

**Borough Council Regular Meeting
July 13, 2021**

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, John Holden, Dr. Doug Ledney, Timothy Layton, Joe Pallo, and Jim Spinosa. Ron Mash was absent. Attorney, Joe Green and Mayor Mike Thomas were present. James Furmanchik Borough Manager was absent (vacation).

Approval Minutes A motion was made by Dr. Ledney and seconded by Mr. Holden to approve the Minutes for June 8 & June 22, 2021, meetings. One absent, Mr. Mash, motion carried.

Recognition Visitors Mr. Lou Kiss spoke to council regarding the noise on Route 56. He said at 65 mph traffic is twice as loud when traffic traveling is at 30 mph. One truck traveling at 55 mph makes as much noise as 28 cars. He said his biggest concern is to get the speed limit lowered on Route 56. Mr. Kiss would like council to be behind him on this. Slowing down traffic will slow down the noise.

Mr. Kiss said there are a few motorcycles that can be heard from where he lives traveling on 160 and 56 East. He said the noise is terrible. He spoke to the Chief of Police, and it seems like were fighting a dead horse. He took up a petition and everything else. He called the state representative and senator with no response.

Mr. Bryan asked him when he had the meeting with the representatives from PennDot, were these issues addressed? Mr. Kiss said some of the issues. Mr. Bryan said speed, jake brakes, noise and speed were addressed. Mr. Kiss said they addressed the decibel law. Mr. Bryan asked Mr. Kiss what their response was in the meeting he was involved in with PennDot, and did they address his concerns? Mr. Kiss said they didn't. They said they were going to investigate. What happened was one guy retired two months later and the other guy moved onto another job.

Mr. Kiss said we need to get someone else from the state to address the issue. He said anywhere Route 56 comes close to a residence people complain. Mr. Kiss demanded something be done. If you lower the speed down to 45 mph it will address the jake brake situation and it will stop people going from Route 56 to 160 at 55 mph also. There should be a sign saying 35 mph exit speed going up 160.

Mr. Bryan said he understands what Mr. Kiss is saying. He had the meetings and had the satisfaction of the meetings however those two gentlemen vacated their stations, and you haven't heard anything since. Mr. Kiss said yes. Mr. Bryan said there has been no rendering of the speed? Mr. Kiss said yes.

Mr. Bryan said he can ask PennDot to come down here again. He can not make any promises from what their availability is because of Covid they may be backed up. Mr. Bryan said he understands that Mr. Kiss has not heard back from them, and he deserves that.

He said we will attempt to get those gentlemen here. If they cannot be physically present, we have the Zoom technology that can be used, and Mr. Kiss can come here to participate. Mr. Bryan said he will speak with Mr. Furmanchik when he returns from vacation, and he will also make some calls to facilitate that.

Mr. Kiss asked if he had the backing of this council. Mr. Bryan said he understands what Mr. Kiss is asking but he must go by the expert's opinion. What he can do is get those experts here. Mr. Bryan said you are asking that on a limited access highway for the speed to be lowered.

Mr. Kiss asked Mr. Bryan to also get the state representative and senator involved. This is the only way this will get solved if they are involved. Mr. Bryan said he hopes that Mr. Kiss sees that they have been trying to reach out to all these people.

Mr. Kiss said one other thing they were to do is close off that exit and he hasn't seen that happen yet. Mr. Bryan said they are working on that and he is sure it will be happening.

Ron Mash Mr. Mash said Mr. Kiss is not the only one up there that has a problem with the noise, he does also, and all of Hillside. We think it is all out of control, noise, jake brakes, and motorcycles. He said council can probably hear them wherever they live. He said if council can hear the noise from the highway just think about what they are going through. Speed does control noise. It goes hand in hand. We would like some police enforcement there. All it takes is stopping a couple and the word gets around and it starts slowing down.

Mr. Mash said he talked to Mr. Furmanchik and Rose Bud about the jake brakes, and it did help but it continues. Mr. Mash said crossing two lanes of traffic at 12th Street is more dangerous than turning in at Hillside. Mr. Bryan said he understands when one solution begets, another issue arises. Mr. Bryan said he will make the calls and thanked Mr. Kiss and Mr. Mash for coming.

