

BOROUGH OF WINDBER
Borough Council Regular Meeting
Monday, February 12, 2024
7:00 p.m.

The Regular meeting of Windber Borough Council was called to order by Windber Borough Council President Richard Rummel, at 7:00 p.m.

Pledge of Allegiance

The following council members were present: Mr. Bahorik, Mr. Klonicke, Mr. LaMonaca, Dr. Ledney, Mr. Moore, Mr. Pallo, and Mr. Rummel. Mayor Thomas, Manager Allison, and Solicitor Green were also present.

**Approval
Minutes**

Mr. Moore said that the heading of the Minutes was wrong and had the wrong date. Mrs. Gates noted the change.

Mr. Moore was upset that certain things he said were left out of the minutes, including a lot of statistics. He said if you are going to put something in there then put it all in. Mrs. Gates said she does not include every word in the minutes.

A motion was made by Mr. Bahorik and seconded by the Mr. LaMonaca to approve the Minutes from January 8, 2024, with changes. Question, Manager Allison asked Attorney Green if the minutes had to be typed verbatim? Attorney Green said no, but it must reflect the character of what was discussed in the meeting. Remarks: Mr. Moore said his point was biased regarding the things that were put in there. What she said was true. There is such a thing of you don't put in certain things and certain things you put in is what he was referring to. He didn't appreciate that. Motion was carried five yes and two no. Dr. Ledney and Mr. Pallo voted no.

**Recognition
Visitors
Chris
Miller**

Chris Miller operator of Miller's Martial Arts at 915 Graham Avenue, is proposing a cancer benefit. The lady that did it for years now has stage 4 pancreatic cancer and so we want to keep this fundraiser going and \$27,470.19 was raised locally.

Mr. Miller said what they are proposing is to hold a semi block party and shut down from his alley to Graham Avenue. that way they do not interfere with PennDOT and all the crazy paperwork. We want to shut that down for a day June 29, 2024.

Mr. Miller said it will be called Karate-Canines-Cancer. They will put on demonstrations and a canine is coming in to do a show and all kinds of different things. They will have some bands come in and want to reach out to local businesses and sell spots for them to sell their local merchandise. Block party proceeds will benefit:

- Wings of Hope
- Somerset County Humane Society
- WVFD

Mr. Miller said we want to make this a community event and we have already given back to the community. Then they wanted to bring in the dogs to help the Humane Society.

Mr. Miller passed out additional information to the council which highlighted the charities that they have done and their itinerary. They will set up and clean up everything and hopefully make some money.

Mayor Thomas said Mr. Miller bought the church up there and turned it into Miller's Martial Arts. He is very community oriented. Attorney Green said this can be put on the agenda for the next meeting for approval.

**Ed
Marcinko**

Mr. Marcinko said he has a complaint about the properties at 713 and 715 Railroad Street. He does not know who owns them. There are seven large garbage bags filled with who knows what and half of them are ripped open by animals. There are at least half a dozen five-gallon buckets, some are covered with lids and others lying on their sides spilled. There is a dozen paint cans, and clothes. There was a crew up there in November working on the houses. Whomever the crew was they moved all that stuff into the back. There is also carpeting, pieces of furniture and junk there.

Mr. Marcinko called in December, and he was told we have to give them time to haul it away. The last time they pulled this stunt was over a year with that stuff piled up back there. The codes officer said they could not locate them but eventually they got ahold of someone so if you know who the people are get them up there to clean it up.

Manager Allison said we were the ones who cleaned that up last year. The property is owned by an LLC, Mr. Marcinko said. He said he does not know who it is, but they are buying up a bunch of properties in Windber. Mr. Rummel thanked Mr. Marcinko for coming in and said they will see what they can do about it. Mr. Marcinko thanked him.

**Jim
Serrian**

Mr. Serrian said he is here to discuss a problem. He passed the information on to the council. He said if you look on the right side of the first page you will see the gentleman is a certified installer of Applegate insulation products. In the pamphlet he passed out all the information was taken off of Applegate website.

