

**Borough of Windber**  
**Borough Council Regular Meeting**  
**January 18, 2011 – 7:00 PM**  
**MINUTES**

<b>Call to order</b> – Council President Anthony Turcato
<b>Pledge of Allegiance</b>
<b>Roll Call</b> - Council President - Anthony Turcato (AT), James Furmanchik (JF), Barry Jerley (BJ), George Ledney (GL), Sonya Pekala (SP), James Spinos (JS), Michael Winas (MW) Mayor Simon Ohler (SO) late 7:22 pm, Borough Manager Fred Oliveros (FO), Solicitor – Jeffrey L Berkey (JB), Recording Secretary - Cynthia McCracken
<b>Public comment on agenda – no comment</b>
<b>Reading of the Minutes</b> – <ul style="list-style-type: none"> <li>• <i>Moved and seconded (Furmanchik/Spinos) to approve the minutes of the previous meeting as presented. (Motion Carried)</i></li> </ul>
<b>Correspondence</b> <ol style="list-style-type: none"> <li>1) WAA Minutes of November 16, 2010 &amp; December 8, 2010</li> <li>2) Lory J Borischak letter re: Brandon Gregory Onuschak Eagle Scout accomplishment. <ul style="list-style-type: none"> <li>• <i>Motion was made and seconded (Winas/Ledney) for a Certificate of Commendation to be presented to Brandon Gregory Onuschak on Saturday January 22, 2011 by Borough Manager Fred Oliveros. (Motion Unanimously Carried)</i></li> </ul> </li> <li>3) James R. McDonald - Praising and thanking Windber Paint Police Department for their professionalism.</li> <li>4) Windber Volunteer Fire Company #1. Fundraiser letter.</li> <li>5) WESN Newsletter</li> <li>6) Letter of complaint from Mrs. Roy</li> </ol>
<b>Executive session - Contract and Personnel Matters 7:05 pm – 7:25 pm</b>
<b>Business Items</b> <ul style="list-style-type: none"> <li>• <i>Motion was made and seconded (Ledney/Jerley) regarding Public Works Contract Agreement. It will be a 4 year agreement. The agreement will be retroactive as of January 1, 2011 they will receive a 3.25% wage increase and we have come to an agreement on the health insurance that if there is any increase of the monthly premium over 10% they will be responsible to pay the difference. And there were other issues that will be refined by legal council and that will be done after the contract has been given to legal counsel.</i> <ul style="list-style-type: none"> <li>○ <i>Roll call vote – Mr. Ledney (Y) Mr. Jerley (Y) Mr. Furmanchik (Y) Mrs. Pekala (Y) Mr. Spinos(Y) Mr. Turcato (N) Mr. Winas(Y) (Motion Carried)</i></li> </ul> </li> <li>• <i>Motion was made and seconded (Ledney/Pekala) that the Borough Manager also receives a 3.25% wage increase, retroactive to January 1, 2011. And it will also follow the same provision of the Public Works Contract agreement of the health insurance that if there is any increase on the monthly premium over 10% per annum he will be responsible to bay the difference.</i> <ul style="list-style-type: none"> <li>○ <i>Roll call vote – Mr. Ledney (Y) Mrs. Pekala (Y) Mr. Furmanchik (Y) Mrs. Jerley(Y) Mr. Spinos (Y) Mr. Turcato (Y) Mr. Winas(Y) (Motion Carried Unanimously)</i> <ol style="list-style-type: none"> <li>a. Approval of Payroll <ul style="list-style-type: none"> <li>• <i>Moved and Seconded (Pekala/Ledney) to approve Payroll – (Motion Carried)</i></li> </ul> </li> <li>b. Approval to Pay bills <ul style="list-style-type: none"> <li>• <i>Moved and Seconded (Winas/Ledney) to approve pay the bills - (Motion Carried)</i> <ul style="list-style-type: none"> <li>• <i>Remarks - Mr. Spinos the rental of \$150 and \$250 for the Borough Building/shed. The Police is waived.</i></li> <li>• <i>Mrs. Pekala questioned the long distance charges. Asked that Mr. Oliveros check into the charges.</i></li> </ul> </li> </ul> </li> <li>c. Approval of Treasurers Report <ul style="list-style-type: none"> <li>• <i>Moved and Seconded (Ledney/Pekala) to approve Treasurers Report - (Motion Carried)</i> <ul style="list-style-type: none"> <li>• <i>Remarks Mr. Ledney the report as of December 10<sup>th</sup> we are showing a surplus. Mr. Oliveros indicated that once we get the audit report we will know where we stand after the audit report</i></li> </ul> </li> </ul> </li> <li>d. Approval of Cash Balance Report <ul style="list-style-type: none"> <li>• <i>Moved and Seconded (Ledney/Pekala) to approve Cash Balance Report - (Motion Carried)</i></li> </ul> </li> <li>e. Consideration for adoption Ordinance 2011-1 Requirements for receiving Borough Funds.</li> </ol> </li> </ul> </li> </ul>

