

**Borough of Windber
Borough Council Regular Meeting
December 15, 2010– 7:00 PM
MINUTES**

Call to order – Council President Anthony Turcato
Pledge of Allegiance
Roll Call - 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), Borough Manager Fred Oliveros (FO), Solicitor – Jeffrey L Berkey (JB), Recording Secretary - Cynthia McCracken
Executive session – Matter of contract negotiations - 7:01 pm – returned 7:13 pm after discussing a contract issue.
Opening of interest quotes for 2011Tax Anticipation Loan of \$100,000.00 <ul style="list-style-type: none">• Ameriserv Financial – 3.25% per annum• First Commonwealth Bank – 2.49% per annum• First National Bank – Tax Free rate of 2.49% fixed with Deposit accounts. Tax Free rate of 2.99% fixed without Deposit accounts.• Slovenian Savings & Loan - 1% fixed per annum• Somerset Trust and Savings - 2.5% fixed for 1 year for one (1) year• First Summit Bank - 2.95% per annum• <i>Moved and seconded (Furmanchik/) to accept the First Commonwealth 2011Tax Anticipation Loan of \$100,000.00 at 2.49 % per annum. Motion dies for lack of second</i>• <i>Moved and seconded (Pekala/Furmanchik) to accept the Slovenian Savings and loan 2011Tax Anticipation Loan of \$100,000.00 at 1% fixed rate for 1 year. Upon appropriate review of legal council. (Motion Carried)</i>
Public comment on agenda - Mr. Furmanchik asked to move up recognition of visitors to accommodate the number of people in the gallery. Mr. Turcato indicated that this agenda item will be addressed before business items.
Reading of the Minutes – <i>Moved and seconded (Pekala/Ledney) to approve the minutes of the previous meeting as presented. (Motion Carried)</i>
Correspondence Move to release funds to Fire company <ol style="list-style-type: none">1) Letter from Windber Fire Company #1 to release the remaining \$21,000.00 from the EMST.<ul style="list-style-type: none">• <i>Moved and seconded (Pekala/Spinos) to approve the release of the remaining \$21,000.00 from the EMST Fund to the Windber Fire Company #1. There will be an accounting of all bills paid from the fund to the Borough. (Motion Carried)</i>2) Letter from Borough Manager Fred Oliveros regarding the recommended formation of a task force among the elected officials of Windber Borough Council, Paint Township Supervisors, Ogle Township Supervisors, Scalp Level Council, Paint Borough Council and Windber & Scalp Level/Paint Fire Departments to investigate the issues involved and make recommendations to the Municipalities and Fire Departments. It is requested that the task force be made up of one (1) elected official, one (1) citizen from each municipality and one representative from the respective fire departments.
THE FOLLOWING IS A TRANSCRIPT OF THE DISCUSSION BETWEEN COUNCIL MEMBERS. PARTS ARE NOT ABLE TO BE TRANSCRIBED DUE TO THE HEATED NATURE OF THE DISCUSSION (as indicated) Mr. Spinos asked Mr. Turcato to start the discussion before the Recognition of Visitors. Mr. Turcato indicated that this would be acceptable. Mr. Spinos - Mr. Ledney, do you think that correct procedure was followed and everything was factual? Mr. Ledney - Yes Mr. Spinos - Mr. Turcato, do you think that correct procedure was followed and everything was factual? Mr. Turcato - Yes Mr. Spinos - I would like an explanation why they indicated in the last meeting that there was no paper trail. f there was no record, why did the Cash Balance Report change month to month Mr. Ledney - The company deposits were made. Mr. Spinos - I went through the paperwork with the accountant indicating that there was a paper trail.

Mrs. Pekala - There was no trail of the deposits of the vendor fund

Mr. Spinos – Regarding the March 9 minutes, nowhere in the minutes are their specification of how monies are to be handled.

Mrs. Pekala - interrupting with input

Mr. Spinos - Did you (Mr. Ledney) talk to the accountant at that time.