Mr. Serrian said on the second page is a picture of his trailer. There is no address on it. The next page is where he lives at 403 Village Street in Windber owned by Innovation Insulation and Home Improvement LLC. If you look down, there at land use it is listed as RRE. The next page is a picture of his home and his business address. The property is owned by Innovation Insulation and Home Improvement and the property location is Jackson Avenue. That is important because if you look at the photos that is not the back yard but the front yard.

Mr. Serrian said what is RRE? Residential Home. It is considered a home. Home occupation/hobby. There shall be no change to the outside appearance of the building or premises or other visible evidence of conduct of such home occupation or hobby other than (1) sign, not exceeding (4) square feet in area, non-illuminated, and mounted flat against the wall of the principal building. No traffic shall be generated by such a home occupation or hobby in greater volume than would normally be expected in a residential neighborhood. Mr. Serrian said there is a lot of traffic there.

Mr. Serrian said on the next page, Item G; All commercial and industrial and multi-family residential uses that provide trash and/or garbage collection areas shall be enclosed on at least

three sides by a solid wall or fence of at least (4) feet in height if such area is not within an enclosed building or structure. Enclosures shall also be gated on the fourth/front side.

Mr. Serrian said the next page shows the trash container wide open. Pay attention to all the gravel as well.

Mr. Serrian said Page 14, Garages, Private – a detached accessory building or portion of a principal building for parking or temporary storage of automobiles, travel trailers and/or boats for the occupants of the premises and within.

2. No more than (1) commercial vehicle per dwelling unit parked or stored.
3. Commercial vehicles permitted do not exceed two (2) times the capacity.

Mr. Sierran said the next pictures show there is more than one commercial vehicle there.

The picture comes from the website 16 x 7-foot trailers weighing 7,000 pounds. These trailers exceed 3 ½ ton. He has three of these. These are registered DOT vehicles.

Mr. Serrian said the page 1 map is a Fema map of the flood zone. On this map there are three red stripes. This is Zone AE which is the worst. The red strip indicates floodway. That means when that stream overflows that is the actual flow of that current. It is going to take all the flood plain and that is where it is going to be. You can see by that red dot that is his address. That business is located in the dead center of a flood way. That stream runs right through that property.

Mr. Serrian said look at the identification of flood plain areas on page 9-A. The Floodway Area/District identified as floodway in the FIS which represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

Mr. Serrian read no permit shall be granted for any construction, development, use or activity within an AE Area/District without floodway unless it is demonstrated that the cumulative effect of proposed building would not, together with all existing and anticipated development, increase the BFE more than one (1) foot at any point.

No new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Pennsylvania Department of Protection and Reginal Office.

Section 5.03: Design/Construction Standards – if fill is used it shall consist of soil or small rock materials only and be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to and approved by the floodplain administrator.

Drainage Facilities – Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure proper drainage along streets and prevent the discharge of excess runoff onto adjacent properties.

All parking and loading areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties or walkways.

Mr. Serrian said the next picture is not soil or rock. The photo after shows a gentleman loading a 55-gallon barrel into the storage facility. The safety data sheet tells you the product name is UPC Polymeric MDI, A-Side. Two hazards identified are Specific target organ toxicity-single exposure (respiratory tract irritation) and is suspected of causing cancer.

Section 5) Fire-Fighting Measures:

Suitable Extinguishing Media: Dry chemical, foam carbon dioxide is recommended. Water spray is recommended to cool exposed materials or structures.

Unsuitable Extinguishing Media:

If water is used use very large quantities of cold water. The reaction between water and hot isocyanate may be vigorous.

Specific Hazards in Case of Fire:

Excessive pressure or temperature may cause explosive rupture of containers as pressure buildup may rupture them.