Correspondence

1. Letter of Request from the Windber Library for Funding from the American Rescue Act Allocation.
2. Minutes of the Windber Area Library June 16, 2021, Meeting.
3. Minutes of the Windber Municipal Authority June 15, 2021, Meeting.
4. Minutes from the Windber Area Authority May 12, 2021, Meeting.

Mrs. Gates said Windber Library would like to be considered for a donation from the monies received from the American Rescue Act. Mrs. Gates said she put them on the list we have been building.

Mrs. Gates said she gave Council a copy of a presentation from the seminar we had with PSAB regarding the American Rescue Act allocation and what the funds can be used for.

Approval Payroll A motion was made by Mr. Holden and seconded by Mr. Bryan to approve the payroll for June 18 and July 2, 2021. One absent, Mr. Mash, motion carried.

Approval Bills A motion was made by Mr. Spinos and seconded by Mr. Pallo to approve the bills for June 2021. One absent, Mr. Mash, motion carried.

Discussion Items Mr. Bryan said council has a list of 14 items in front of them that was reviewed by the the ballroom committee at the meeting last night. He said he was not going to go through all of them. He asked council if they had any questions on any of them.

Mr. Bryan said one of the issues that came up and will have to be dealt with down the road is the question of parking during the winter months because the ballroom has not been used in the winter before.

One of the things we were talking about with respect to the parking is requirements. There is in the sketches a handicapped parking area. They talked about the area of the park house that is going to be demolished that could be a potential area for parking. They also talked about addressing Rick Roberts, who owns the ballfields, about the ability of parking in the winter in the space right out where that little softball field is and in their main parking lot.

Mr. Bryan said a couple of things to address is how that surface is going to be during the winter and what we want to do with that. Do we want to drop stone or pave? We did not make any decision on that because we want council's comments. This does not have to be decided now.

Mr. Holden said there is also the option in the back where there is a triangle shape near the basketball court. Mr. Bryan said he doesn't know if we want to take up any more of that area because right now you have Market in the Park and food trucks and vendors set up in that area.

Mr. Spinos said we should not rely on Rick Roberts whom we sold the property to. We cannot keep using him. His opinion is to mark an area on our own property.

Mr. Bloom said if you go off the zoning and that being an assembly and requires one parking spot for every square footage why don't you pave what is required and then throw gravel down and at least you make the requirements and can maintain it and salt it.

Mr. Bryan said because of the historic nature of the building there is some grandfathering in situations and once you begin to pave you get into geological studies and ground water management which jacks the price up.

Mr. Pallo asked about the parking lot for the pool. Mr. Bloom said it is gravel right now and goes into the storm water which is what they are talking about. Mr. Pallo said keep it gravel. Mr. Holden suggested parking where the old borough manager's house is because then you extend parking for the pool also. Mr. Pallo said there is a drain and plumbing there by the pool. Mr. Bloom said any disturbance over 200 square feet requires a geological study. Mr. Spinos said that is where you refer to a retention pond/runoff water. Any time you build a building there is runoff from the building and it is all calculated in.

Mr. Bryan said other things that came up in the 14 points discussed was signage and where that sign might be and running the conduit for the electricity. Security was discussed also. Barclay set up our cameras in the borough office.

Mr. Spinos said there was another company out there that is cheaper than Barclay and Tercek and all of them. Mayor Thomas said he knew the company Mr. Spinos was talking about because they are doing the hospital. Mr. Spinos said it should be bid out. Mr. Holden said we already have the base system here and it is expandable to work up there. Mr. Spinos said anyone can do that.

Mr. Bryan asked council what their thoughts are on handicapped motorized doors. The engineer's thought was for the main entrance. Mr. Bloom said the Department of Labor and Industry sets all those requirements. Mr. Bloom said anything pre 1929 of the Commonwealth refers to that code of that era. To bring it up to ADA requirements may not be the same because you must make it accessible, but you do not have to meet the current code. Motorized doors are probably an accessory item. If you have money in the budget throw it in if not, then do not do it.

