

Borough Council Regular Meeting July 14, 2020

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

Pledge of Allegiance.

The following Council Members were present: Mike Bryan, Dr. Doug Ledney, Joe Pallo and James Spinos. John Holden, Pino Gallina and Ron Mash were absent. James Furmanchik, Borough Manager was present through telecommunications. Mayor, Mike Thomas, and Attorney Joe Green were present.

Approval Minutes A motion was made by Mr. Pallo and seconded by Dr. Ledney to approve the Minutes of June 9, 2020. Mr. Gallina, Mr. Holden, and Mr. Mash were absent. Motion carried.

Recognition Visitors Isabella D’Arcangelo asked what code enforcement is for residents who pay their taxes here in Windber? Mr. Furmanchik said we follow the International Property Maintenance Code. It is the same code we use for all the residents in the borough.

Mrs. D’Arcangelo asked what it was? Attorney Green said it is a book of numerous sections dealing with anything that can affect a property. Mr. Spinos asked her if this is pertaining to the property beside her house? She said yes that is part of it. She said she just wants to know what the code is. Is it because you must keep your grass cut or your porch clean? Attorney Green said yes. Mrs. D’Arcangelo asked where she would find that. Attorney Green said you can go online. She said she does not go online.

Mr. Furmanchik asked Mrs. D’Arcangelo if she had talked with Anson about this? She said she did. Mr. Furmanchik said when your conversation ended with Anson, you felt some of these codes/ordinances should be changed, correct? She said yes. Mr. Furmanchik said we are following the International Property Maintenance Code; we are abiding by the state rules that the rest of the country does.

Attorney Green said the International Property Maintenance Code was adopted by the Borough of Windber. She asked how it is enforced? He said by the Windber Borough’s Codes Enforcement Office. She said she does not see it happening. How long does it take to improve them?

Mr. Furmanchik said the first time the codes enforcement officer meets someone face to face they are given a certain amount of time to alleviate the problem. If it is not done in that amount of time, he will send them a registered letter. Once they have received the registered letter, he can issue them a citation and once the citation is issued, they have 30 days to plead guilty or not guilty. If they plead not guilty a hearing is scheduled and once the hearing takes place if found guilty, they can appeal it and schedule to go to Somerset County Court of Common Pleas.

Mr. Furmanchik said some of these things people think are not being attended to are being caught up in the legal system. Mrs. D’Arcangelo asked if we could change this?

Mr. Bryan said if people do not see it moving quick enough does not mean it is not happening. We are addressing the concern. Mrs. D’Arcangelo asked how long it could take. Attorney Green said he has one that has gone on as long as four years.

Mr. Bryan said he sees Mrs. D’Arcangelo’s frustration. We are doing our best we are not just taking a complaint and going about our business we are addressing them. Mrs. D’Arcangelo asked what if it affects someone’s health. She said right next door to her there is a compost pile right under her tenant’s window. She cannot open the window because of the smell. There are rodents next door because of the high grass. The house is empty. She said she came to let council know what is happening in Windber not just about herself.

Mr. Furmanchik said you can most certainly call the board of health but for a compost pile he doubts they will act on it. Mrs. D’Arcangelo said if my tenant is getting sick, they will not act on it. Mr. Furmanchik asked if her tenant was sick and how she knows that? Mrs. D’Arcangelo said because she cannot open her window for air. Mr. Furmanchik said he does not believe that would stand up in a court of law because there is no way to prove that.

Mr. Bryan said you need to take this up with Anson and go through the process. Mrs. D’Arcangelo said she talked to Anson. Mrs. D’Arcangelo said she is a taxpayer in Windber and what she sees happening is so sad. She thanked council for their time.

**Sharon
Custer**

Mrs. Custer said council asked them to come back and see what the findings were with the speeding on Jefferson Avenue. She said she saw the police had painted lines and saw a traffic speed monitor down by 7th Street. It was then moved to the opposite side by 9th Street.

