

Windber Borough Council

Meeting Minutes
November 17, 2009

Opening:

The special meeting of the Windber Borough Council was called to order at 7:00 p.m. on November 17, 2009 by council President; Anthony Turcato who led council and visitors in reciting "The Pledge Allegiance to the Flag".

Present:

Council members in attendance were Ray Dibattista, George Ledney, Sonya Pekala, Mike Winas, Jim Furmanchik, Simon Ohler, and Anthony Turcato. Also present were Solicitor; Jeff Berkey, Sergeant; Rick Skiles and councilmen elect Jim Spinos and Barry Jerley. Many Windber residents were in attendance. Mayor; Arthur Palumbo and Borough Manager; Casey Durdines were absent.

A. Approval of Agenda

The agenda was unanimously approved as distributed.

B. Approval of Minutes

The minutes of the previous meeting were unanimously approved as distributed.

C. New Business

President Turcato discussed the Brownfield Request for Proposal. Proposal from KU Resources Inc. of Duquesne, PA. Bid amount in \$179,000.00. Mr. Ohler asked if it was the lowest bid received and this was confirmed by Turcato. Ohler asked if this was a proposal to clean up fields and areas that are contaminated. Turcato confirmed that it was. Ohler made a motion to approve the bid. Motion seconded by Pekala. DiBattista, yes. Ledney, yes. Winas, yes. Turcato, yes. Furmanchik, yes.

President Turcato stated that there would be no executive session for personnel and/or real estate. He stated that this is a special meeting called for the purpose to balance the General Fund Budget.

Turcato turned the meeting over to Mr. Ledney; Chairman of Finance.

Ledney stated that all council members had a list of the proposed cuts to the budget. He then discussed the beginning deficit of \$44,384.51 and that additional cuts were made in the amount of \$17,700.00 for council's review and comments. Ledney stated that along with the cut of the position of Administrative Assistant last week, the total cut to the budget is now a total of \$55,743.18 leaving a total of \$11,358.67 that he wishes to apply towards paving.

Ohler asked if the \$11,358.67 is in addition to the \$55,743.18 and Ledney and Pekala asserted that it was in addition to that amount. Ledney stated that before making these cuts, there was no monies for paving whatsoever. Ledney stated to the public and council in attendance that when council raised the taxes last year three mils, the intention was to give one mil back to the tax payers. This can no longer be done. If council tried to give the one mil back now, there would be a deficit of close to \$90,000. Ledney stated that in essence, taxes are being raised by one mil this year, because it isn't being given back. Pekala and Turcato concurred. DiBattsta stated that the three mils last year represented 30% interest. Ledney agreed. Ohler asked Ledney if there were any other cuts that could be made for more paving monies. Pekala and Ledney said no.

Sergeant Skiles stated that he did not get a copy of the proposed cuts and how this would affect his department. Pekala stated that the only changes that affect the department would be the Vascar Speed Checks to be reduced to \$500.00, cell phone reductions and vehicle fuel to be reduced by \$1,000.00.

Mr. Furmanchik indicated to Mr. Turcato that he can go along with every item proposed for cuts except for line item 405.130 - the Administrative Assistant's salary and 405.156 - the Administrative Assistant's Health Care Package. Furmanchik stated that it would best serve the community, based upon discussions between Mr. Furmanchik and Borough Manager; Casey Durdines, to lay Mr. Durdines off and remove the position of Borough Manager. Mr. Furmanchik stated that these were the expressed wishes of Mr. Durdines due to stress and concern for his physical well-being. Furmanchik stated that in doing away with the Borough Manager position as opposed to the Administrative Assistant position the borough would save \$12,000.00 more. Furmanchik stated that it is in the best interest of the community to lay off Mr. Durdines and reinstate Robin Gates as Administrative Assistant. Furmanchik stated the reality of the issue is that Gates can perform the duties of Borough Manager, but that Durdines cannot perform the duties of the Administrative Assistant and running the day to day operations of the office.

Furmanchik made the motion to lay off Casey Durdines and eliminate the position of Borough Manager.

Ledney stated that he heard nothing from Durdines about this matter. Ohler stated that he spoke to Durdines earlier this afternoon and he expressed none of these wishes to him. Furmanchik stated that he spoke to Durdines that afternoon also, and Durdines told him that he made his wishes clear to Mr. Turcato that afternoon. Furmanchik reminded everyone that at the last budget meeting when Robin Gates was removed that Casey Durdines spoke adamantly about being removed in her stead. Turcato stated that council was well aware of Durdines' actions at the last meeting.