Fire-fighting Procedures: Water may be ineffective but can be used to cool containers exposed to heat or flame. Caution should be exercised when using water or foam as frothing may occur, especially if sprayed into containers of hot, burning liquid.

Mr. Serrian closed his information by highlighting variances.

Mr. Rummel had questions regarding emails on the last two pages. He asked how big their business was back in 2022. Mr. Serrian said it was brought to the attention of the Code Enforcement Officer and he said he was aware of it and as it continued Mr. Serrian was unable to contact him and ended up coming to a meeting in which Mr. Holden said all he needs to do is call him at the office and he did, and they set up a meeting and the Codes Enforcement Officer did not show up. Mr. Serrian went back to a council meeting and spoke to the Borough Manager who asked him to list his requests and responded to his findings in an email. Mr. Allison laid out his findings to Mr. Serrian.

Mr. Serrian said if nothing else he wanted to make sure the new council members were aware of this and it was made public at a public meeting. He is also submitting a Right to Know Request to the Borough Manager.

Mr. Rummel said this needs to be addressed by the PA Municipal Code Alliance in Somerset. He thanked Mr. Serrian for bringing it to his attention and for doing his homework.

Correspondence

1. Windber Public Library Meeting Minutes.
2. Minutes of the Municipal Authority Meeting of November 14, 2023.
3. Minutes of the Windber Area Authority Meetings of November 8 & December 13, 2023.

Council Liaison Reports

Rummel/ Library Mr. Rummel said he went to the library meeting, and they are on top of their stuff. The Board asked Mr. Holden to stay on their board and so he stayed and that is good.

Bahorik/ Fire Dept. Mr. Bahorik said the fire department meeting is tomorrow.

**Ledney/
WAA**

Dr. Ledney said the Windber Area Authority has a new website. If you want to you can pay your bills online. He encouraged council to check it out and he said there is also a meeting on Wednesday.

**Approval
Bills**

Mr. Moore asked if we had a problem with an F550 truck. Manager Allison said the dump truck was recently sent in for service. The windshield also cracked.

Mr. Moore questioned Chief Frear about the light bulbs purchased for the police station. He said the same amount for bulbs were on both the December bill list and the January bill list. Mrs. Gates said she was sure the borough clerk forgot to remove that bill from the January list. Chief Frear said he did not actually purchase them, public works would've purchased them and put them in for us.

Mr. Moore asked about the Greenhouse Arcade interior renovations and the stop work order on 9th Street radio tower. Mr. Moore said why do we not use the codes officer instead of using PMCA? Manager Allison said Greenhouse Arcade was an Occupancy Permit and the stop work order on the 9th Street Radio Tower was done because it is a contracted service. The invoice is lying on my desk. The contracted services that we employed them for the past five or six years they did do. We have a contract to handle certain obligations.

Mr. Rummel asked if we pay those invoices or does Greenhouse Arcade pay them? Manager Allison said Greenhouse Arcade pays for them.

A motion was made by Mr. LaMonaca and seconded by Mr. Bahorik to approve the bills for January 2024. One no, Mr. Pallo. Motion carried.

**Approval
Payroll**

A motion was made by Mr. LaMonaca and seconded by Mr. Bahorik to approve payroll for January 12 & 26, 2024. Motion carried.

**Cash Bal./
Treasurer
Rpt.**

There were no questions at this time.

**Mayor's
Report**

Over the past few weeks, the mayor has been working on the police continuing education, and he passed all tests, completed firearms qualifications, which are the yearly update training that every police officer is required to do to keep their certification. The mayor maintains his certification because as Mayor and technically in charge of the police department, he feels he should be able to understand the changes and what the officers deal with daily.

Mayor Thomas attended the monthly board meeting of R.E.A.C.H. of which he is a member. R.E.A.C.H. is an outreach program that has now grown to be in several Somerset County schools and all Cambria County districts, providing psychological services to students during the school day.

Mayor Thomas said this past Saturday, his wife and he assisted the Windber Veteran's Association in collecting the wreaths that were placed on veteran's graves for Christmas.