Mr. Furmanchik asked if Chief Frear was in attendance? Mr. Bryan said he was not. Mr. Furmanchik said he knows they have made arrests in the area. After the last meeting PennDot brought the speed monitors down. There is also one on Railroad Street monitoring the coal truck traffic. We will be able to keep them there for a length of time.

Mr. Furmanchik said he understands, it is much improved. Mrs. Donato said what they are doing now with the speed monitor sign, that says how fast they are going is they either slam their brakes on as soon as they see it or else they speed up if it is a younger person.

Mr. Furmanchik asked them if they have seen the police monitoring the situation down there? Mrs. Donato said she has seen them a couple of times. She said her concern is the children. She asked Frank Donato how many kids are at the bus stops.

Mr. Furmanchik said PennDot engineers do not recommend using a stop sign to control speed. The stop signs themselves will eventually lead to more accidents than the speeding. Mrs. Donato said she did not want the stop signs for the speed, she wanted it so the kids would be safe. On 7th and 10th Streets there are 40 children. It is unsafe. A lot of them are by themselves at the bus stop. The bus drivers pull down across the road just to disperse the kids safely.

Mr. Furmanchik said he spoke to the public works foreman months ago about the situation down there with regards to school bus traffic and children’s safety. That is why we implemented placing crosswalks on 11th Street, 10th Street, 7th Street and 5th Street.

Most people are mindful of crosswalks and know that children are going to use them especially when school is in session.

Mr. Furmanchik said you can go on any street in Windber and find there are problems with people disobeying the speed limit. The police can only monitor that situation as much as they can because they have other business going on.

Mrs. Donato said this is not about the speed it is about the children. It is a wide road and kids are hustling to get across. There are more bus stops now, than there were years ago. She is concerned a child is going to get hurt.

Mr. Furmanchik said the Chief of Police himself follows the school buses to make sure traffic laws are obeyed while children are loading and unloading. Mrs. Donato said she does not know about anywhere else she just knows on Jefferson it is dangerous. It has wide roads and lots of children at the bus stops. These people are just worried about getting on the highway and Jefferson is just straight shot. They do not care. She said she can have parents come to the next meeting and tell you their experiences while waiting at the bus stops. She said she has not seen any change down there.

Mr. Furmanchik said he can speak to the chief of police himself tomorrow and ask him if there is any way he can ramp up the department's efforts in that area. Mrs. Donato said she does not feel like anything has changed from last time they were here, and she sees it down there and feels stop signs at those two intersections would help.

Mr. Furmanchik said in some situation's parents need to be more mindful of their children at the bus stop. A lot of places in this town used to have multiple parents at the bus stop not only to get their children off safely but the others also. The parents have to take the lead or initiative too. You cannot just blame it on the school district or the police department that they're not doing their job.

Mrs. Donato said there is a misunderstanding she is not blaming the police department for the situation. She does feel it could be made safer for the children to have a safe place to cross at their bus stop. Once people know that there are stop signs there just like the four way stops on Somerset Avenue by the hospital people will get use to them. She is not coming after the police but as a community when we see something happening that is not safe for kids, we need to say something.

Mr. Furmanchik said the situation has not been ignored. Mrs. Donato said she feels as though it has been. He said at this point we are doing everything we can. He said the police are telling him they are writing traffic citations down there and they believe it has gotten better. The traffic engineers are telling him we should not use stop signs to control speed. He has to take the advice of the professionals.

Mrs. Donato said she feels he is putting it on the parents. The children cannot help it they have to get off the bus by themselves because their parent is a single parent and must work and can't be there. It is not fair. Mr. Bryan said he sees her side of it. Mr. Furmanchik said he does also, but we are in the bounds of legitimacy and doing everything we can do. Mrs. Donato said she sees it as a safety thing. There is nowhere a child can safely cross and they should be able to cross at their bus stop.

Mr. Bryan asked how many signs she was asking for. Mrs. Donato said at 10th Street and Jefferson and 7th Street and Jefferson. There are approximately 40 children between the two bus stops. She said she feels as a community we must initiate safeguards if we can because there are so many children. We must prevent an accident if we are able too.