- *Moved and Seconded (Furmanchik/Ledney) to approve the adoption of Ordinance 2011-1 Requirements for receiving Borough Funds. (Motion Carried)*
    - *Roll call vote – Mr. Furmanchik (Y) Mr. Ledney (Y) Mr. Jerley(Y) Mrs. Pekala (Y) Mr. Spinosa (Y) Mr. Turcato (Y) Mr. Winas(Y) (Motion Carried Unanimously)*
- Remark regarding the ordinance by Mr. Turcato to the citizens explaining that this ordinance speaks to what this Borough Council will expect from those entities within the Borough to whom we make a donation in each given time of the year.*
- f. Consideration for adoption Ordinance 2011-2 Designation of Snow Emergency Routes and Parking Restrictions during a declared snow emergency. That would be under the auspices of the Mayor.
- *Moved and Seconded (Pekala/Furmanchik) to approve the adoption of Ordinance 2011-2. Designation of Snow Emergency Routes and Parking Restrictions during a declared snow emergency (Motion Carried)*
    - *Roll call vote – Mrs. Pekala (Y) Mr. Furmanchik (Y) Mr. Ledney (Y) Mrs. Jerley(Y) Mr. Spinosa (Y) Mr. Turcato (Y) Mr. Winas(Y) (Motion Carried Unanimously)*
  - Mrs. Roy asked if that had anything to do with Railroad Street.
  - Mr. Oliveros indicated that odd even parking would apply to the entire Borough
  - *Comment from Mr. Spinosa that we have the alleys plowed first so that people will have a place to park.*
  - *Information of a declared snow emergency will be out of this office*
  - *The Ordinance will be made available to the citizens.*
  - *Mr. Turcato requested that the media inform the public be informed where they can get information.*

**Borough Reports – To be submitted for next meeting**

**Standing Committees of Council – Council Pres and Vice President can serve as ex-officio to all committees**

- **Properties** (Ch Furmanchik – Winas – Spinosa) – what is the status of the unvented wall units. Mr. Oliveros explained that the units will be discussed with the plumber on Thursday.
  - Mr. Furmanchik asked what the plan is for the park maintenance. Pool cover is a consideration. Also, what is the status of the leaking roof at the Community Center.
  - Mr. Winas asked for a meeting with the Municipal Authority to discuss the plans for maintenance of the properties.
- a. **Mayor Simon Ohler** – Mayor’s report was accepted as presented.
- Transfer of the police department was smooth with no complaints
  - Would like Council to consider amending Ordinance 404 pertaining to parking for anyone to park and remain parked on the streets long term that are more than 6.5 ft in length and 78” wide. Mayor Ohler feels that the issue is getting out of hand.
  - Mr. Spinosa questioned the definition of temporary parking.
  - Requested that Council look into committing to a 6 year plan for paving \$133,333.00 per year and include a request \$200,000 for the alleys.
- Mayor Ohler swore in Greg Cicon as Windber Borough Fire Chief.
- b. **Borough Manager** (Fred Oliveros) – Accepted as presented
- Mr. Ledney questioned the spending limit. It was noted that that is in the ordinance. Mr. Turcato asked if there was any objection to the ordinance. Council felt that the ordinance should be left alone.
- c. **Codes and Zoning Report** (Fred Oliveros) –
- Mr. Furmanchik asked about the Vespa building and old gas station
  - Mr. Furmanchik indicated that we have a problem with rental properties.
  - Mr. Furmanchik asked about the DEP contacts.
  - Solicitor Berkey was asked about an ordinance to protect our citizen’s rental properties. The question is if it is a maintenance issue or a residency issue. He indicated he will look at it again. Mr. Furmanchik indicated that this is a matter of pride for our community.
  - Mayor Ohler asked about the Federal inspections be coordinated with the Codes Enforcement Officer of the Borough. Mr. Berkey indicated that there has to be the distinction between Maintenance issue vs a Residency issue. There are ordinances that are in place but he would be more than happy to look into it again. Mr. Berkey will look into the Myersdale ordinances and speak with their solicitor as to the constitutionality of these types of ordinances. Are they enforceable?
  - Mr. Oliveros indicated that this is something that will take more than a part time person to

take care of the problems that are occurring.

- Mr. Spinos/Mr. Furmanchik indicated that we need to take care of the town.
- d. **Solicitor's Report** (Jeffrey Berkey) – Mr. Berkey indicated that he has spoken to the Borough Manger regarding the Tax anticipation loan events fund procedures. He has had significant conversations with the boroughs insurance agent regarding the events fund and will report to Council when finished. Mr. Berkey requested a meeting with Mr. Spinos, Mr. Jerley and Mr. Furmanchik. Regarding the issues of exactly how these events are occurring.

