

Borough Council Regular Meeting March 26, 2019

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

Pledge of Allegiance.

The following Council Members were present: Mike Bryan, Pete LaMonaca, Dr. Doug Ledney, Ron Mash, Joe Pallo, and James Spinosa. Jim Furmanchik, Borough Manager, Mayor, Mike Thomas and Attorney, Joseph Green were present. John Holden was absent.

Council convened to an executive session for legal matters at 7:05 p.m.

Council reconvened from an executive session at 7:15 p.m.

Ordinances Amended

Attorney Green said council has asked him to address those that are here regarding the two ordinances 2019-2 and 2019-3. One requires the registration of residential housing and one requires reporting of all tenants in the housing units.

Attorney Green said council has asked him to amend the ordinances in the following ways:

1. We are going to drop the \$50 registration fee; however, we are going to implement for lack of a better term a drop-dead date. June 1 of this year is the drop-dead date. That means you must have your property registered and your tenants registered. If you do not have your property registered or your tenants registered there will be a \$500 fine. Each day thereafter there will be a fine up to a \$1,000 a day.
2. We are going to delete the section requiring a social security number.
3. We are going to delete the section requiring a copy of insurance.
4. We will have a February 1st drop dead date. Meaning that annually you must update these lists if you have more units or less units. If you sell your unit you have 14 days to notify the borough that you sold your unit and to whom you sold it too. If a tenant moves out and a new tenant moves in, you have 10 days to register that.

Mrs. Saucedo said regarding selling the property, we do not always know who it is sold to. She said she has sold properties through real estate agents and does not know who the property was sold too. Attorney Green said you always know who you sold the property too because you must sign a deed and that person's name is on the deed.

Mrs. Saucedo disputed this with Attorney Green stating that she does not always get that information. Attorney Green said this information can be obtained.

Attorney Green said the reason these ordinances came to be is because we do not know who the tenants are in Windber. Health, safety and welfare is why. We do not know if they are elderly tenants or children. The police do not know who is living in these houses. We also have circumstances where we have vacant houses where the people who own them have moved two states away and the roof is caving in. The codes official needs this information. It will keep your property value stronger.

Attorney Green said we can't collect our per capita taxes when we do not know who is living in these rental units. When we lose per capita our real estate taxes have to go up. We now will know who is living there.

Mr. Furmanchik said 2020 is the next census and he believes the last census in Windber the population was 4,235. Every year we receive federal funds known as Community Development Block Grant Funds. The funds are used for demolitions, sewer work, sidewalks etc. If our populations fall below 4,000, we will not receive any more funding. By registering those tenants that will give us a more accurate account for the upcoming census.

Various residents disputed the comment of the manager asking about privacy issue concerns with their tenants. Tammy Crouse said you are expecting us to get information from our tenants for taxes. It should not be our responsibility and Mrs. Saucedo said it is against privacy laws. Attorney Green said it is not.

Mr. Jerley said he has a tenant who doesn't want anyone to know where they live then what does he do? Attorney Green said the Federal Government knows where they live, the state knows where they live and now the local government will know where they live and has that same right.

Attorney Green said we have made amendments to these ordinances to make it less burdensome on the landlords there will be a vote on these amendments at the next meeting. Attorney Green said we will not be asking for copies of lease agreements.

Attorney Green said this gives us a database in which to work from. Residents continued to dispute Attorney Green on issues.

Meeting brought to order by Council President, Mike Bryan. Visitors will be given five minutes to speak due to the large volume of speakers.

Recognition Visitors Mr. Jerley read a paper he prepared. First and foremost, he said he is going to speak for himself and many other landlords this evening. Others also want to speak and express their thoughts. We are going to try and keep this meeting from repeating facts and different opinions and conduct this in an orderly manner.

Mr. Jerley Mr. Jerley said he has sat on both sides and served on council and understands that some decisions are hard to be made but you also know when you have a chance to sit back and gather more information, decisions are easier to make and change.

Mr. Jerley said he is asking council to reverse this rental ordinance. It is not healthy for the community to have all this animosity between citizens and council. The reasons why he feels this way is because he and others have investments in this community. Businesses that will also be affected due to the publicity of Windber having blight problems in Windber Borough. Who would want to live or relocate here? That impacts money being spent in our local business. People start seeing blight, blight, blight they will not come to the area.

Mr. Jerley said the police did a great job with abandoned vehicles. We hired a codes guy let this be his job to go out and find these and not only is he going to find renters but homeowners also.

We have declining population, and everyone knows that. We have a record high of homes for sale in the borough yet every building we tear down turns in to a parking lot and they are taken off the tax records. No one builds on them. We have no development to build homes or create a better tax base, so it gets passed on to the tax payers. Tax payers have no money left to do the repairs on their property. Mr. Jerley said go after the absentee landlords and make them register, not the local landlords.

Mr. Jerley said there is selective enforcement in this borough. He owns a property and has been looking at the mansion for four years. The mansion is in deplorable condition. The previous owner said she was forced to sell the property because of its condition, and it's been four years and still nothing has been done with it. He would like to build a home there. Your condemning other properties this is a danger. Enforce the conditions or condemn it.