Mr. Furmanchik agreed with that. He said there are three main roads in the borough where there is speeding and that is Somerset Avenue, Graham Avenue and Jefferson Avenue

Mr. Pallo said he is held liable for the decisions he makes, and he has to be able to punt to someone and make decisions off of the advice of professionals. If the commonwealth tells us it is more dangerous to put stop signs up than let traffic flow, he is not going to go against a professional because they are held liable on their end too.

Mrs. Donato asked who did the study in Windber? Mr. Furmanchik said it did not have anything to do with a study it was just a question in general. He just asked one of the professionals what they thought about using a stop sign to control speed and they said absolutely not. Mrs. Donato said that is not what she is asking. It is not about speed it is about safety. Mr. Furmanchik said you are asking to have them come to a controlled stop to slow them down? Then that is controlling speed.

Mrs. Donato said Mr. Furmanchik said the main streets for speeding are Somerset, Graham and Jefferson. She said Jefferson is the only street that does not have sidewalks or any safe place for these kids to cross. Her point is not the speeding but that we have a lot more kids with no safe place to cross. Her son in laws both said that one of the things that make Jefferson bad is that there are no markings on the road which makes it look bigger than it is.

Mr. Bryan asked what the reasoning was for the stop signs up at the hospital. Mr. Furmanchik said mostly because of emergency response traffic. That was done by councilmatic action.

Mr. Bryan said we are going to discuss the safety factor further. He understands the citizens' concerns and why they want the stop signs. At the same time if we put these signs up will we have other accidents. It is not, not ever going to happen. We must weigh that, and Mrs. Custer and the Donato's have made a compelling argument. He said he is agreeable to have this discussion along with what the experts are saying. He is agreeable to continue this discussion. He said there has been no official traffic study and this may not be decided tonight but they will continue discussion.

Mr. Furmanchik said he agrees, and we must have the police department involved in this discussion. No matter what we do this is not going to go away. Mr. Bryan said they will have further discussion on this, and he realizes this is about safety. Mrs. Donato thanked him.

Correspondence

1. Codes Enforcement Officer Report.
2. PA Municipal Code Alliance Report.
3. Minutes from the Windber Area Authority May 19, 2020 Meeting.

- Approval Payroll** A motion was made by Mr. Bryan and seconded by Mr. Pallo to approve payroll for June 5, 19, and July 2, 2020. Mr. Gallina, Mr. Holden, and Mr. Mash were absent. Motion carried.
- Approval Bills** A motion was made by Mr. Bryan and seconded by Dr. Ledney to approve bills for June 2020. Mr. Gallina, Mr. Holden, and Mr. Mash were absent. Motion carried.
- Cash Bal./ Treasurer Report** There were no questions at this time.
- Council Liaison Reports**
- Bryan/Fire** Mr. Bryan said the Fire Department has not had a lot of opportunity to hold fundraisers and it is putting a big hurt on them. He saw in the news that monies have been earmarked for EMS and fire services that have not been dispersed yet. They do not know when they are going to be dispersed.
- School/ Ledney** Mr. Ledney said they are working on back to school plans that are constantly changing. He said people can follow that on the school's website.
- Mr. Ledney said in relation to the previous discussions; we ask parents of children in grade 2 or lower to be at the bus stop to meet and to send your child to school. Does that always happen, no. What happens is my neighbor may take the kids today and I will take them tomorrow, that type of arrangement. Drivers are instructed to only let the children off with a friendly face and the students are told if there is not a friendly face you stay on that bus. If not, the drivers are instructed to bring the students back to school and their parents are contacted. He said with regards to what was said there are a lot of students on Jefferson. That bus is full, and the Chief does follow it at times, but that bus is full.
- Mayor's Report** June 10th, Mayor Thomas participated in a webinar- Police Use of Force & Local Government Insight.
- Tuesday, June 23rd he attended the event in Somerset called "Bring it Home for Somerset County". This was an event to promote the importance of the U.S Census for Somerset County residents. The County Commissioners sponsored the event to bring awareness to the importance of everyone completing the Census.
- Mayor Thomas also attended the "Town Hall Meeting" regarding noise and truck issues on June 26th, held here in Council Chambers.
- He will be attending the Annual Mayor's Conference Wednesday, July 15th-18th. The conference will be via Zoom and promises to have several interesting topics.
- Solicitor's Report** Attorney Green said we should be closing on the Graham Avenue property this week.
- Attorney Green met with the law partner of the bankruptcy attorney that represents Joan Albright. He was told they would contact him this week with information. He also has been taking with Tim Sloan who is a bankruptcy attorney to see what he may be able to do to speed this process along.