Accusation/and raised voices between Mrs. Pekala, Mr. Spinos and Mr. Ledney. Mr. Turcato demanded decorum.

Mr. Ledney - NO, NO.

Mr. Ledney - Why was not the transaction noted?

Mr. Spinos took umbrage of the allegations leveled by Mr. Ledney.

Mr. Spinos (addressing specific allegations during the events) - The accountant is being paid to do the accounting. Why was the accountant not contacted when the question was first raised? The accountant sent a letter as to what happened. There was a paper trail.

Mr. Ledney - there is no paper trail for Thunder in the Valley for the vendors. Mr. Spinos indicated that Mr. Ledney is the financial chair.

Mr. Spinos - the special events that were in the planning stages for 2011 Crusin's.

Mrs. Pekala - why there was no list at the time. There was a meeting that Mr. Spinos was not invited to participate in.

Mr. Spinos - Mrs. Pekala wanted to shut it down.

Mrs. Pekala - All money had to come from the Borough because the insurance has to come through the Borough.

Mr. Spinos - The Crusin's and Thunder in the Valley did not cost the taxpayers or the Borough "one red cent" because of the volunteers in this town to make Windber a place to come to.

Mrs. Pekala (*shouting Mr. Spinos down*) - All they needed was a list to keep from being audited.

Mr. Furmanchik - I want everyone in this room and on council that I was very disturbed after reading the minutes and the letter read by Mr. Ledney at the meeting. First of all my reputation is my most prized possession in this entire world. The slanderous and degrading acts that were read aloud in that letter about myself and other members of council and other people involved with those activities were clearly nothing more than sour grapes by other members on council. First of all, where does the finance committee fit into this picture? Why does the finance committee feel that it needs to be mentioned, when it was never even mentioned, brought up or talked about by your treasurer and CEO of the Borough?

Mr. Ledney - They did talk to Mr. Oliveros.

Mr. Furmanchik - You two were the only ones concerned about it. The problem was supposed to be taken care when you met with Mr. Penrod when the problem occurred. I am not going to argue with you about checks and balances. I am upset because we were made to look like we were thieves and liars to the public. If there is one thing in this world that I am not is a thief, and if there is one thing that I am not is a liar. I resent that, and I also resent that you were brazen enough to drag the Late Mayor Art Palumbo's name through the mud.

Mr. Ledney and Mrs. Pekala (*shouted*) - That wasn't us.

Mr. Furmanchik - *directed them to the letter read into the record. (Objections shouted by many people)*
That the letter was derogatory.

(Continued arguing, shouting etc)

Mr. Furmanchik - The community should know that no matter what you may think of Mayor Palumbo, he only wanted to bring new business and entrepreneurs to the community and to make Windber a place where people wanted to come to patronize our business and our town.
This matter could have and should have been taken care of in house. There is no need to admonish council members and business people in a public meeting. And the root cause is the Council President that should have never let it get to that point.

Mr. Turcato - Mr. Furmanchik is entitled to his opinion.

Mr. Furmanchik - asked for an apology from the Finance Committee and the President of Council. As far as Mr. Spinos' comments there should have been more information gathered. I also took offense with fact that you waited until Mr. Penrod and I were absent. This could have been handled at the time I don't appreciate that you waited to give Mr. Spinos and Mr. Jerley a brow beating when no one else was in attendance that could defend their position.

Mr. Turcato - There was no brow beating.

Mr. Jerley - There was.

Mr. Furmanchik - If you read the minutes it sounds like a brow beating to me. You intimidated both of them the whole time.

Mr. Ledney - The citizens need to be informed regarding the pension audit. A very difficult pension audit

to the point that the Auditors General office was going to be brought in due to poor record keeping.