Mayor Thomas said there was an editorial in the Johnstown Tribune Democrat. It was written by Michael Vuckovich, Superintendent of Windber School District. He praises our School Resource Officer and what a good job she does and how well she is trained.

Manager's Report

Stadium Drive/22nd Street-The following information was given to me by EAD's and proposed as a solution/response to the concerns of PennDOT on the deficiencies of the bridge: The load rating analysis indicates that by placing concrete barrier longitudinally across the bridge on top of Beam 5 we can keep all live load off of Beam 7 and maintain the current weight posting of 13 tons. Once the barrier is placed there will be a clear roadway width of 13.5. Once we receive PennDOT's approval we will provide a plan to the Borough showing the placement of the barrier that will close off the sidewalk and channel vehicles across the structure as well as the required signs for a single lane bridge. I believe this to be the best possible solution with little or no alternatives at this time.

The above plan has been implemented approved by PennDOT. There is some signage yet to be obtained and put into place.

At the 24th Street Bridge Romani property there is a piece of sewer lateral that the Borough will be taking responsibility for. EADs is drawing up the proposed plan and our Solicitor will then draw up the documents after PennDOT approves.

Signs are in and scheduled to be installed.

Sedimentation Removal Mine 35- I had a meeting with Officials from Rosebud. They will be prepping the area from the levee out to 19th Street in the coming months to handle loaded triaxles of sediment.

They will be making notification to 811 (PA 1-Call). They anticipate pending conditions, having all the sediment removed by the end of summer. It was figured roughly 250 triaxle loads to complete the project.

400 Block Ninth Street: A resident without a permit or plan approval did erect what appears to be in part a radio tower/antenna. A citizen complaint was received by this office. Pictures were taken after a visit by Codes and me. They were sent with explanation to the PA Municipal Code Alliance for review. They have issued a "*Stop Work Order*" to the property owner and will update as information is received. No status update currently.

Workshop- February 26th there will be a workshop in council chambers to discuss current conditions of the Borough Sewage System and challenges moving forward. Vinny Paczek will be a guest from the Water Authority. He worked with EADs as our Borough Engineer and has a great deal of knowledge of our system.

Dave Swiokla- Road Supervisor has announced his retirement after a full career. Dave has served the Borough honorably and he will be missed. I'm currently reviewing processes and determining the best way to fill/replace the position with necessary modification. I have met with the Borough Crew, and we are confident we can get through this period till the decisions are made. I will be directly supervising in the meantime.

Zoning/Codes- Status, moving forward. (Executive Session)

EMA- (Executive Session)

Road Supervisor (Executive Session)

**Solicitor's
Report**

Attorney Green said there are two things in the packet that he put there. One is the approval of the rules and regulations of the Civil Service Board of the Borough of Windber, Somerset County Pennsylvania. He drafted those rules and regulations and Chief Frear reviewed them. Once the Borough Council approves these the Civil Service Board can adopt them.

Attorney Green said apparently, down on 24th Street they have to go on private land for a portion of the sewer and when you go on private land for a portion of the sewer the borough or municipality typically own that. They own it, maintain it, repair it, and do whatever they have to do and that is basically what this resolution says, and it is on the agenda for passage tonight. He believes this is what PennDOT wants.

Mr. Ferrante from EADS said his understanding was they were not taking over the full portion. Attorney Green said there is a portion of sewer lateral outside of 24th Street legal right of way to remain private and that appears to be from the start of the first dot on the left to the right. Attorney Green showed the council where that portion was.

Mr. Rummel asked if there was an existing sewer line there now. Attorney Green said yes and showed Mr. Rummel on the map. Mr. Rummel said they needed to move it over about two feet. Mr. Ferrante said yes, the current lateral is in the way of the footing for the new bridge.