Mr. Jerley said Scalp Level and Paint have an ordinance for their homeowners and rental properties to everyone who moves in must fill out a form and get a permit. It's their responsibility to do it not ours.

Mr. Jerley said if you look around you see key people with businesses and they make donations to events in our community. This is ruining it. You say why not Windber? This is why not Windber. This is ruining it.

**Dave
Maddy Jr.**

Mr. Maddy said he did not receive any paperwork, so he does not know everything. He was told there were going to be inspections first inside then outside and then there would be an inspection fee of \$150.

Mr. Maddy said he has concerns on certain things. Example: The Windber Hotel has windows missing. Is it exempt because it is an historical building? All of Windber is historical. He does not think we have as much blight as everyone says. If you are going after blight a homeowner could have blight or a landlord could have blight. You should have to go after everyone. Blight does need addressed in ordinances but there is no web page to go to too get all these ordinances. Where do we go too? They are not publicly listed online and should be addressed.

Mr. Maddy said another question I have is with Stadium Terrace. Will they have to list everyone under the new ordinance or are they exempt because it is a government funded thing. There are a lot of concerns and things going on that we are not aware of. Maybe it would have been better put in the paper and a meeting with us. Windber is dying out and turning in to a Central City. We only have one gas station, and everything closing and being pushed out of Windber. Commercial property only wants to go to Graham Avenue. We property owners want to buy stuff and fix it up and make it presentable but there are concerns about this inspection and inspection fees and stuff like that.

Attorney Green said there is no inspection language in any of these ordinances. Mr. Maddy said into the ordinance from what he read there is a deadline of 30 days if something needs to be fixed.

Attorney Green said these ordinances do not contain anything regarding codes violations. There is a procedure that is followed according to the type of citation. If it is not fixed in a certain amount of time you will be cited.

Mr. Maddy said he is concerned for an elderly person that may have rental property and cannot afford it and needs more time. There should be stipulations. Attorney Green said in his dealing with the former codes officer and with Anson there is some compassion there.

Mr. Maddy said there have been things cleared up here tonight, but you should be able to go after a homeowner also not just a landlord. Mr. Maddy asked if they give property addresses and names? Is that is basically what you want? Attorney Green said yes. These ordinances do not call for inspections, but he can drive past your house and see something externally.

Mr. Maddy said several things have been explained and asked if they would get a new paper. Attorney Green said the ordinances will be amended and attached to a new letter.

**Lisa
Bokinsky**

Ms. Bokinsky thanked council for allowing her to speak. She said Attorney Green had touched on a bunch of things she had seen. She said the rental application asks for a copy of our lease and insurance. She asked if it would be taken off? Attorney Green said yes.

Ms. Bokinsky said on that form it says the code inspector would be able to inspect. Would you state on there that it is an external only inspection and not an internal because then we get to a part where she as a landlord cannot go into her tenants' house and you as a code enforcement officer unless you have a reason to go into the house cannot go into the house.

Attorney Green said typically the only way a codes enforcement officer can enter a house is if he is invited in. Ms. Bokinsky asked if they would please put external inspection in the letter. Attorney Green said yes. She said the only other thing that Mr. Maddy touched on was making the ordinances available on the internet or some way of allowing us to know what the ordinances are.

Mr. Furmanchik said the borough clerk has been working on this for over a year transferring the paper ordinances onto the computer. All you would have to do for now is fill out a right to know form and get a copy of that ordinance.

Ms. Bokinsky said when she started doing her research Johnstown has all their ordinances on line. Mr. Bryan noted that. Attorney Green said most codes are centered around the property maintenance code. If you Google it, you get it.

**Rich
Rummel**

Mr. Rummel passed at his opportunity to speak.

**Ben
Bonitz**

Mr. Bonitz said a vast amount of his concerns have been addressed. He said he started his business in 1987. They have a property on 17th Street for the last 20 years that fronts the property next to his that is bad. That property in the back has been vacant for a coons age and the one in the front is on shaky ground.

Mr. Bonitz said he took Dave Petruank for a 2 ½ hour tour through Windber while he was videotaping and there are some bad places and blight in Windber.

If we don't keep our places decent, we have empty places. Our business is to keep them full and keep them running and keep them up for our customers.

**Lou
Kiss**

Mr. Kiss said he would speak later because he is not talking about this subject.

**Shawn
Gahagen**

Mr. Gahagen thanked council for giving their time to the borough. He said they also did a great job of explaining what they were doing tonight and most of their concerns have gone away. He said he got into the rentals in Windber because my family was from Windber. He always wanted to give back. He bought rentals in Windber to offset his retirement and over the years the quality and quantity of people in Windber is not like it used to be.

Mr. Gahagen said it all comes down to the per capita tax he believes. Attorney Green said it is a component. If you read the heading of these ordinances, we are trying to tell residents, why we are doing this. It is to have safe secure housing and have good housing for people who want to come here. It is the ability for code enforcement to know what is out there. The per capita tax is one component. The others are safety and aiding EMS. Just to know if someone is living in that double house is important.