Mr. Ledney - When the issue was brought up in July and questioned were the revenues for Thunder in the Valley events, we had \$70.04 were deposited into the Borough's events fund account. Mr. Penrod indicated that he kept the funds from the vendors. It was you, Jim, that we have the meeting to try to work out and find receipts. The meeting took place. Tony was there, Fred was there and Scott was there. Mr. Ledney asked four (4) questions of Mr. Penrod at that meeting. 1) Do you have receipts from where the revenue came from? Answered no. 2) How much do you collect? Answered I don't know. 3) How much do you charge the vendors. Answered it depends on the space. 4) Who were the checks made out to. Answered the Windber Hotel or they were cash. He said he had no receipts, no nothing.

Mr. Ledney - Mr. Spinosa, what can I tell the auditor?

Mr. Furmanchik - That was his point exactly. That this could have been handled in house. There is no reason to reveal our laundry to the media again, present negativity. Tony you should have never let it get to that point.

Mr. Turcato - Why stop it when I viewed this as an egregious event. It shouldn't have taken place.

Mr. Furmanchik - You people want to come down Graham Avenue and see three (3) or four (4) people walking down the street. What are you going to shut down next, Sandy Pritt and The Coal Miner's event?

Mr. Ledney, Mr. Turcato and Mrs. Pekala - No (shouting over each other)

Mr. Turcato - There is not a member sitting at this table that is not in favor of any and all activities brought into this town. BUT THOSE PEOPLE BRINGIN' IT IN GOT TO BE RESPONSIBLE. It's clear here...

Mr. Furmanchik - They are responsible people. You want to see a responsible person Get Mike Hunter up there.

(More shouting over each other)

Mr. Furmanchik - Instead of supporting these people you want to bust their hump and shut it down.

Mr. Turcato - there is no truth in that. It is clearly evident in the news article following that meeting. We are supportive of those activities so long as they are not under Borough sponsorship. That is the way WAVE conducts themselves, that is the way the Coal Heritage conducts themselves. As an elected official ...

(More shouting over each other)

Mr. Furmanchik - These people are bustin' their butts and all you want to do is slam the door in their face here.

Mr. Turcato - It was never ever our intention at any point in time.

Mr. Furmanchik - Save that for someone that just met you.

Mr. Turcato - When Mr. Spinosa first brought this up in 2008, I'm pretty sure that it was 2008.
(Confirmation by Mrs. Pekala) Jim was sitting in that very same seat.

Mr. Spinosa - Me, I wasn't even on council then.

Mr. Turcato - Whatever. You came up with the idea for the Crusin'.

Mrs. Pekala interjected that he wasn't on council then, he was just a citizen coming to us with the committee and everything at that time.

Mr. Turcato - I stand corrected. ... But anyway ... we discussed. I talked to our insurance carrier and Jeff Berkey made it perfectly clear. The council needs to be informed with respect to any and all details of these types of functions. The proper checks and balances had to be put into place. And you said that you were not going to invest any of your own money.

Mr. Spinosa - WHY SHOULD I?

Mr. Turcato - I understand that I am just highlighting that. Council agreed with that we were all on board.

Mr. Spinosa - Excuse me for one second. You agreed to it. Everyone on council (Talked over)

Mr. Turcato - ... agreed to sponsor.

Mr. Spinosa - ... and I had my first Crusin' which was May 15th, it was the Friday before the General Election. We had the most people we had in town for a long time. I had over 500 vehicles here. The next meeting you all wanted to shut it down. You said it was not proper the way we were doing the insurance. But I checked into the insurance. You should have checked into the insurance prior to that when you gave me the approval to do it, and everything was legit. That's how it went down Tony.

Mr. Turcato - When the Borough sponsored it you were automatically covered.

Mr. Spinosa - You already stated that you didn't know that for sure when you investigated. I investigated prior to that.

Mr. Turcato - I had talked to Mr. Hollern and Solicitor Berkey was here also and he was well aware of it, as our legal counsel for 30 some years. I will do everything in my power to support anything that goes on in this town. But, it is part of my oath to limit the liability exposure of this Borough. There were

some incidents that took place down there that could have cost the Borough money.