Mr. Bryan said they mentioned value engineering which means something like this, that it would be great to have but if it costs this much what do you have on your value side. Mr. Bloom said sometimes where you run into code compliance you can replace it with something of that era well a lot of those things are not used anymore but you have to bring it up to code. There is a lot of tennis match back and forth.

Mr. Spinos asked what was decided on the sewer system. Mr. Bryan said they have not gotten to that yet. Mr. Spinos said they should do the sewer system now or it could come back to haunt you. When this town does require pressure testing, it is all terracotta pipe up there. Where are you going to come up with the money then to replace everything. Mr. Holden said that is a good point. We will have to make a note to talk to Brett about that. Mr. Spinos said if you dig everything up now and replace it then you are done.

Mr. Bryan said there were no financial decisions at this meeting it was more like do you want phone service or tv service and etc.

Mr. Holden talked about the HVAC. He said they presented two options. One was one large unit around \$55,000. At the stage end of ballroom, it would heat and cool just the ballroom and not the restrooms or kitchen. For that they would have to run duct work up across the trusses and would use duct socks. For that unit you would have to have units for the restrooms and kitchen.

Option number two was an upgraded residential compressor/air handlers in four different places and the duct work for those would run under the building and up through the floor. Question was where you would put them because you don't want someone sitting with the duct work blowing on their feet whether it be hot air or cold air. The cost savings would be around \$30,000. Again, you have cost engineering what is nice to have and what you can afford to have.

They also talked about lighting. They are going to paint the whole interior of trusses white with up lighting and thinking about multi color light that would be adjusted according to event such as Christmas would be red and green lights.

Mr. Bryan said they were going to get prices on the duct work. He said the two big items were the parking lot and the duct work. Mr. Spinos said if you look at any new building you

see the duct socks in the ceiling. Mr. Holden said they were shown four pictures and they looked nice.

Mr. Bryan said the other issue would be to separate the utilities up there from the ballroom to the other areas of the park. Mrs. Gates is going to research that.

Mr. Holden said they also talked about a security system and using pass cards for the doors and cameras. Mr. Spinos said if you have cameras you will have to have internet. Mr. Pallo said that would just be one cable.

Cash Bal./ Treasurer Report

Mrs. Gates informed council that we did receive the first half of our allocation from the American Recovery Act Plan in the amount of \$199,708.86.

Mr. Spinos asked Attorney Green if we can buy CDs with that money? Attorney Green said he has no idea what it can be used for. Mrs. Gates said no, you cannot. Mr. Spinos said we bought CDs before. Attorney Green said you are not allowed to play with taxpayer's money in a market. Mrs. Gates said we have four CDs designated for specific items such as a police vehicle or a public works vehicle. Attorney Green said you can do that.

Mr. Spinos said we need to plan down the road for police cruisers, trucks etc. Mrs. Gates said they were told we were not allowed to put money in a CD. Mr. Spinos said this money is in the General Fund and is not separated, so anything in the General Fund we cannot touch now. Mrs. Gates said this money was automatically transferred into the General Fund. We are going to move that money into its own fund so we can keep track of the expenses separate from the General Fund expenses. Mr. Spinos said then let us buy CD's. Mrs. Gates said you are not allowed.

Mrs. Gates said the American Rescue Plan Act money is going to be placed into a separate account so the monies spent can be tracked and not mixed in with the General Fund expenses and revenues. A report must be submitted every October until the money is spent.

Mr. Pallo said it is probably based on your history for example, if you didn't buy a police cruiser last year and now you are, it is coming from those funds. Chief Frear said two other entities that he knows about is purchasing police vehicles with those funds not just to purchase a police vehicle but because those vehicles are considered transport vehicles not just for the purpose of court but for transporting prisoners.

Mrs. Gate said you are allowed to purchase a vehicle that is used for emergency management such as a police cruiser, or an emergency management vehicle. You can donate funds to nonprofits agencies like the library and fire department, use it for sewer and water infrastructure, tourism, and lost revenue due to Covid 19. Mr. Bloom said there are line items allocated to this money.

Mr. Spinos asked when we will find out exactly what we can use this money for? Attorney Green said the information is trickling in. Mrs. Gates said it is kind of like the money that was being dispersed by the Redevelopment Authority last year for the fire department. It took some time to find a use for it then it must be written up for that use.