Mr. Bryan said we left a handout that some of you picked up from the fire company please pick one up and read it. It explains a lot.

Mr. Gahagen said personally the whole deal needs to go away. We pay enough in tax. We have a lot of skin in the game. We are getting hit with school tax increases and municipal taxes year after year. We cannot raise our rent to cover that.

Mr. Furmanchik said this municipality is like any other municipality across the country. Come budget time and most people are smart enough to know that the budget is prepared in the fall of the year. We try to do everything we can do to eliminate tax increases, but the cold fact is as of today according to the tax office, Windber properties are delinquent to the tune of \$356,143.97 in back taxes owed. A mill of tax in Windber Borough is \$46,000. If we would have had some of these tax dollars, we could have avoided a tax increase this year. Mr. Gahagen said someone is not doing their job. Mr. Furmanchik agreed and said he had been to see the county commissioners twice this year regarding this.

Mr. Furmanchik said he was told it is a bit more stringent in Cambria County. He said when someone owes us, they also owe the county and the school district too. This is the dilemma we are facing. It is something we wrestle with as far as operations daily and weekly.

Mr. Gahagen said it is hard to respect someone that cuts into his livelihood and business profits. He said he is not saying the per capita is wrong because that has changed because you have amended so many items. He then thanked council for allowing him to speak.

**Paula
McKee**

Paula McKee passed on speaking at this time.

**Valerie
Ashbrook**

Ms. Ashbrook said she was born and raised here and does have rental properties here in Windber although she lives in Paint Township. She said she is very disappointed.

She is a realtor and a member of (PAR) Pennsylvania Association of Realtors and (NAR) National Association of Realtors.

Ms. Ashbrook said she believes in personal property rights and she will fight for them. She does not like the way this was done and didn't really know anything about this. She did not hear too much about it until it was already passed.

Ms. Ashbrook said she was very upset that on the afternoon of February 22, 2019 Brittany Baker who is our PAR Political Field Representative from Harrisburg was at one of our association meetings when this came up and she was told of this. She came here to the borough building and asked about this ordinance and was told she could read it but when she asked if she could have a copy, she was told absolutely no copies. She asked if she could take a picture of it with her phone so she could take it back to their attorneys that work for them out in Harrisburg. She was told no, she was not permitted to have anything until it was passed.

Ms. Ashbrook said she is not an attorney and there are sunshine laws and things and if you have a proposal to put something out there. We should have the opportunity to review it before it is passed. We could have been here and taken care of this. We should have been notified. Something should have been posted in the Windber Spirit or somewhere. We could have had a special meeting. She said she was embarrassed that Brittany was treated shabbily and apologized to her.

Ms. Ashbrook said things need changed here. She said she was on the website and there was nothing posted since last November or updated. There were no agendas posted on the website. This information should be put out there so they can see what is going on.

Attorney Green said the ordinances were posted in the Johnstown Tribune Democrat. Ms. Ashbrook said she understands that and saw that but asked that the website be updated.

Ms. Ashbrook said she does not believe in rental registration and has called here a couple of times over the years and there is a sign that says move in permit in the borough. There should be a move in and move out permit. Ferndale and Westmont charges \$5 for the permits. They have their officers drive around and when they see people ask them if they are moving in or moving out and they stop and ask them if they have a permit. They are told to get one and pay the \$5 or be fined. If you would do this, you would know who is moving in and who is moving out.

Ms. Ashbrook said she that when you are selling a property it should be 30 days after closing that you let the borough know in the case it does not go through. Ms. Ashbrook said another thing she has a problem with is Section VII Retaliatory Eviction Prohibited: She said she understands that but what if we have a really bad tenant that hasn't paid us, and we are trying to get them out and they know this because they are smart. What they do is, they do things to destroy our property so then they can call the codes officer to come in and then we have to fix this and are not allowed to proceed with eviction.

Attorney Green said that is not correct. If you have an ongoing non payment of rent issue that would trump any ordinance. She asked him to add it to the ordinance. He said we can not add that to the ordinance. We cannot "what if", an ordinance to death.

Ben Bonitz said they can also evict someone within 30 days for no reason at all according to a district magistrate. Ms. Ashbrook said she feels as if she is being taxed, she pays her taxes. She lives in Paint Township, but she is feeling like she is being oppressed here without any representation and she does not get to vote for any council members or anything that happens here in Windber or able to run for council.

Ms. Ashbrook said she would like this to go away. She asked if “owners agent” was still in the ordinance and does that mean we have to hire a property manager or someone. Mr. Furmanchik said all that means is we need a contact person. Someone with a set of keys if we must get in, in the case of an emergency.

Ms. Ashbrook said you are creating a database that will take a lot of time. If someone gets a call for an ambulance, are they going to stop at the borough and see if they’re in the data base. Attorney Green said that information will be shared with Fire and Police. Ms. Ashbrook said if you get a call, you’re going, you are not going to take five or ten minutes to get online.