Manger's Report

Jackson Avenue / Baumgardner Heights Storm Water Project – The project has moved at a smooth pace and is scheduled to be complete by July 22nd.

710 / 712 Graham Avenue – Attorney Green has prepared the deed and it has been signed by me and notarized. As of this writing Attorney Green's office is trying to contact the new owner to arrange closing.

Grievance with Former Officer Jason Knipple – There have been no new developments.

Spring Clean Up – We have started to market the event and permits went on sale the week of June of June 15th. At this point, response has been minimal.

Borough Office Restroom Improvements – The new flooring installation was completed on June 12th and looks good.

LED Upgrade to Pole Lights in Miner's Park – Dan Hiteshew plans to begin in mid-July.

Light Poles on Graham Avenue – As a capital improvement project, Barclay Electric is preparing an estimate to paint light poles between 13th Street and 18th Street. This would serve as an improvement to the downtown business district.

New Police Vehicle – The 2020 Dodge Durango is to be in service on July 10th.

Meeting with PennDOT – Issues concerning safety and nuisance were addressed at a June 26th meeting. Two PennDot traffic engineers were present. The discussion lasted two hours. The outcome of the meeting is as follows, with the Borough Manager drafting letters supporting areas of concern to PennDOT District 9 Executive, Tom Prestash.

- reducing the speed limit on Route 56 from 12th Street to 24th Street.
- requesting application for an engine retarder restriction and traffic study from 769 Railroad Street to 428 Railroad Street
- consideration for closing the median on Route 56 at the Hillside Ave (19th Street) exit with a cable barrier to only allow traffic to turn right during ingress and egress of 19th Street
- consideration for installation of a "hidden driveway" sign in the proximity of 190 Pomroy's Drive.

There were also concerns stated about the frequency of Penelec electric service lines being damaged on Railroad Street. With that, I have been in contact with a Penelec representative and he assures me that Penelec will address possible concerns through their line maintenance department.

Joan Albright Property - Attorney Green has been conferring with a bankruptcy attorney and will offer more information, in his report.

Blight Remediation Program Grant – This grant is available through DCED. EADS can prepare the application for not more than \$500 and it is a 10% match. We do not have to obtain ownership of the property to be available for grant funding. We merely must have correspondence or a document stating you agree to allow the demolition process to take place.

Once that happens you have what is called Urban Renewal take the place and make it more attractive for someone to purchase it and do something with it.

What is more enticing is the match required may be waived by the municipality if the medium household income is below 80% of the state medium household income? He feels we may be close to that. The grant filing date is July 31st and EADS feels sure they can prepare the grant and the cost incurred would not be more than \$500.

We are basing our request for funding on \$10,000 per demolition and if this would come to fruition it would go out to bid and all six would go to the same bidder. We have an additional \$5,000 on there for administrative costs make the total grant \$65,000.

A motion was made by Mr. Bryan and seconded by Dr. Ledney to approve Resolution No. 2020-7 Request for Blight Remediation Program Grant of \$65,000 from the Commonwealth Financing Authority. Roll call vote: Mr. Bryan, yes; Dr. Ledney, yes; Mr. Gallina, absent; Mr. Holden, absent; Mr. Mash, absent; Mr. Pallo, yes; and Mr. Spinos, yes. Motion carried.

The list of properties we are zeroing in on are seen on the resolution to be approved tonight and they are 111 Railroad Street, 154 Recreation Road, 207 Railroad Street, 702 17th Street, 1809 Graham Avenue, and 2208 Graham Avenue.