Mr. Spinos to Mr. Turcato - Enlighten us.

Mr. Turcato - I talked to Mr. Penrod about it we spoke when we were in the old chamber. It was in respect to Windber Rumbles there were a number of bikes that went beyond the barrier and I made it perfectly clear that I felt the venue should be held somewhere else. That pedestrians standing at the curb are not suitably protected from those high powered bikes whether they are professionals or not.

Mr. Spinos - There is separate insurance to cover that.

Mr. Turcato - But that is the point I don't want to have to have insurance to cover it

Mr. Spinos - Mr. Penrod paid for that insurance himself. The only liability the Borough had for any of those events that occurred down Windber was if someone fell off the sidewalk or on Borough property. That can happen every day. Every day we are responsible for that.

Mr. Turcato - I would have to require legal counsel opinion on that. The fact that it is sponsored by the Borough they can still come to the Borough.

Mr. Spinos - Well, I'll tell you it is like everything else. You can hide and hide all you want you never get anywhere.

Mrs. Pekala - The bottom line is Jim, I mean, we had told you guys that all monies had to come through the Borough I don't have any problem with any expenses being paid I don't want anybody doing anything out of their own pocket Everything has to come through the Borough That was specifically said, All Deposits and All expenses ought to come through the Borough because it is the Borough. That is not anything that I am making up it is in the Borough Code.

Mr. Spinos - I remember last year that there wasn't any questions asked what so ever.

Mr. Ledney - No, that seemed to be done properly.

Mr. Spinos - Why?

Mr. Ledney - and Why?

From the gallery - because Robin was here.

Mrs. Pekala - She (Robin Gates) is still a member of the committee, she knew how it was supposed to be done. So if you want to bring that up it can go two ways.

Mr. Spinos - It was done. Look at the paperwork.

Mrs. Pekala - Where is the vendor money?

Mr. Spinos - We'll get to that discussion, Sonja

Mr. Furmanchik - Tony, you, Sonja, George, you can sit there look me in the eye and tell me with a clear conscience that you think that by chastising myself and the other people involved with that event, that that was handled the right way?

Mr. Turcato - Yeah.

Mrs. Pekala - We asked ...

Mr. Furmanchik - I can tell you this, Barry Jerley, Jim Spinos, Scott Penrod and the other people involved, they are not thieves, they are not liars, they weren't hiding money, they were going out bustin' their ass to bring people into this community to keep your tax base on the level where it wouldn't hit Joe average citizen in his pocket. Something that you, you and you know nothing about, or have never done anything to do to help.

Arguments arose with Mr. Ledney and Mrs. Pekala shouting over each other at Mr. Furmanchik ...

Mr. Ledney - That just because he is not at the event does not mean he doesn't volunteer in this town. Come on!

Mrs. Pekala - That wasn't even a fair statement.

Mr. Furmanchik - Everything that you said last week was not a fair statement also. Don't talk to me about fair or the Truth... you want to know about the truth, you can't handle the truth.

Mr. Turcato asked for quiet.

Mr. Spinos - Why did you go behind the other three council members backs and do that, we are included in this council.

Mr. Furmanchik - You want to know what the truth is ... this is typical back door politics at its best.

Mrs. Pekala - we were looking into the financial auditing which is ...

(Unintelligible)

Mr. Turcato called for order. It was ignored.

Mr. Turcato - They have every right, it is finance. As does any other committee here, look it up, the committee can do its investigation and present its findings to the others. That is the way it has always worked.

Mr. Furmanchik - And when did this council function the best? I am sorry that Art Palumbo is not here to agree, but I would bet you the farm that he would agree with me that it was when we were a committee as a whole and we did not have sub committees. But that is your idea Tony, you wanted the committees. There you have it. They overrule what the Borough Manager does. What are we

paying Fred for, .drink coffee and read the paper?