Ms. Ashbrook said for now do a move in and move out permit. You have enough ordinances on the books to let the codes officer take care of those items. Mr. Furmanchik directed Ms. Ashbrook to pick up a copy of an email from the podium written by the Chief of the Fire Company with regards to this issue.

Mr. Gahagen said he thinks this is all about the tax. Attorney Green said it is not it is also about safety. Mayor Thomas said he pays his taxes and the little old lady beside him pays hers, it is not fair to those of us who pay our taxes when there are so many who do not.

Mr. Furmanchik said it is not all about taxes. For example; if West Hills Police Department is looking for a person of interest and they know he is renting a house in Windber the police department can look on the data base and locate him.

Mr. Gahagen said the other municipalities do not do this. Mr. Furmanchik asked Mr. Gahagen to look at the other handout on the podium. It is from the Pennsylvania State Association of Boroughs. They have their thumbs on all the boroughs in Pennsylvania and it seems like they are in favor of it. It is country wide and it is spreading.

Chief Frear said if there is a possibility something is going on, he can call 911 and they can contact the borough office for information on who lives where. Two of the best sources for search is the housing authorities. They know who is living in what apartment. The other is the ability to contact an owner of a building in the case of a fire. Right now, we do not have access to that information.

It is nice to have this data base for not only tax information but for property owner information. Mr. Gahagen asked if 911 has access to that information. Chief Frear said no they do not. Us having access to this information is the benefit to police and fire.

**Dave
Petrunak**

Mr. Petrunak thanked council for their service and their support with Miner’s Memorial Annual Celebration.

Mr. Petrunak said it happened just like Chief Frear said a week ago. I had a fire a week ago, the fire department, Anson and the police department responded. Anson said Dave this is what we must do, and he is also working with the tenant. There were no problems and he was right, they got a hold of me in five minutes and I was there, and he understands that. They had his information and they know what properties I own.

Mr. Petrunak said we have a mile stretch of town empty. These are your investors. They're the money. Business is money. If I ran that multimillion-dollar housing development up there in Paint Township the way you run this town, he would be broke. What do we do? Let's work with the businesses if we have blighted property lets talk to the people. What is so hard about it. He said this group is not going away now. If we have problems with a tenant now, guess what? We are going to notify them. We do not want them in town.

Mr. Petrunak asked if Mayor Thomas went for a ride and then said the property next door will be condemned and should be condemned. He asked what a condemned property is. He said the paper shows a picture and we look like a bunch of slums. He asked who owns the property along Graham Avenue? He said two properties are condemned. One guy can get in and out of his property and John cannot. This is selective enforcement and he has been saying it for years.

Mr. Petrunak said the place behind his garage is in bad shape and they never got fined. If it was his property, he would get fined. Mr. Furmanchik said Mr. Bloom has already talked to those people. Mr. Petrunak said, and nothing gets done. Mr. Bloom said they have already been fined.

Mr. Bloom said there is more to condemning a property than what people think. For provisional access those people made arrangements. If you do not have access to your property, then they haven't made an attempt to contact me. It is not my job to release information on every citation I write in this town. When you condemn a building, they have two years, two years before you can take legal action on that building. So, condemn it. We can condemn every building in town if that's what you want but what does that change.

John Fuschino said that he had a party interested in his property and wanted to come in and see it. He told the person that he would call the borough first because they condemned it and the guy never called back and he lost the sale of the property. Mr. Bloom asked Mr. Fuschino if he called the borough and told them he wanted to show the property and asked if he could get in there? Mr. Fuschino said no, once there were boards on it the guy never called back. He said that property was like that for nine years why wasn't it condemned then. He said three years later he buys it and now its condemned.

Mr. Bloom said right now there are three houses that are condemned and have provisional access. They can be in there during the daylight hours to do renovations to try and bring it up to code. They cannot stay there, and they cannot occupy it until it is brought up to code. Mr. Fuschino said if he was told it was going to be condemned, he would've told the borough he was cleaning up the place. Mr. Bloom said as far as selective enforcement you are not privy to all the citations he writes.

Mr. Petrunak said he thought his block was sold and there was going to be a big store put up there. It's not sold. There is no store going up there we blew it and we could've worked it out. Dr. Albright told me she is suing me because of the borough. She said that he is the problem on that block.

Mr. Furmanchik told Mr. Petrunak that he himself knows that every other property on that block had a signed preliminary sales agreement except for the Albright property. Now we can't touch her because she is going through bankruptcy proceedings. Mr. Petrunak said she told him the reason she filed bankruptcy is because the borough will not allow her back on the property. Mr. Furmanchik said she never asked to come back onto her property.

Mr. Furmanchik said he can think of several times people have been in your situation with a condemned building and contacted the borough codes enforcement officer to go inside the building to even retrieve something and we let them in there. If you call and you make the request it won't be denied unless it is a dangerous situation.

Mr. Petrunak said this is what we need to work together. Mr. Furmanchik said we go out of our way to help anyone addressing a property maintenance violation. We go out of our way to try and help them.