Furmanchik restated that there was a motion on the floor. Turcato stated the motion and asked for a second. Motion seconded by Ohler and requested a roll call vote. Ohler asked Furmanchik to restate his motion. Furmanchik restated the motion to lay off Casey Durdines, Borough Manager, effective immediately and strike the position of Borough Manager from the record.

Ledney asked why Mr. Durdines didn't convey his wishes at the meeting or just go ahead and resign.

Ohler prompted roll call. DiBattista, no. Ledney, no. Pekala, no. Winas, no. Turcato, no. Ohler, no. Furmanchik, yes. Motion denied.

Ledney and Pekala stated that they wished to hear Durdines' wishes directly from him. Furmanchik asked Turcato if Mr. Durdines expressed his wishes to be laid off with him that afternoon. Turcato stated that they discussed a lot of things, and that he was waiting to hear something "formal", not just idle conversation. Ohler stated that if Durdines' wanted to resign, this would be entertained by council.

Furmanchik then made the motion to reinstate Robin Gates to her previous position of Administrative Assistant. Motion died on the floor for lack of a second.

E. Agenda for Next Meeting

President Turcato discussed that the next meeting to be held on December 1, 2009 would be to tentatively adopt the budget. This meeting will be held in Council Chambers of the Windber Municipal Building.

D. Recognition of Visitors / Open Issues

President Turcato stated to the public in attendance that he would allow them to assign a spokesperson to speak. Dan DiPaolo, reporter for the Daily American voiced his concerns that council cannot limit speakers under the law. Everyone is entitled to sign in and speak. Ohler asked that everyone state their names and where they live. Ohler emphasized that it is a Windber Borough Budget Session and everyone who chooses to speak must be from Windber Borough. Solicitor Berkey agreed that would be appropriate and permissible.

Scott Penrod

Mr. Penrod asked about the deficit of the Recreation Fund. He then asked about the court costs for litigation for Sheetz and inspection for the mold and asbestos for the Municipal Building. Penrod discussed the neglect of council for responsible tax increases to maintain the building. Penrod discussed the costs of EADS Corporation's blueprint drawing for the study of a new building for the Borough. Penrod asked who is on the Municipal Authority Board that is being tapped for taking over Recreation in Windber due to the sudden dismissal of Robin Gates and the elimination of the Administrative Assistant position. Turcato informed him that it was made up of volunteers, but did not name any one person. Penrod asked again who was going to be in charge of the Community Building and the Park. Turcato stated that it had not been determined yet. Furmanchik asked Turcato if himself and the rest of Council that voted to eliminate the position of Administrative Assistant, shouldn't have had a plan before they went ahead and eliminated jobs? Furmanchik asked Turcato about reading in the Daily American

about Mr. DiBatiste being named as head of the Municipal Authority, and the transfer of Windber Recreation to the Municipal Authority. Thereby putting DiBattsta in charge of Recreation. Turcato told him that the appointment was made at the previous meeting when Furmanchik was not present at the time. Furmanchik questioned as to whether any Sunshine Laws were violated in closed door meetings with the Municipal Authority to set up these arrangements.

Penrod asked about District Court moving out of the building and the \$800 / month rent that is lost from the county paid to the borough. Penrod asked how much time was spent investigating if there is grant money available to fix the Municipal Building. He voiced his concerns about losing the Park and Community Building as well because of lack of maintenance. Penrod asked about Murtha's office calling to discuss possible grant monies available. Ledney said that it was his understanding that the aforementioned grants were "matching". DiBattista asked Penrod how long he has been a taxpayer in Windber, and he answered five years. He explained that he moved away from Windber because of lack of opportunities for young people. He emphasized this being the reason why keeping the Park and Community Building is so important, and that eliminating jobs such as Robin Gates' position is the wrong thing to do to save the Community of Windber.

Next, Penrod and Council discussed population decreasing and increasing taxes. Ledney stated that many residents approached him about the understanding of raising taxes the 3 mils last year, but did not want him to raise taxes again this year.

Penrod then asked about the motion to eliminate the Borough Manager position. Ledney and Pekala said that they wanted to hear directly from Casey Durdines if he wished to leave his position. James Spinos interrupted, asking why that was necessary since they did not consult with Robin Gates about her position before eliminating her. Furmanchik spoke to this fact stating that Durdines, Gates' immediate supervisor, was not consulted on the decision either. Nor did Council take the personnel matter to Executive Session. Turcato called for order.

Penrod continued, commenting on Gates' numerous titles and responsibilities. He mentioned all of the events that were put on over the summer that she was involved in voluntarily. He stated that if Council had to eliminate a job for "budget reasons", eliminating Durdines who is disgruntled (in his opinion) was a more logical choice than eliminating Gates who incidentally makes less money. He showed them a petition with over 650 names that was signed for the purpose of reinstating Gates. He stated that he spoke to Durdines himself about his wishes to leave and asked them to reconsider their vote to reinstate Gates.

