

ORWIGSBURG BOROUGH COUNCIL
MEETING MINUTES
October 12, 2016

Orwigsburg Borough Council met on Wednesday, October 12, 2016 in Council Chambers. President Buddy Touchinsky called the meeting to order at 7:30 pm, and the Pledge of Allegiance was recited.

In Attendance were: President Buddy Touchinsky; Vice President Susan L. Murphy; Councilors: Edward Mady, Darle W. Cresswell, Angie Hoptak-Sogla; Paul J. Bedway and Brian Baldwin. Mayor Barry Berger; Solicitor Paul Datte; Borough Manager Robert A. Williams and Borough Secretary Sherry M. Edwards.

Visitors: Bill Knecht of 204 S Warren St; Bill McMullen of ARRO Engineering, Darin Brensinger of 102 Station Rd; Sud Patel of 155 Clark Dr; Janis McGowen of South Schuylkill News; Darrell Kunkel of 1010 E Market St; Sergeant John Koury, Chief Stan Brozana, Shelby Hostetter of 75 Memorial Dr, Schuylkill Haven; Amy Marciano of the Republican Herald.

A motion to approve the minutes of the September 7, 2016 and September 14, 2016 meetings as presented was made by Ed Mady, second by Darle Cresswell. Unanimous.

The August 2016 Treasurer's report was presented to Council.

The September 2016 Tax Collector's report was presented to Council

September

| | |
|-------------|------------|
| Real Estate | \$2,023.06 |
| Per Capita | \$ 160.60 |
| Occupation | \$ 58.73 |

A motion to exonerate the Tax Collector from collecting Occupation Tax on Tax Exoneration List #8 was made by Sue Murphy, second by Ed Mady. Unanimous.

Building Permits for September 2016:

-0- New Permits

6 – Renovation Permits issued at \$99,500.00 total value

Public Comment

Darrell Kunkel presented his concept of diagonal parking on Franklin St at the Franklin St Apartments as he did to the Planning & Zoning Commission. This would allow for two more units and cars would be out of the emergency pathway.

President Touchinsky noted if the Engineers and the Developer heard your parking concept and didn't act on it there is little Council can do.

Darin Brensinger addressed Council regarding the dog park conversation that took place at last weeks meeting possibly at Albrights Woods; he wanted to remind Council about 5 years ago the Boy Scouts approached Council about constructing a building for the Boy Scouts in Albrights Woods and was denied; reason being if they did something for somebody they would have to do it for everybody.

President Touchinsky responded his personal opinion is the Boy Scouts is a private organization and its not a public park for all, the dog park would be similar to a playground. Would be a public park open to all. An organization will maintain and run the dog park under their own insurance.

Old Business

Wayne & Warren Streets Drainage/Pavement Improvement Project

Bill McMullen updated Council on the project:

- Curbs are installed
- Filling in between curbs and sidewalks – which will be grass or concrete
- Today the contractor requested an extension until November 11th (at no cost increase) due to the additional work involved installing sidewalks for homeowners that paid to have new sidewalks installed and the added work at the intersection of S Wayne St and S Liberty St.
- Bill recommends substantial completion extension to November 23rd and milling and final wearing course in the spring
- Penndot District approval will be needed to extend beyond October 31st.

The Solicitor noted any extension beyond the existing date would have to be conditioned on Penndot approval.

Bob asked Bill McMullen to make it clear we need good communication with the contractor in reference to the Halloween Parade.

Bob noted we are honoring our sidewalk ordinance by replacing sidewalks with concrete and not asphalt if asphalt was taken out.

SCMA Interconnect Project

Solicitor Datte gave a timeline/update on the project:

- The Sopkos filed an action against the Borough, SCMA and Forino for a declaratory judgement
- Borough Council issued a Notice to Proceed
- The Sopkos filed an application for an injunction
- Hearing last Friday and Monday – 11 ½ hours worth of hearing and argument before the court
- Judge Goodman denied the request for preliminary injunction – written decision has not been received to date
- Declaratory judgement is still in action
- Bryon Killian of Entech has been given orders to move forward
- A preconstruction meeting and site meeting will be scheduled for next week by Bryon Killian
- The Borough is under no legal obligation to provide the homeowner with notice in advance of going on their property
- Pat Caulfield of SCMA did testify that it is a DEP requirement that the metering facility (vault) be located as close to the municipal boundary line as possible.
- SCMA and Attorney Patel took the lead in this case and kudos to them, they did a fantastic job

Attorney Sud Patel left Council know Judge Goodman complemented the Borough Manager on his attempts to handle the Sopko situation.

Pine Creek Retirement Community

Solicitor Datte gave a current review of the plan:

- He is comfortable with our position – The developer is taking certain sentences and certain section of the MPC totally out of context to support their proposition
- Recommends proceeding with the action that was taken last month
- The approval that occurred several years ago to approve the plan with the conditions that were imposed did not have a time limit associated with those
- There is an issue as to when those conditions would need to be satisfied with two exceptions
 - Delivery of the Land Development Agreement
 - Posting of the Financial Security
- Statute is clear – if the Development Agreement and Financial Security is not posted within 90 days of the date of approval the approval is deemed to be revoked. Time frame can be extended and the Borough did.
- The Permit Extension Act has extended the time frames

- Solicitor Datte feels we took the most legally conservative and pro-development position that the Borough could take to say that the 90 day period by when they would have to deliver the Land Development Agreement and Financial Security started on the expiration of the Permit Extension which took it to September 30th, then by action the Borough extended until November 09, 2016.
- A draft of the Land Development Agreement was supplied to the Developer on July 20th – no comments have been received from the Developer
- The Developer produced costs estimates that were reviewed by the borough's engineer who determined the estimates have significant components of the project missing – primarily the roads – we have not received anything formally in writing in response to this determination.
- Developer feels roads should not be included since they won't be dedicated to the Borough and will remain private
- Procedure under MPC for dispute over cost estimates - Each side jointly selects an independent engineer to arrive at what the cost estimates should be. Costs for independent engineer will be split between Borough and Developer

A motion to permit the Borough Manager under section 509.g of the Municipalities Planning Code to select a third engineer if need be to establish the cost estimate for the project after the Borough Manager consults with the Solicitor Datte and Planning Consultant Greg Stewart was made by Darle Cresswell, second by Paul Bedway. Unanimous.