**Todd
Kohler**

Mr. Kohler decided not to speak at this time.

**Jamie
Bloom**

Jamie Bloom, Assistant Fire Chief for Windber Fire Company No. 1 addressed council. He said in addressing the comment made earlier based on a duplex with one side vacant. It is their responsibility to do everything that they can to preserve life and property. Life being first and foremost.

Occupancy, if we know that residence is occupied is paramount to what they do in their search. Safety is number one. We must be able to do our job and our function to provide the safety and support this town needs. So, if we know that residence is vacant, we can then make different determinations and maybe take a different avenue of approach of how we tackle that fire or enter that building.

A statement was made by Assistant Fire Chief Jamie Bloom based on the landlord tenant ordinance. Assistant Fire Chief Bloom said that the fire department nor himself seeks any financial gains or has any bearings on being here tonight. He said he understands the borough council has made amendments on the landlord/tenant ordinance tonight.

Assistant Fire Chief Jamie Bloom said the amount of training, jobs, and responsibility that the fire department has are quite extensive but, however, evolves around two basic goals; one the safety and preservation of life, and two, the salvation of property. These two goals drive everything we do.

Assistant Fire Chief Jamie Bloom said he has witnessed countless occasions where our jobs were complicated due to a simple lack of information. Information that this ordinance makes possible. Since the beginning of the year our department has faced the challenge at least five times. He himself was the officer in charge of an incident in town of a duplex home in which they were called out for carbon monoxide.

One side of the structure had over 600 parts per million of carbon monoxide and the other was inaccessible. The average human being begins to feel the effects of carbon monoxide at 50 parts a million. A dosage of 600 parts a million is lethal in less than 15 minutes.

The tenant at home was unaware of the other tenant's whereabouts or how to contact the tenant. The landlord was contacted and did not know how to reach the other tenant. Although there were no signs of anyone being in there at the time we still needed access to verify and assure there was not carbon monoxide present in the other side of the structure. It took approximately 30 minutes to track down the other tenant and have them come and unlock the door. Could we have forced entry certainly. However, we then face liability of the structure until it is secured and backlash from the owner from time to time for causing what they deem undo damage. Knowledge is power and that is a fact of life. The more information you have the better prepared you are to face any challenge. Maintaining the ordinance may not seem fair or popular for some, but this ordinance is also for the safety and welfare of the people.

Windber Fire Company No. 1 asks Windber Borough Council to maintain the ordinance in consideration of safety of the people. Council thanked Assistant Fire Chief Jamie Bloom for speaking.

**Tammy
Crouse**

Ms. Crouse said everything she had a question about was covered but she had one more question. Specifically, what is the information you want from your tenants. Mrs. Gates said it will be name, address and phone number. Ms. Crouse said okay.

Ms. Crouse asked for the amount of days to be reiterated as far as a tenant moving in and out. Attorney Green said if you have a new tenant coming in you have 10 days to register if you have a tenant leaving it is 14 days to notify the borough.

**Carmen
Saucedo**

Mrs. Saucedo asked about rent to own situations. Attorney Green said they are still your tenant. They have a lease. She said they pay the property tax. Attorney Green said they have a lease they are a tenant.

Mrs. Saucedo asked for the requirements for tenants? Attorney Green said name, address, and phone number. Mrs. Saucedo asked about age or children. He said no for children only those over 18 years of age. Like the fireman and Chief of Police said information is the key. The more information they have the better off they are.

**Kevin
Spadone**

Mr. Spadone passed.

**Howard
McDowell**

Mr. McDowell said Attorney Green answered most of his questions. He said he is the owner of an occupied building. There is a three-year lease on the occupied one unit. Is that still considered a rental? Attorney Green said yes.

Mr. McDowell said since he bought the building, he put siding on it and new windows and has taken care of it. His ex-wife lives in there because she is half owner and two tenants. The two tenants rent barely pays the utilities.

Mr. McDowell said his thought process when he first saw this was his ex-wife and one or both tenants may qualify for housing why not tell them to get out. Unless you folks tear the building down. What he is saying is if he must keep putting money into this building, he will have to let it go and that is not what he wants to do. To sell it he can't get out of it what he has into it because it is a private property building.

Mr. McDowell said it seems like you're picking on these people as a group. It almost seems like discrimination. What percentage of the past due taxes are from these people and what percentage are from residential properties?

Attorney Green said we will be able to tell you that once this ordinance passes because we do not know all the rental units in town. Mr. McDowell asked where the borough got his name to send him a letter. Attorney Green said the codes enforcement officer gathered the information from old data bases and other sources. Mr. McDowell also said this should be put on the borough's website. He also said what would have happened if he had gotten this letter and threw it away. He said it should have been certified and signed for. This is not going to solve the problem.

Mr. McDowell asked if they would get another copy of the ordinances in the mail? Attorney Green said yes.

Mr. Bonitz asked if the borough sent these ordinances to absentee landlords too? Mr. Furmanchik said yes, 251 mailings sent out. We have had people come in or call and notify us the house is now single-family home or private residence and these are things we are trying to find out.