Mr. Bloom said you can use it for vehicles, or emergency management. It is all permissible, it is how you write it and then it is how you track it. there is the need to move the money into a separate account because it is getting audited twice. They allocated all this money and then they said wait lets change the rules. So now your have an exact expenditure report for every audit then you are within the confines of the rules by not saving that money and you have until 2026 to spend it. Things like tourism is something you can entertain with the park. As the rules come out you're already ahead of the game.

Mr. Holden said we could possibly use this money to pave the parking lot behind the ballroom. Mr. Spinosa said you would spend lots of money to do that because you would have to put in a retention pond. Mr. Holden said then we could stone chip it.

Mrs. Gates said we are gathering information slowly. Last year we saved receipts associated with Covid19. We can now reimburse those expenses with these funds. Mr. Bloom said last year we had the EMA money and Covid sucked that dry. You can take this money and replace that, and you can boost that fund. So, \$5,000 should go to \$10,000 because to the point we used all that EMA money and should there be anything else happen, we are readily available. We are not getting the PEMA funding because federal supersedes state. That is why you must allocate it as such so you can prove that when the audit comes, you can say this is exactly what we did, and this is a Covid related expense.

Mr. Holden said the first step is to replenish all the funds that we spent and then we can look at donations to the library and fire. Mrs. Gates said yes, and they are on the list we are developing of sources for the funding.

Council Liaison Reports

Windber Library/ Holden

Mr. Holden said the Library Committee discussed getting involved with the 125th Quasquicentennial by selling the shirts for the event. Mr. Holden said they came and spoke with Robin about it. Mrs. Gates said Mr. Seger came in and we were fine with giving them that task as their fundraiser.

WMA/ Pallo

Mr. Pallo said we discussed the day camp and the use of the ballroom at the last meeting. The issue of the summer day camp program was to whether the camp would continue in the ballroom once it is completed or what other options could be utilized. Issues of concern were with the new facility being damaged and the idea of the renovated ballroom being available for conferences. Mr. Pallo said let's get it built first and see what we have and then we can discuss options for the summer day camp.

Mayor's Report

Mayor Thomas said he had the privilege of giving the opening remarks in introducing the Pennsylvania Army National Guard Band who gave a concert here at the Gazebo. They put on a great concert and we had great attendance. Weather cleared out just in time. The Legion and VFW sponsored the event and provided a dinner for the band at the legion.

Mayor Thomas said he has been asked to join the board of directors of REACH which stands for Reaching Educational Achievement with Clinical Medical Health. It is a spinoff of the Assurance Counseling Services down here on Park Place. It is nonprofit organization, and their goal is to expand mental health services in the schools.

Assurance already has their hands in the Windber School and Ferndale School Districts. He believes Mr. Kimmel will also be on the board.

Manager's Report

17th Street Storm Water Project – As of this writing, the Environmental Review, for the project, should be complete. We are still awaiting the PennDOT Occupancy Permit. The tentative project schedule should be as follows:

- Receive PennDOT Comments – June 11
- Respond to PennDOT Comments – June 18
- Submit Bid Documents for review to Borough and RASC – June 25
- Windber Borough and RASC Approval to Advertise for Bids -July 13
- 1st Advertisement – July 20
- 2nd Advertisement – July 26
- Pre-Bid Meeting - July 27
- Bid Opening - Aug 3
- Award Contract – Aug 5
- Notice to Proceed – Aug 19
- Substantial Completion Deadline – Oct 18
- Ready for Final Payment Deadline – Nov 17

The Redevelopment Authority of Somerset County (RASC) is going to use the Borough's Entitlement funds this year and hopefully next year to do the sidewalks, but first, they will have to make sure the income survey would still be eligible, and second, there is the potential that the Borough will be losing their funds after this year, because of the 2020 Census. The RASC is seeking clarification from DCED, as to if and when that will happen. We are hopeful that it will not go into effect until 2023, but time will tell.

USDA Grant – To my dismay, the situation is unchanged, and we are still in a holding pattern. USDA asked for a copy of our most recent audit, for their files on June 22nd.

22nd Street Bridge – A meeting scheduled for June 21st was canceled by PennDOT and will be rescheduled in the future.