Norfolk Southern Railway - N/S is now the owner of the rail line that runs through Windber Borough and services Rosebud Mining. My main concern was future maintenance and repair. Rosebud Vice-President, Jim Barker had a sign company do final inspection and repair to the crossing lights, near 13th Street. Even though we have had numerous problems, at that location previously, the sign company claims there should be no future issues, with the improvements they have completed.

As for myself, I will certainly miss the amicable working relationship that we had with Rosebud Mining with any occurrences, regarding the train tracks, as I cannot believe that Norfolk Southern will be as accommodating.

Rail Crossing DOT 529 – 067 X – In an email dated June 29, 2020 The PA Public Utility Commission’s legal department has notified Charles Erickson that if the repair work at the crossing is not completed in 45 days (August 13,2020), They will file a complaint against Mr. Erickson’s railroad for non-compliance and will seek civil penalties.

Rear 316 14th Street – The property owner, Wendell Horner is asking council to forgive his sewer fee that is part of his bill, as prepared by the Windber Area Authority. I had our public work’s foreman complete a visual inspection of the property and his conclusion is that there are no active facilities at this address, therefore I recommend that his wish be granted and we prepare a document to the Authority. This action will be on the agenda for our July 14th meeting.

A motion was made by Mr. Spinos and seconded by Mr. Pallo to approve waiving the sewer fee for R316 14th Street – Wendell Horner, property owner. Mr. Gallina, Mr. Holden, and Mr. Mash were absent. Motion carried.

PennDOT Transportation Improvement Program – The “TIP” opens for application, every two years. Approved projects, on this round, would take place during the years 2023-2026. In addition to our bridge projects, I have completed project request forms for...

- repaving of 17th Street- from Somerset Avenue to the grating on Railroad Street
- installation of a traffic light at the 12th Street Exit
- installation of a sound wall – from the Trooper Sepp Bridge to SR 160
- complete review, redesign, and reconstruction of the intersection of Route 56 and 160

Motor Vehicle Accident – As you are aware, there was a police vehicle accident on the evening of July 2nd. An insurance claim has been opened under the advice of our agent. The vehicle is being repaired by Memorial Highway Chevrolet. The repair estimate amount was \$5, 811.29.

Waiver/ Hold Harmless Agreement – I prepared this document to protect the Borough’s best interests, if the unfortunate would happen at activities and events at the Community Building and Recreation Park. The document has been signed by the Recreation Director and will be kept on file, in our office. You will find a copy, of the document, in your packet.

Windber’s Quasiquicentennial – 2022 will be the Borough’s 125th anniversary. Members of Council may want to consider participating on a committee for this event.

Vacant Structure Ordinance – Attorney Green is reviewing ordinances that pertain to properties that have been abandoned. We can discuss the possibility of adoption at Tuesday’s meeting.

24th and 22nd Street Bridges – there will be a video conference on July 22nd at 10:30 a.m. Mr. Furmanchik will participate along with the public works foreman.

Office Furniture - Mr. Furmanchik spoke with an acquaintance at DRS. They are remodeling some executive offices there and we have the first opportunity to take the furniture there and arrangements have been made to have our public works department pick that up and be reviewed by our administrative staff.

Vehicle Accident on Levee – a fence was damaged when a vehicle drove through the fencing surrounding the levee off Somerset Avenue. JIF Fencing looked at it and repaired it to the sum of \$1,035. We would need a motion to take \$1,035 from the Capital Improvement Fund and the amount is part of the insurance/restitution that will be added to the charges.

A motion was made by Mr. Bryan and seconded by Mr. Pallo to approve the invoice from JIF Fencing in the amount of \$1,035 to be paid from the Capital Improvement Fund. Roll call vote: Mr. Bryan, yes; Mr. Pallo, yes; Mr. Gallina, absent; Mr. Holden, absent; Dr. Ledney, yes; Mr. Mash, absent; and Mr. Spinos, yes. Motion carried.

MS4 Program – Mr. Furmanchik ordered 4 mylar stencils just under \$100 and public works will paint them on the catch basins or on front of the openings and they say “No Dumping into Waterway” DEP would certainly look favorably on this when doing our MS4 Audit.