Mr. McDowell said he is undecided whether to sell his property or not. Attorney Green said right now under the amendment ordinance it will cost a landlord nothing to register their property if they are compliant and adhere to the ordinance.

**Samuel
Buckovich**

Mr. Buckovich yielded his time to Mr. Jerley.

**Barry
Jerley**

Mr. Jerley told council to make a motion and we'll see who is for it or against and lets just do a move in and move out ordinance.

**Tom
Ziegler**

Mr. Ziegler asked what the borough was going to do with the information provided by the landlords. Attorney Green said Mr. Bloom will compile a database. Mr. Zeigler asked if he would send a letter to that person then and get more information from them. Attorney Green and Mr. Furmanchik said no. Attorney Green said it is for our code's enforcement officer, our EMS responders, our police department and per capita tax information.

Mr. Ziegler said his tenants are responsible for their water and sewage information, so the water authority has all this information. Attorney Green said they are not allowed to give it to us. Mr. Ziegler said the water company has a business in town and you ask for their customers information versus I have a business in town I must give you customers information. Attorney Green said they don't know who a tenant or landlord is. He is a landlord and he pays the water bill. Mr. Ziegler said he does not think that is true. He said he gives them a paper that says his business allows them to put the water in their name.

Mr. Ziegler said he can include it in his rental package and tell the tenant to fill it out and take it to the borough. They want to know who lives in town. He said he wants to know who lives in town because he pays taxes. Attorney Green said this ordinance puts the ownness on the landlord. It will take 10 minutes of your time.

**Lou
Kiss**

Mr. Kiss spoke to council about repairs and/or paving of his street. He said Ron Mash's parents live right in front of him and he knows how bad this road is. Mr. Furmanchik said first every time Mr. Kiss has had a problem, he has had public works up there. Mr. Kiss said he is not disputing that, but the street is beyond patching.

Mr. Kiss said Jake Brakes has also been a pet peeve of his for years and he worked with Mr. Furmanchik on that and because of his effort we have signs on 21st Street and all the way up through Windber. Mr. Furmanchik said it was the effort of many he had received complaints from, and then he made a call to PennDOT who then did the traffic study. PennDOT approved it because it met the and we put the signs up and the police monitor it today.

Mr. Kiss asked about Route 56? He said coal trucks are traveling about 70 miles an hour. He talked to the state police about it and they said if it runs through the borough and they have an ordinance, they can enforce it. Chief Frear said tell whomever you spoke with to call him and he will discuss it with him. That is not the way it works.

Mr. Furmanchik said when he first started talking to Mr. Kiss about this issue, he had talked to PennDOT and they said they would not because it is a 55-mph speed limit and they will not lower the speed limit.

Mr. Kiss said the intersection of 160 and 56 he has seen people killed and numerous missed accidents. Speed limit needs to be changed to 45 mph there he said. He said any accidents there should be addressed to PennDOT and the state. Mr. Kiss asked why something can not be done there it is constant noise from the Jake Brakes and is especially bothersome overnight.

**Approval
Minutes**

A motion was made by Mr. Spinos and seconded by Mr. Mash to approve the Minutes of February 26, 2019. One absent, Mr. Holden. Motion carried.

Correspondence

1. Minutes of the Windber Municipal Authority's February 19, 2019 Meeting.
2. PA Municipal Code Alliance Report.
3. Codes Enforcement Officer Report.
4. Minutes from the Windber Area Authority Meeting of February 13, 2019.

**Approval
Payroll**

A motion was made by Mr. Mash and seconded by Mr. Spinos to approve payroll for March 1 and 15, 2019. One absent, Mr. Holden. Motion carried.

**Approval
Bills**

A motion was made by Mr. Spinos and seconded by Mr. Mash to approve bills for February 2019. One absent, Mr. Holden. Motion carried.

**Cash Bal./
Treas. Rpt.** There were no questions on the Cash Balance or Treasurer's Report at this time.

Council Liaison Reports

There were no reports at this time.

**Mayor's
Report** Mayor Thomas said they are currently working on selecting the start date for the Walk Works Program. Signage has been delivered and is at the Windber Community Building. Printed materials are currently being processed. There will be a meeting within the next few weeks with Matt Grohal, Glenn Gaye from the school district and a representative from Windber Medical Center.

Mayor Thomas said the next step is choosing a date for the kick off and were looking for a date where we will have maximum attendance. Looking towards May.

Mayor Thomas said he attended the Somerset County Borough's Association Dinner March 21st. He felt it was well worth it and provided opportunity to connect with other leaders in other communities.

**Manager's
Report** **1403 & 1407 Midway Avenue** - The Somerset County Redevelopment authority opened bids for the demolition of these properties on March 5th. The contract has been awarded to Leckey's Contracting, from Johnstown. Total cost of the demolitions is \$24,700. As mentioned previously, this project is paid through CDBG funding. We can expect the process to begin in the very near future.