James Spinos

Mr. Spinos commented that he has a vested interest in Windber and that is the reason that he ran for Council. He stated his feeling that Council had no back-up plan after Gates' termination because there was no one to open the Community Building for the Youth Basketball League on the day after her firing. Taxpayers and citizens were left standing

on the sidewalk. Furmanchik commented that residents were calling his home that evening trying to find someone to open the building. Turcato said he went down to open it around 7:00 p.m. after he was made aware of the situation. Turcato told Spinos that he was not going to argue with him on this point right now. Spinos brought up the fact that there was an auditor that came to the Borough Office the Friday of the previous week, and asked if Council knew about the audit or were prepared for it. No answer was given from Council. Spinos asked who was going to handle the payroll for borough employees this week. Turcato said that it would be handled. Spinos wanted to know how much it was going to cost to outsource payroll. He wanted to know who was going to perform all of the Mrs. Gates' duties and how much the taxpayers of Windber were going to have pay for outsourcing. He asked Council to tell all of the citizens in attendance how much money was owed to Mrs. Gates for severance pay. He asked Turcato if he knew how much it was, and his reply was "approximately". Spinos wanted to know where that money was going to come from. Turcato stated that it would come out of the General Fund. Spinos asked Pekala what happened with the audit. She declined to talk about it.

Mr. Turcato asked Spinos to lower his voice. Mayor Palumbo, who arrived at this time, interjected stating that there were people in the hallway and adjoining rooms that could not hear the proceedings unless voices were raised.

Mayor Art Palumbo

Art Palumbo told Council that he met with Durdines at the Borough Office that very afternoon. He stated that Durdines told him that he wished Robin Gates to be rehired and that he wanted to be laid off. Turcato told Palumbo that Council voted on the matter before he arrived tonight, and they turned it down.

James Spinos

Spinos continued asking who among employees of the Borough or Council Members were bonded to be Treasurer and handle payroll. Turcato said they were working on it. Spinos asked what the Council was going to do when the Youth Basketball League would leave the Community Building. Turcato said there was no reason to believe that there would not be a basketball league at the Community Building. Spinos told them that Dave Mattis was going to speak next and that they would understand what was happening because of their decisions. Spinos asked if the Borough Manager was involved with any events that took place over the summer in Windber. No answer was given. He asked that when there was a problem at the Community Building with the heat on Election Day, who was called. He stated that it was Robin Gates who was called on to solve all the problems.

Victoria Hiteshew

Hiteshew interjected, stating that her phone has been ringing off the hook with inquiries about where the street decorations for Graham Avenue were located. She said the Public Works guys didn't know where they were. She voiced her concerns as a W.A.V.E. member about Light Up Night. Hiteshew stated that Robin Gates knew where the

decorations were. She commented on the dismissal of Gates as a vendetta from a council member that lost the election. Turcato said it's not his job to know where the Christmas decorations are. Hiteshew told him that Gates has always been W.A.V.E.'s contact and that Durdines has not been receptive to helping their causes and dealing with issues. Turcato prompted Spinos to continue.

James Spinos

Spinos called the attention to a handout listing Gates' numerous responsibilities; asking Council who was going to do all those jobs. He asked of the six council members who voted to dismiss her if one of them was willing to volunteer to cover her duties for no pay. No one responded. He told Council that they should be more involved in community events since they are elected by the townspeople. He then prompted Mr. Dave Mattis to speak next. Turcato said that Mr. Mattis is not a taxpayer and was not allowed to speak. (Loud protests were shouted from the gallery.) Mayor Palumbo informed Turcato that Dave Mattis was in charge of the Youth Basketball League. Turcato asked Solicitor Berkey if it was okay for Mattis to speak. Berkey agreed that it would be permissible.

Furmanchik interjected telling everyone that in his business outside of council, when anyone hears about Windber, they mention the Youth Basketball League as being the best youth league in the tri-county area. People tell him how much they enjoy patronizing local Windber businesses when they are in town for basketball. Furmanchik told Council that if they lose the basketball league they will cripple commerce. Turcato said that it is not the intention of Council to change the status of the basketball league.