**EADs
Engineers
Report**

2019 Storm System Improvement Project – Improvements to the storm sewer system on 17th Street near Baumgardner Avenue and on 29th Street.

- a. **Project Status** – James Excavation is currently working on final restoration and curbing installation. Construction completion date is expected on July 22, 2020.
- b. **Pay Request No. 1** – Pay Request No. 1 from James Excavating, in the amount of \$85,070.70, is recommended for approval by Borough Council.
- c. **Construction Budget** – Final construction cost is currently projected to be approximately \$166,000. One additional pay request is expected in August for the remaining work to be completed. Payment will be withheld if needed for any uncompleted punch list items.

Asset Management Plan - Mapping is complete. Draft plan is currently being finalized.

Municipal Separate Storm Sewer System (MS4) NPDES Permit- Expires on March 15, 2023.

- a. **Stormwater Management Program Manual** - Revisions to the SWMP Manual, as required by the MS4 Permit, should be completed after completion of the Storm Sewer System AMP.
- b. **Pollution Reduction Plan Implementation** - Implementation of the PRP is ongoing.
- c. **2019 Annual Status Report**- Submitted to PA DEP on September 27, 2019.

SANITARY SEWER SYSTEM

I. Jackson Avenue Area Sanitary Sewer Project-A PA Small Water and Sewer Grant Application was submitted in December 2019 for this project. After completion of conceptual design, the total project cost is estimated at \$348,950. If awarded, the program would cover 85% of the total project cost, resulting in a grant of \$296,607.50 and local match requirement of \$52,342.50. Award announcements expected in July 2020.

2. Asset Management Plan - Mapping is complete. Draft plan is currently being finalized.

FLOOD PROTECTION PROJECT

1. Flood Protection Project Improvements -An application for an H2O PA Grant in the amount of 562,362.50 was submitted in December 2019 for this project. The grant would cover all project expenses, except any property acquisition expenses, if necessary. We received one comment from DCED requesting documentation of the necessary easement to access the debris basin. We have since obtained the necessary easement and submitted it to DCED. Award announcements are pending.

MUNICIPAL BRIDGES

2. 24th Street Bridge Improvement Project - Replacement of the 24th Street Bridge. Notice to proceed with design has been issued by PennDOT. Project design meeting with PennDOT is scheduled for July 22.

3. **South 22nd Street Bridge Improvement Project** - Rehabilitation of the 22nd Street Bridge. Notice to proceed with design has been issued by PennDOT. Project design meeting with PennDOT is scheduled for July 22.

DCED BLIGHT REMEDIATION GRANT APPLICATION

1. **Resolution** - Resolution to apply for the grant application should be executed by Borough Council for inclusion with the application, which is due on July 31.

Jackson Ave. Proj. Pay request No. 1 A motion was made by Mr. Bryan and seconded by Mr. Pallo to approve the Jackson Avenue pay request No. 1 in the amount of \$85,070.70. Roll call vote: Mr. Bryan, yes; Mr. Pallo, yes; Mr. Gallina, absent; Mr. Holden, absent; Dr. Ledney, yes; Mr. Mash, absent; and Mr. Spinosa, yes. Motion carried.

Council convened to an executive session at 8:16 p.m. for personnel matters.
Council reconvened from executive session at 8:35 p.m.

Curb Cut A motion was made by Mr. Pallo and seconded by Mr. Bryan to approve a curb cut application for 213 6th Street, Windber – George Fogo, property. Mr. Gallina, Mr. Holden, and Mr. Mash absent. Motion carried.

PT Police Officer A motion was made by Mr. Bryan and seconded by Mr. Pallo to approve Joseph Stopko to be placed as a part-time police officer on the roster of the Windber Borough Police Department. Mr. Gallina, Mr. Holden, and Mr. Mash absent. Motion carried.

Next Meeting Next meeting date will be August 11, 2020.

Adjourn Meeting adjourned by Council President Mike Bryan at 8:40 p.m.

Respectfully Submitted By:

Robin S. Gates
Administrative Assistant