**Ballroom
Report**

Mr. Moore asked if we had a groundskeeper at the ballroom. Manager Allison said yes. Mr. Moore asked why our maintenance can't do that. Manager Allison said he was working as part of that maintenance. Mr. Moore said I thought he was separate. Manager Allison said right now he is working as needed. When he first started here, he split between plow truck driving and ballroom maintenance.

The council convened to an executive session at 7:55 p.m. for personnel matters.

The council reconvened from executive session at 8:45 p.m.

**Resignation
Bloom**

A motion was made by Mr. LaMonaca and seconded by Mr. Moore to accept the resignation of Anson Bloom from his full-time status as Codes Enforcement Officer, Building Code Official, Zoning Officer, Floodplain Administrator, Planning Commission Advisor, and Economic Development Committee Member. (Last day will be February 9, 2024). Motion carried.

**Resignation
Swiokla**

A motion was made by Mr. LaMonaca and seconded by Mr. Bahorik to accept the resignation of David Swiokla (Public Works Forman). His last day will be February 14, 2024. Motion carried.

**Resignation
Balderas**

A motion was made by Mr. Bahorik and seconded by Mr. LaMonaca to accept the resignation of Corporal Balderas as a full-time Corporal and to change his status to a part-time police officer. Motion carried.

Approval of EMA A motion was made by Mr. LaMonaca and seconded by Mr. Bahorik to approve the Windber Fire Company No. 1 Fire Chief Anson Bloom and Assistant Fire Chief Bob Statler to retain the status as EMA officers for Windber Borough. (\$150/month). Mr. LaMonaca and Mr. Bahorik withdrew their motions.

A motion was made by Mr. LaMonaca. Mr. LaMonaca rescinded that motion. Mr. Klonicke made a motion. Mr. Klonicke rescinded the motion.

There were no motions made at this time for this line item.

Approval Agreement A motion was made by Mr. Moore and seconded by Mr. Klonicke to approve the agreement to administer provisions of Municipal Codes & Ordinances by PA Municipal Code Alliance. Question: Mr. Moore asked if it should be put in the motion how we are going to handle property maintenance issues? Attorney Green said we are just not going to use them for maintenance issues. Roll call vote: Mr. Moore, yes; Mr. Klonicke, yes; Mr. Bahorik, yes; Mr. LaMonaca, yes; Dr. Ledney, yes; Mr. Pallo, yes and Mr. Rummel, yes. Motion carried.

Approval Rules Civil Service A motion was made by Mr. Bahorik and seconded by Mr. Klonicke to approve the rules and regulations of the civil service board of the Borough of Windber, Somerset County Pennsylvania. Roll call vote: Mr. Bahorik, yes; Mr. Klonicke, yes; Mr. LaMonaca, yes; Dr. Ledney, yes; Mr. Moore, no; Mr. Pallo, yes; and Mr. Rummel, yes. Motion carried.

Advertise Civil Service Officer A motion was made by Mr. Pallo and seconded by Dr. Ledney to approve to advertise for a full-time civil service position with Windber Borough Police Department. Roll call vote: Mr. Pallo, yes; Dr. Ledney, yes; Mr. Bahorik, yes; Mr. Klonicke, yes; Mr. LaMonaca, yes; Mr. Moore, no; and Mr. Rummel, yes. Six yes, and one no. Motion carried.

Advertise Part-time Officer A motion was made by Mr. Pallo and seconded by Dr. Ledney to advertise for a part-time police officer for Windber Borough Police Department. Roll call vote: Mr. Pallo, yes; Dr. Ledney, yes; Mr. Bahorik, yes; Mr. Klonicke, no; Mr. LaMonaca, no; Mr. Moore, no; and Mr. Rummel, yes. Four yes and three no. Motion carried.

Next Meeting Next council meeting will be March 11, 2024, at 7 p.m.

Adjourn Meeting adjourned at 8:55 p.m. by Council President, Richard Rummel.

Respectfully Submitted By:

Robin S. Gates
Administrative Assistant