Dave Mattis

Dave Mattis introduced himself as the Commissioner of the Youth Basketball League along with Gary Puto, who was not in attendance. He stated that he wanted to speak on behalf of the children. Mattis spoke as to Gates' excellent involvement in the league and the amount of work and time she put into it. He commented on the statistics of 165 teams participating September through April. This amounts to approximately 1700 kids that go through the program every year. On any given Saturday there are 500 children at the Community Building with approximately 1,500 adults in tow. He stated that someone needed to take into account the effects of no basketball league on local area businesses. Mattis stated that without recreation in this town, it will surely die. Mattis said that without Robin Gates running the day to day operations of Windber, it would take three people to do her job and cost taxpayers more money. Mattis praised Gates' hard work and dedication, and commented that he couldn't believe that Council could not appreciate it. He told Council that if they cared about the town, children, and taxpayers, they would reinstate Gates tonight. He closed in saying that if Robin is no longer part of Windber Borough operations, the Youth Basketball League would not be a part of Windber Borough either.

Mayor Art Palumbo

Art Palumbo asked Mr. Turcato asking how the Municipal Authority is going to take over operation of Recreation and the Basketball League. What specifically is their plan? No response was given. He described the decision of removing Gates as a personal issue from some people who dislike one another. The Mayor questioned Council as to whether they had a private meeting concerning the Municipal Authority since there was no mention of it during previous council meetings until the decision was voted on at the meeting when they dismissed Gates. Simon Ohler asked him if he felt there was a violation of the Sunshine Law. The Mayor said that he was not going as far to say that. Turcato stated that they needed full time personnel to run recreation. Palumbo asked how many mils of taxes are being put into Recreation, and Turcato said "regrettably, none".

Furmanchik addressed Robin Gates as to whether she recommended turning over recreation to the Municipal Authority. Gates stated that she did not. She recommended starting a joint recreation commission with surrounding municipalities that would give Windber Recreation a better chance at getting federal grant monies from DCNR. She was opposed to turning Windber Recreation over to the Municipal Authority which has no money to start with.

Turcato replied that there was no interest from other municipalities to combine recreation. Gates replied that she had information from Representative Frank Burns stating otherwise, and that the information was in the packet from the previous meeting.

Mathew Hellman

Mr. Hellman asked Council if they turn Recreation Park over to the Municipal Authority, would the Borough be able to get it back if they ran it into the ground the same way they did Miner's Park when they were in charge of it. Turcato and Pekala said yes they could get it back. Mr. Turcato, with the help of Gayle Ankeny, explained how the Borough took possession of Recreation in the early 1970's in order to get grant monies for Recreation. It was a stipulation that the Borough had to run it.

Gail Ankeny

Discussion was held about the many years that Ankeny was in charge of Recreation at the park. She finished by stating that historically, the Borough Council does not want to work with good employees that give their heart and soul to their jobs. Ankeny then commented on Durdines not having much interest in Windber, and that Council made a mistake hiring him for the position.

Mathew Hellman

Asked again about the Borough looking into grant monies, even if they are matching grants. Furmanchik commented on the advertisement for when they hired the Borough Manager, that one of his qualifications be for grant writing experience. Furmanchik stated that Durdines had not written a grant or procured any grants for Windber as of yet. Hellman then asked the question if Durdines were to resign, as Council would like to hear directly from him, did Council have a plan in place as to who would run the borough now

that there is no one working in the office that could take his place? Turcato said that they would deal with that when it happened.

Chrissy Elliot

Opened by saying that she is sickened by knowing that her mother worked in this building for the last 20 years with the amount of asbestos that is contained within its walls. Turcato told her that they have been trying to get out of the building. Elliot spoke to the fact that she is a young professional that graduated from Windber, moved away, and has now come back with her family to make a life for herself and her children. She thanked Robin Gates for doing an exceptional job in creating organized activities to keep the children off of the streets. She questioned Council as to having a back-up plan for ousting Gates from her job without even giving her an indication that it was going to happen. She commented that they want to give Durdines the option to comment on his position, and he didn't even have the courtesy to come to the meeting. Why did they not give Robin Gates the same courtesy? No reply was given from Council. Elliot weighed the differences in salaries between Gates and Durdines, and pointed out the qualifications of both to run the Borough Office, stating that it just does not make sense no matter how you look at it. Elliot commented that she couldn't understand how the two outgoing councilmen could have a say in such a detrimental decision as eliminating Gates when they aren't even going to have a position on Council in another month. Elliot then asked Council how many of them had children living in the borough and if they would like them to stay in town and have a thriving community. Elliot told them about Gates raising money for Abby Bush, who is an ill child in the community.

THE TAPE RAN OUT, AND WAS NOT FLIPPED OVER. THE REST OF THE MEETING WAS NOT RECORDED.

Adjournment:

Meeting was adjourned at [time] by [Person]. The next general meeting will be at [time] on [date] in [location].

Respectfully Submitted By:

Cheryl M. Denk
Borough Clerk