Solicitor's  
Report**

Ms. Caton said the only thing Mr. Berkey mentioned was about the names needing to be changed on the loan documents for the street sweeper. Mr. Furmanchik said that has already been taken care of. He said the only question he had was if we needed a resolution for that. It was voted on by council previously and approved. Ms. Caton asked if it was a motion to buy and execute any and all documents. Mrs. Gates said this is not a loan but a lease. Mrs. Caton said if that was the motion then you should be fine.

Mr. Furmanchik said just to reiterate payment is \$19,987 a year for five years. The first payment is due April 1<sup>st</sup>. He arranged it that way so we would have our liquid fuels monies by then. Mr. Furmanchik said this year our allocation from Liquid Fuels was \$124,000 and change and next year it should be more because we have added streets to Liquid Fuels. After five years we will own the street sweeper.

**Council  
Liaison  
WMA**

Mr. Holden said he wanted to bring this up due to the fact that he was late, there was a Municipal Authority meeting last week. Some folks from First National Bank made a presentation regarding credit card transactions and no fees or fees being waived. He said it was interesting and could save them around \$3,000 a year.

Mr. Holden said the borough may want to approach them also. Mr. Furmanchik said right now we have a pretty good rapport with First Commonwealth Bank and if we are interested in that we could just approach them. He said he would look into it.

**Resignation  
Berkebile**

A motion was made by Mr. Spinos and seconded by Mr. Mash to accept the resignation of Benjamin R. Berkebile, Financial Assistant at Windber Area School District from the position of Somerset County Tax Collection Committee Delegate for Windber Borough. Remarks: Mr. Furmanchik said the position will have to be filled. He spoke with Mr. Gaye and Mr. Kimmel from the school district they will make that a stipulation of the new hire and will let us know who and when. Motion carried.

**Color Run  
Race**

A motion was made by Mr. Holden and seconded by Mr. Spinos to approve Windber HealthCare Foundation to hold the 2<sup>nd</sup> Annual Color Run throughout Windber Borough on October 1, 2016. They are raising funds for advance patient care and breast cancer research at the Joyce Murtha Breast Care Center/Chan Soon-Shiong Institute of Molecular Medicine at Windber. Motion carried.

**Non-Uniform  
MMO**

A motion was made by Mr. Spinos and seconded by Mr. Holden to approve the MMO for 2017 Non-Uniform Pension Plan in the amount of \$20,346. Roll call vote: Mr. Spinos, yes; Mr. Holden, yes; Mr. Bryan, yes; Mr. Jerley, yes; Mr. LaMonaca, yes; Mr. Mash, yes and Mrs. Pekala, yes. Motion carried.

**Police  
MMO**

A motion was made by Mr. Spinos and seconded by Mr. Holden to approve the MMO for 2017 for the Police Pension Plan in the amount of \$37,793. Remarks: Mrs. Pekala asked if this was the amount we were approving or the \$34,433. Mrs. Gates said it is the \$37,793. Roll call vote: Mr. Spinos, yes; Mr. Holden, yes; Mr. Bryan, yes; Mr. Jerley, yes; Mr. LaMonaca, yes; Mr. Mash, yes and Mrs. Pekala, yes. Motion carried.

**New Law  
Firm**

A motion was made by Mr. LaMonaca and seconded by Mr. Spinos to appoint Joe Green as the law firm for the Borough of Windber. Roll call vote: Mr. LaMonaca, yes; Mr. Spinos, yes; Mr. Bryan, yes; Mr. Jerley, yes; Mr. Holden, abstained, Mr. Mash, yes; and Mrs. Pekala, yes. Motion carried.

Mrs. Caton thanked the borough on behalf of Fike, Cascio, and Boose. She said they had served the borough over 40 years as the borough's solicitor in some capacity and thanked them for that honor and wished them success on their future endeavors.

**Attorney  
Joe Green**

Attorney Green spoke briefly to council. He said it was an honor for council to show their vote of confidence before ever meeting him.

He spent most of his legal career on the primary focus of municipal law. He represented the City of Johnstown in some capacity for 20 years. He currently represents Ferndale Borough and Vintondale Borough. He also works for Cambria County District Attorney's Office.

Mr. Green said he considers himself an old school counselor. He is not an eighth member of council. If you ask him his personal opinion while sitting in this chair he will not give it to them but if you ask me a legal opinion I will certainly give it to you. If he thinks you are bumping into a legal issue he will raise his voice. He said council is here to set policy; he is not and will never do that.

Mr. Green said one of the other things he does as a solicitor is protect council. Many times there are tough decisions that members of the community do not like if you put it on his shoulders he will carry them. He is here to serve council.

He said he will give council his card and phone numbers. He said he is rarely able to answer a phone call in the morning. He is usually in court from 9: a.m. to noon. If you leave a message on his answering machine he will return your phone call that day.

Mr. Green said he is excited about working again with Andy Frear. He said you will have one of the best police chiefs in this area, he guarantees it. He said council will come to respect him as he does. He has worked with Andy most of his career. You can say a lot of bad things about Johnstown Police but you have to look at what they are policing down there and Andy and Jim Gresh along with Chief Foust started implementing standard operating procedures that many departments across the state look too.

Mr. LaMonaca said he worked at the housing authority and Andy Frear is a good guy. Mr. Green agreed. Mr. Spinosa welcomed him aboard and said their decision was based on his knowledge and past experience with other municipalities and reputation. He said we had goals a few years ago and are pretty sure we've achieved those after tonight. We all know there are many things on the horizon along with changes at Windber Hospital and we are happy Mr. Green is here.

Mr. Furmanchik said everyone wants to be a part of a winning team and right now this town is like a bubble ready to pop. There is so much interest and things happening we need the proper representation to get us there. Mr. Green said Windber is an amazing community. It is a little borough that acts like a third class city. The things they do for their residents and community is amazing like a breath of fresh air.

Mr. Jerley asked if our meeting dates conflict with his. Mr. Green said that is fine. He said his secretary is a wiz and if for some reason you can't get a hold of him call her.

**Next  
Meeting  
Adjourn**

The next council meeting will be held on October 11, 2016.

President Barry Jerley adjourned the meeting at 8:30 p.m.

Respectfully Submitted By:

Robin S. Gates