Blight Remediation Grant – We are proposing a blight remediation plan that will possibly call for nine future demolitions. As of this writing, there has not been a contract, for the grant funds, produced. My conversation with DCED on June 23rd was clear, in the fact that it will be a few more weeks before we are presented an award contract, as everyone from their organization is dealing with the American Rescue Plan Act 2021, at this time.

Officer Greg Hall – As you saw in a previous email, Greg Hall has sought out legal representation and now we are facing possible litigation. Attorney Green will have more info at the July 13th meeting.

2021 Dodge Charger – The new police vehicle was put into service on June 17th.

RACP Grant – Travis Hutzell Submitted the application / business plan on June 14th. On June 17th Travis was notified, by the Office of the Budget, that a few line items had to be clarified. During a Zoom meeting, on June 21st, East Hills Engineering, UPStreet Architects, and myself collaborated with Travis, addressing proper entries. The documents were

resubmitted on June 23rd. I have been pressing, all involved to expedite the project schedule, in hopes that we may possibly have completion for public use and inspection for the 125th celebration. A tentative schedule is revealed below.

PROJECT SCHEDULE

Pre-Construction Project Milestones

Activity	Date
Design Phase Start	07/05/2021
Design Phase Complete	08/31/2021
Bid Date	09/01/2021
Bid Opening	09/21/2021
Obtain All Permits	09/28/2021
Award Contracts	10/04/2021

Construction Schedule

(Each Phase or Component e.g., Remediation, Demo, Site work, Building Construction)

Phase/Component		Start Date	Completion Date
1	Demolition	10/4/2021	12/28/2021
2	Structural Repair	12/28/2021	03/29/2022
3	Architectural Work	12/28/2021	06/28/2022
4	Mechanical, Electrical and Plumbing Work	01/14/2022	06/28/2022

Bond Counsel Documents – A meeting took place, at the Borough Office, on July 9th to finalize and sign our financial agreements, for the Ballroom rehabilitation project. All went well and invoicing, from engineering and architects, can now begin.

DEP Complaint – On June 30th, Windber resident Tracy Topper, of 311 22nd Street, contacted DEP concerning discharge from a sump pump at a neighboring property. Anson’s investigation and response revealed that it was nothing more than storm water. DEP was satisfied with the outcome.

American Recovery Act 2021 – On July 8th, \$199,708.86 was deposited into the Borough’s account. There will be pertinent information regarding the recovery act, at your seat, for the July meeting.

Reminder – I will be out of the United States from July 10th through July 17th. Please contact the Borough Office, if you need assistance, during that period.

Solicitor’s Report

Attorney Green said the Maffeo’s have brought the goats back to town. Four of them got loose and two were almost hit by a coal truck. Mr. Bloom went to their house and asked them

if the goats belonged to them and they admitted they were and said they were sick goats they brought to their house to get them better before they go back to their farm.

Attorney Green said his discussion with Mr. Bloom is for Mr. Bloom to go down to Magistrate Seger's Office and maybe get a search warrant and if we get a search warrant we will need to figure out where to put these animals.

Mr. Bloom said if he gets a search and a seizure and if he approves the warrant, he will have to call animal control to see if they will take them.

Attorney Green said for him to do a contempt petition he would have to draft it tomorrow, take it to Somerset, file it, get a hearing date, have a hearing and by the time of the hearing they would've gotten rid of the goats and the Judge will look at him and say what do we do if the goats are gone. He believes if he would have to do that the judge would not be as complacent as the first time. Attorney Green said they will work through it again.

Borough Manger's Ad

Council decided to place an ad for a part-time Borough Manager on Indeed.com, the PSAB website and Mayor Thomas will include it in his article in the Windber Spirit. Mr. Bryan said he would look at the Windber Area Economic Development Committee, with their Windber Works Project that is spinning off.

Mr. Bryan said Colin is coming into meet with a whole host of people this Friday and next Monday. Some of the commissioners are coming in and Josh Miller has him fully booked.

The ad will also be posted on the Borough's website. Ad's will begin in August and resumes' will be turned in before the meeting in September.