769 Railroad Street - ongoing

Contract Negotiations - The opening round of negotiations took place March 21st. There will be more information for you at the March 26th meeting.

Ordinance# 2019-2 and 2019-3- 251 letters have been mailed to possible rental property owners at a price of \$181.00. There has been some rebuttal from property owners and as of this writing, eleven have already made payment. Again, there will be further discussion at the March 26th meeting.

Oak Pavilion and Community Building Sidewalk-The contractor has been notified to make the appropriate repairs. The activity will begin as soon as his schedule and the weather allows.

2019 Street Paving- Please review the options that have been provided in your packet. My personal recommendation is Option #1. I will explain my position at the March 26th meeting.

Spring Clean Up - This year's activity is scheduled for May 13,14 and 15.

Inspection of the Flood Control Project - Working with the Army Corp. Of Engineers, I am lobbying for a special inspection. After making as many improvements as we can, without grant funding, I am hoping that we can be considered for temporary re-entry into Public Law 84-89, which would allow us relief in case the unfortunate would happen.

Pipe Camera the Flood Control Project- It is our responsibility to camera the storm drains in the Flood Control Project every five years. The cost in 2014 was \$3,000. We need to do so by November 19, 2019. Arrangements have been made to run the pipe camera this May.

CDBG Projects - The income surveys for the 17th Street sidewalk project have come out in a positive fashion. We needed to have 51% or greater for low to moderate income and we narrowly hit that goal by having 51%. If everything goes right, we may possibly see this project take place in 2019.

Hotel Tax Ordinance - Attorney Green will cover the possibility of this ordinance in his report.

Flood Mitigation Grant- EADS is in the process of preparing this application. The deadline for submittal is May 31st. The 15% match can come from the Sewer Fund.

Bid the F550 -Truck frame is bad. Recommending putting the truck out for bid.

A motion was made by Mr. Spinos and seconded by Mr. LaMonaca to put the 2004 F550 Dump Truck out for bids. One absent, Mr. Holden. Motion carried.

24th Street & 22nd Street Bridge. Mr. Furmanchik said about a year ago he had reached an agreement with PennDOT to put these bridges on the TIP Program. Originally PennDOT wanted us to consider shutting in the 22nd Street Bridge and both bridges will be reconstructed. PennDOT right now is in the process of selecting a consulting engineer and today we were told that the borough will have some say in the selection of who that consulting engineer might be.

Mr. Furmanchik said he would like to see EADS move into that position, and if all their figures are in line during the bidding process and council agrees that would be the right direction to go, we should be able to move toward that direction.

Mr. Furmanchik said originally the replacement for the 24th Street Bridge was considered to be a 1.2-million-dollar project well it has now been elevated to a 1.5-million-dollar project. The replacement for the 22nd Street Bridge will be a \$200,000 project. The way the matches go for that is federal, commonwealth, and municipal. 80% for Federal, 15% for commonwealth and 5% match from the borough. That would put us right around \$84,000 as our match.

This process is a slow process it will take a couple of years. Construction would be around the year 2023. They won't select a consulting engineer until September or November and then it is split up into phases; predesign, design, right-of-way, utilities and then actual construction. Needless to say, construction will be the absolute most expensive part of the phase. EADS is currently working on a grant for us to offset our match.

If that grant application can't be done, we may have to check into a small borrowing loan of some sort in order to cover it. Mrs. Gates said we have some time because we will know in six to seven months if we will get the grant.

Also Mr. Furmanchik said if council remembers we approved the Resolution for the council president to be the designated signee on all the documents in order to move forward for the bridge projects. Mr. Bryan will be given a password to sign on to PennDOT's home site to approve documents. Mr. Furmanchik also thought it would be a good idea for our attorney to go into the documents to review them also and will have access.

Mr. Furmanchik said he had an extended conversation with EADS regarding an asset management plan for our sanitary sewer system and our stormwater management system. In front of council is some information regarding that from EADS. The bad part about that is it is a big chunk of money although it is not as bad as some assessment management plans. Some approach a quarter of a million dollars. EADS feels if they can use summer interns, they can keep the cost low and the price on that would be \$45,000 and could be subsidized from the sewer fund.

Mr. Furmanchik said it is taking the direction on replacement of segments of the sanitary sewer system. It gives you a distinct path to follow with regards to our stormwater management system and works hand in hand with our MS4 Program. We are sporadically audited by DEP regarding our MS4 Program. It also speaks volumes to DEP and the Army Corp of Engineers toward everything we are trying to do to with the flood control project.

Mr. Furmanchik said council does not have to make this decision tonight unless they feel comfortable or you can read over it and decide at the next meeting. The fact is the interns will be available this year possibly April, May, or June.

A gentleman from the gallery asked if the bridge project was bid as one or two projects. Mr. Furmanchik said that is PennDOT and they are bid as two projects.

Solicitor's Report

Hotel Tax Ordinance – Windber Borough cannot pass a hotel tax ordinance. The state can pass law and tax it and the county can tax it but when the county taxes it all that money must be used for tourism or promotion of tourism.