As of today's date the developer owes \$7,283.88 for engineering costs

Blue Mountain Retirement Community

Solicitor Datte gave a brief review:

- Under SALDO the developer is obligated each time they submit a plan revision they need to notify the borough in writing that the prior plan is being withdrawn
- Borough has extended plan until December 30, 2016
- Developer needs to comply with Section 303 of SALDO – submitting written application and also submitting \$15,000 application fee which has not been done
- Solicitor Datte has forwarded two drafts of a preliminary development agreement for their review that would establish a \$10,000 escrow in lieu of filing fees, escrow will be replenished each time it falls below \$4,000. No comments have been received.
- Solicitor Datte recommends we insist the developer submits a written application and \$15,000 application fee for the current submission of June 27, 2016
- Zoning letter went out on September 20, 2016 – Developer has 30 days to appeal
- Developer owes \$6,286.50 for engineering cost and legal fees – unpaid invoices can be a condition of approval.

Villas of Orwigsburg

Solicitor Datte reviewed the current status:

The Borough granted an extension until November 9, 2016
Unpaid fees totaling \$2,978.08 are to be paid by October 30, 2106

Committee Reports

Recreation & Health

A motion to approve Resolution #2016-25, authorizing Borough Engineer Greg Stewart to apply for a \$50,000.00 grant to PA DCED for the construction of a Veterans Meeting Room in the Orwigsburg Veterans Community Memorial Hall was made by Sue Murphy, second by Paul Bedway. Brian Baldwin abstains due to employment-conflict of interest. Motion passed.

Streets, Lights & Buildings

A motion to authorize Schuylkill Paving Inc. an extension of time to November 11, 2016 in order to complete additional work on the Wayne & Warren Streets Drainage/Pavement Improvement Project was made by Brian Baldwin, second by Darle Cresswell. Unanimous.

Personnel & Negotiations

A motion to adjust the salary of part-time employee, Devin Deibert to the 2016 level of \$11.00 per hour effective September 26, 2016 was made by Ed Mady, second by Darle Cresswell. Unanimous.

Devin recently returned from military duty completing basic training and military occupational skill training. He is currently a member of the Pennsylvania Army National Guard. We are proud to have Devin as a Part Time Borough Employee.

Finance

A motion to authorize the acceptance of \$52,495.75 from the Commonwealth of Pennsylvania as a contribution to the borough retirement program was made by Paul Bedway, second by Sue Murphy. Unanimous.

A motion to authorize the payment of \$87,578.00 to PMRS, (Pennsylvania Municipal Retirement System) was made by Paul Bedway, second by Sue Murphy. Unanimous.

A motion to authorize the acceptance of \$17,358.26 from the Commonwealth of Pennsylvania as a contribution to the Fireman's Relief Association of the Orwigsburg Friendship Hose Company was made by Paul Bedway, second by Sue Murphy. Unanimous.

A motion to authorize the payment of \$17,358.26 to the Fireman's Relief Association of the Orwigsburg Friendship Hose Company was made by Paul Bedway, second by Sue Murphy. Unanimous.

A motion to authorize the payment of \$15,000.00 to the Orwigsburg Friendship Hose Company was made by Paul Bedway, second by Sue Murphy. Unanimous.

A motion to authorize the payment of \$5,000.00 to the Orwigsburg Library was made by Paul Bedway, second by Sue Murphy. Unanimous.

A motion to authorize the payment of \$750.00 to the Orwigsburg Senior Citizens was made by Paul Bedway, second by Sue Murphy. Unanimous.

A motion to authorize the payment of \$500.00 to the Orwigsburg Historical Society was made by Paul Bedway, second by Sue Murphy. Unanimous.

Water, Sewer, & Sanitation

A motion to authorize the Borough Solicitor to advertise for the next Sanitation Agreement with the current specifications including the use of collection containers at no charge to the Borough or our residents was made by Ed Mady, second by Paul Bedway. Unanimous.

Personnel & Negotiations

After the meeting the Personnel Committee will schedule a meeting to discuss the 2017 Police Contract.

New Business – none

COG

Councilor Murphy noted the next COG meeting is scheduled for Thursday, October 20, 2016 @ 7:00 pm in Council Chambers at Orwigsburg Borough Hall.

Community Events

Councilor Solga noted the Halloween Parade is scheduled for Wednesday, October 26, 2016 with a rain date of Thursday, October 27, 2016. Trick or Treat is scheduled for Monday, October 31, 2016 from 6:00 pm to 8:00 pm.

Chili & Chills sponsored by the Orwigsburg Business & Professional Association is scheduled for Saturday, October 22, 2016 at 5:30 pm at the Veterans Community Memorial Hall.

Fire – none

Police

The September 2016 Police Report is attached to this minutes.

Correspondence – none

Bills

A motion to approve and ratify the Accounts Receivable for General, Water, Sewer, Sanitation, Capitol Improvement Fund, Grant fund and State Fund accounts was made by Darle Cresswell, second by Paul Bedway. Unanimous.

There being no further business President Touchinsky adjourned the meeting at 8:40 pm.

Respectfully submitted,

Sherry M. Edwards
Borough Secretary