A motion was made by Mr. Holden and seconded by Mr. Layton to advertise in Indeed.com, on the PSAB website, the borough website and in the Windber Spirit. Not to exceed \$300 to advertise on Indeed.com. Mr. Mash, absent, motion carried.

Codes Report

Mr. Bloom said council just heard about the goat situation and he will see Judge Seger in the morning.

The only thing that stands out on his report is the 10 properties targeted for phase one of the blight remediation. Four of those letters came back undelivered. He still searching for next of kin or responsible parties.

One individual came in today and wants to sign his property over to the borough. That is John Makin 599 Railroad Street. It's been condemned for several years. The back taxes go all the way back to 2008 so we are going to start asking for leniency. He wants to sign the property over for \$1. If we can take possession of these properties and we have the grant money to pay for the demolition, we can sell the property and put that money into a demo fund and when we get into an emergency, we will have that money sitting there.

Mr. Spinos asked if we still have to do a deed a search and how much it would cost? Attorney Green said around \$500. Mr. Bloom said you will start off slow as you're building the program but as you take possession of the properties and you grow the pot, all of these things become self-sustainable like the demolition and property searches.

Mr. Spinos said we will have at least \$1,100 in this before we can sell them because we also have to advertise the property for sale. Mr. Bloom said the difference from the Powell property is that we should start putting a minimum bid on them for at least what we have invested in the property. Attorney Green said we can take the county assessment value of the land and take the common level ration multiplier and that will give you the fair market value. The borough is supposed to sell it for fair market value and that can be put in the ad.

Mr. Holden asked what happens if the fair market value does not cover costs. Attorney Green said you can probably do it fair market value plus costs. Mr. Bloom said he is just trying to sustain a program. Mr. Spinos said in the end once it is sold you will also get money back in taxes.

**Curb Cut
Moose** Mr. Bloom said the Windber Loyal Order of Moose Lodge #349 is requesting a curb cut of 12 feet to better their parking situation at the lodge. Members have expressed that their side parking lot needs to have better flow out to allow more and easier parking. The current situation requires vehicles to back out, with the narrow width it's not an easy task at times and has caused some fender benders. To have better flow they would like members to pull in like normal on the BiLo side and exit onto 14th Street.

A motion was made by Mr. Holden and seconded by Mr. Pallo to approve a curb cut at their side parking lot at 14th Street for the Windber Loyal Order of Moose Lodge #349. One absent, Mr. Mash, motion carried.

**Approval
Cooperation
Agreement** A motion was made by Mr. Spinos and seconded by Mr. Pallo to approve the cooperation agreement between the County of Somerset, & the Borough of Windber, and the Redevelopment Authority of Somerset County. One absent, Mr. Mash, motion carried.

**Approval
Resolution
No. 2021-3** A motion was made by Mr. Spinos and seconded by Mr. Pallo to approve Resolution No. 2021-3 authorizing submission of application to DCED for funding through the Community Development Block Grant Program. One absent, Mr. Mash, motion carried.

**Temporary
Part-time
Clerk** A motion was made by Mr. Holden and seconded by Mr. Layton to ratify phone vote to employ Victoria Bloom to work as a temporary part-time clerk for Cheryl Denk while she is on sick leave. Rate of \$9 an hour beginning June 8, 2021. Roll call vote: Mr. Holden, yes; Mr. Layton, yes; Mr. Bryan, yes; Dr. Ledney, yes; Mr. Mash, absent; Mr. Pallo, yes; and Mr. Spinos, yes. Motion carried.

**Approval
promulgation** A motion was made by Mr. Spinos and seconded by Mr. Pallo to approve the Promulgation and Concurrence executing the support action in accordance with the existing operation guidelines and emergency operation plans of Windber Borough and Somerset County. One absent, Mr. Mash, motion carried.

**Approval
promulgation** Approval of promulgation that the emergency Operations Plan was reviewed and now supersedes all previous plans. One absent, Mr. Mash, motion carried.

Concurrence

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

Council reconvened from an executive session at 8:55 p.m.

Next Meeting

Next council meeting will be August 10, 2021.

Adjourn

Meeting was adjourned at 9:00 p.m.

Respectfully Submitted by:

Robin S. Gates
Administrative Assistant