Maffeo's – their attorney asked for a continuance saying that it would be of no prejudice to Windber Borough. Attorney Green told him right up front and the Commonwealth Court that we are terribly prejudiced by a continuance. Knowing how Appellate Courts work he will probably get his continuance and it will be limited to a 30-day continuance. That is to compile his brief and then we have 30 days to respond to his brief.

Approval Paving

Three options were presented to council for the 2019 paving. They were as follows:

Option #1

Jefferson Avenue	8 th Street to 12 th Street	\$62,991.00
21 st Street	Graham Ave. – Somerset Ave.	20,707.00
Park Avenue	Grove Ave. – Dead End	<u>6,696.00</u>
		\$90,394.00

Option #2

Jefferson Avenue	8 th Street to 12 th Street	\$62,991.00
Park Avenue	Grove Ave. – Dead End	20,707.00
13 th Street	Graham Ave. – Somerset Ave.	<u>15,318.00</u>
		\$85,005.00

Option #3

21 st Street	Graham Ave. – Somerset Ave.	\$20,707.00
Cambria Ave	13 th Str. – 15 th Street	24,816.00
Park Avenue	Grove Ave. – Dead End	6,696.00
23 rd Street	Graham Ave. – Cambria Ave.	30,273.00
Lauren Lane	NE Hill – SE Hill	<u>4,296.00</u>
		\$86,788.00

Mr. Kiss argued his point about Lauren Lane being in such deplorable condition. Council discussed various options. The borough has \$88,337.00 to use from Liquid Fuels Fund. Additional funds would have to be used through our Capital Improvement Fund.

A motion was made by Mr. Spinos and seconded by Mr. LaMonaca to approve Option #1 with the addition of Lauren Lane at a cost of \$94,690.00 with excess cost being taken from our Capital Improvement Fund. Roll call vote: Mr. Spinos, yes; Mr. LaMonaca, yes; Mr. Bryan, yes; Mr. Holden, absent; Dr. Ledney, yes; Mr. Mash, yes; and Mr. Pallo yes. Motion carried.

Audit Engagement Letter A motion was made by Mr. Spinos and seconded by Mr. Pallo to approve the Audit Engagement Letter with Kotzan CPA & Associates for the next three years. One absent, Mr. Holden. Motion carried.

Burning Permit A motion was made by Mr. Spinos and seconded by Mr. Ledney to approve the open burning recreational fire permit application. Remarks: Mr. Bryan asked if this is inclusive of fire rings that you get at Lowes? Mr. Bloom said Ordinance 099-5 prohibits open burning in the borough. Any time someone is holding an event and wants to have a bon fire they are technically breaking the ordinance. This would be a permit to allow provisions for that event if it is checked for compliance. If it is at the Recreation Park, then three parties must agree. Mr. Grohal must allow it, they must agree to take care of it, and it would have to meet the safety provisions of this office. This would precede the ordinance for that event only. One absent, Mr. Holden. Motion carried.

Donation Wine in Park A motion was made by Mr. Spinos and seconded by Mr. LaMonaca to donate \$500 to the “Wine in the Park” fundraiser event for the Windber Fire Company No. 1. One absent Mr. Holden. Motion carried.

Donation Miner’s A motion was made by Mr. Spinos and seconded by Mr. Mash to approve a donation of \$500 to Miner’s Memorial Day Celebration. One absent, Mr. Holden. Motion carried.

Resolution 2019-1 A motion was made by Mr. Spinos and seconded by Mr. Mash to approve Resolution No. 2019-1 approving application for the flood mitigation grant. Roll call vote: Mr. Spinos, yes; Mr. Mash, yes; Mr. Bryan, yes; Mr. Holden, absent; Mr. LaMonaca, yes; Dr. Ledney, yes; and Mr. Pallo, yes. Motion carried.

Chief Frear Chief Frear said Windber Borough Police Department will be participating in the “Buckle Up PA Grant Project” Mobilization is the May/June Click it or Ticket Scheduled May 13, 2019 -June 2, 2019. Grant monies will be used to pay for overtime for the officers doing traffic detail.

We must contribute 10% of funded hours as in-kind resources to the “Buckle Up PA Project”. In-kind resources can be for example: 2 hours of 10 hours of overtime or regular duty hours.

Chief Frear said Mr. Bryan, Mrs. Gates and he all signed off on the agreement and we will now proceed forward.

Comments Mrs. Gates said she was not able to comment earlier on Ms. Ashbrook’s comment regarding the representative stopping to get a copy of the ordinances. Mrs. Gates said Mr. Furmanchik had received a phone call prior to Brittany Baker stopping in here and they were told at that time they could review the ordinance but could not have a copy because the ordinances were not approved as of that time. When Ms. Baker stopped, she proceeded to attempt to take pictures and was politely told she was not allowed to due to the ordinance not being approved at that time.

Next Meeting The next meeting will be on April 9, 2019.

Adjourn Meeting was adjourned at 10 p.m. by Council President, Mike Bryan.

Respectfully Submitted By:

Robin S. Gates
Administrative Assistant