#### **Unfinished Business**

- a. Appointment of Borough Members to Emergency Services Task Force.
- Request to be seated on this Task Force by Marie Chippie
    - *Motion was made and seconded (Furmanchik/Ledney) to approve Marie Chippie to the Emergency Services Task Force. Motion Carried*
  - Mr. Oliveros to notify Mrs. Chippie
- A member from Council needs to be appointed to the Task Force.
- Mr. Jerley indicated that he would be interested
    - *Motion was made and seconded (Furmanchik/Spinos) that Mr. Jerley to be appointed to the Emergency Services Task Force. (Motion Carried)*
  - Mr. Spinos indicated that he would like to attend if he is available.
- The meetings of the Emergency Services Task Force should be advertized.

#### **New Business**

- a. Appointment of a representative and alternate to Capital Tax Collection Bureau.
- *Motion was made and seconded Pekala/Ledney to appoint Tony Turcado (Motion Carried)*
  - *Motion was made and seconded (Ledney/Furmanchik) to appoint Mrs. Pekala as alternate (Motion Carried)*
- b. Donation in memory of Former Mayor Smutka.
- *Motion was made and seconded Spinos/Pekala to donate \$100 to the New Emergency Department in honor of Mayor Smutka. (Motion Carried)*
- c. To organize Thunder in the Valley any revenues and expenditures will be the Windber Fire Departments.
- d. Mr. Spinos indicated that we need to clarify that the parking lot belongs to the Borough Council and has nothing to do with the Municipal Building by ordinance. Mr. Oliveros will research the ordinance. Mr. Berkey and Mayor Ohler indicated that this is a Borough owned public parking lot. Mayor Ohler indicated that we leased the building not the parking lot. The parking lot is Borough Property. It is a free public parking controlled and owned by the Borough. The Mayor indicated that his recollection is that the Borough leased the building to the Municipal Authority not the parking lot.
- *Motion was made and seconded (Furmachik/Spinos) to the \$2000 that we is budgeted for Thunder in the Valley/Windber Rumbles to donate this money to the Windber Fire Department or subsequent sponsors. (Motion Carried)*
  - *Motion was made and seconded (Pekala/Spinos) that the net proceeds (after expenses are paid) if any. from the Cruzin's go to whomever is holding the event with the exception of \$300 to be held in reserve for next year's events. (Motion Carried)*

#### **Recognition of Visitors**

**Mrs. Ann Roy** - Complained about an editorial article written about Mr. Griffith's article. Mrs. Roy gave a history lesson regarding her experiences with Council and the various mining concerns and garbage problems over the past 25 – 30 years ago. Mr. Turcato was involved in forming a group on Railroad St to fight the mining concerns at the time. It was Council's opinion that the particulate only has to go up in the air and that the citizens have to have faith in council even if they operate without a permit.

Mrs. Roy named the mining concerns that were involved.

Mrs. Roy named the people involved in the marches.

Mrs. Roy continued on the sewage problems.

The inaction just reinforces the distrust in Council.

She questions what have you done?

Mr. Turcato indicated that the issue with Cooney was addressed.

Mr. Turcato indicated that Mr. Oliveros is scheduling a meeting with the Federal/State and Mining authorities.

Mrs. Roy's second issue - How did Berwind get into the conservation area?

Mrs. Roy made a formal complaint and asked for a reprimand to Mr. Furmanchik and Mr. Spinos for their language.

Mr. Turcato thanked Mrs. Roy for her comments.

**Marilyn Wonders Sanzi** - Tractor Trailer parked between 9<sup>th</sup> and 10<sup>th</sup> She would greatly appreciate the amendment to the Ordinance 095-4.

Mr. Berkey to check on the state regulations regarding the Boroughs regulations

- *Motion was made and seconded (Winas/Furmanchik) to advertize the Amended Ordinance of the Borough 095-4 for consideration on February 1<sup>st</sup>. (Motion Carried)*

Remarks - Mr. Berkey indicated that we need to check to see whether there are any State regulations that would preempt a Boroughs regulation in regards to State routes. Upon my findings the Ordinance may need to be modified. If there are significant changes it would then have to be re-advertized.

**Andy Kondas** – Constitution of the Commonwealth of PA. Article 1 Declaration of Rights. Mr. Oliveros indicated that he spoke with Mr. Hainey of DEP referred Mr. Oliveros. Mr. Oliveros will be meeting with Mr. Riley a State mining inspector to check the issues concerning the mine in Ebensburg, PA.

- Fred will notify members of Borough and those individuals who are interested in attending the meeting.

**Next Meeting Date – Regular Meeting scheduled for February 1, 2011 at 7:00 pm**

**Adjourn - Turcato, adjourn 8:52 pm**