Mrs. Pekala – We met with Fred we ... *(over talking- unintelligible)*. It was when Sal Mara was here that's the only time there was a committee as a whole.

Mrs. Pekala – Fred knew, how 'bout it Fred, we were in consult with him of what we were checking into and looking into because Fred was helping too. So don't say we were doing things behind Fred's back or anything else.

Mr. Furmanchik – I didn't say that why wasn't he raising an issue about it then? You are the only one who is vocal about it. You and George.

Mrs. Pekala, - We are on the committee, the one who is supposed to present it.

Mr. Furmanchik – you were supposed to assist the Borough Manager, not totally run the finance committee.

Mr. Oliveros - You see this package you gave me, that proves we were doing what we were supposed to be doing as Treasurer, as clerk, as the bookkeeper. If we weren't doing it, you wouldn't have these records. This proves that we were doing our job. Now, I think that where the question was raised when they met with Scot Penrod he couldn't produce the documents.

Mr. Turcato – That meeting, I will not speak of it again.

Mrs. Pekala – Not to be rude.

Mr. Turcato – Was an absolute eye opener. You should have been there.

Mrs. Pekala – Wait, Mr. Oliveros was speaking and nobody is letting him finish.

Mr. Oliveros – That is where the question came up and, in all fairness, that was said about Mr. Palumbo. Scott did say at that time that the Late Mayor had told him that they could use some of the vendor money to offset expenses and that's where the red flag went up. Other than that, everything else is in here.

Mr. Turcato – And if that is the case, Jim, you have sat here therefore you know that the Mayor has no say in that.

Mr. Spinos – Wait a minute, WAIT A MINUTE.

Mr. Turcato - The Mayor has no authority.

Mr. Furmanchik – You remember the first when we didn't even have a name for it yet. The event that would tie into the Thunder in the Valley. Were you at that meeting upstairs?

Mr. Oliveros – The very first meeting we were at when it was all coming together.

Mr. Furmanchik - And if my memory serves me correctly, that is the night that Mayor Palumbo mentioned that about vendor fees. You didn't have a problem about it that night, why are you bringing it up now?

Mr. Ledney – I do not remember that, honestly I do not remember that. And I am not going to lie, I don't remember, but, the fact of the matter is, since then, 2009 minutes and 2010 minutes that all revenues come to the Borough so that the Borough can pay all the expenses.

Mr. Furmanchik – The point that I have been driving at the whole time is, none of us involved with any of those activities are accountants. Yeah maybe we didn't have all the checks and balances you say, right, but as I mentioned at least three times earlier in my presentation, it wasn't handled the right way. No, we could have talked about this like grown, civilized people but, no, last week in my absence, what do I find out about, were openly chastised for being thieves and liars to the community.

Mr. Ledney – That is not the case Jim, I know ...

Mr. Jerley – Tony, don't we go in executive session to discuss personnel reason, Right?

Mr. Turcato – Not when it involves members of council.

Mr. Jerley – It still involves the businessmen in this community. I am a businessman in this community.

Mr. Spinos and Mr. Furmanchik are both managers in their employment everyday; do you think that looks good? You should have put a stop to it.

Mr. Spinos - Mr. Berkey, I would like you to read where I highlighted about reasons to go into executive session.

Mr. Jerley – And I may pursue this legally.

Mr. Furmanchik – And I have one more comment then I will let anyone else speak. And as I mentioned it should have never been handled that way. Yes there has been disagreements at this table, but you have all heard me say it time after time after time ... we should always try to put a positive spin on everything that comes out of our mouth in this room, but, no, this is what I have to put up with when I am in Ohio at Thanksgiving at my daughter's house, to come back the next day to hear about all this, and I can tell you from the bottom of my guts, I would never have pulled that kind of crap on anybody else that sits at this table. I would have made sure that it would have been handled behind doors somewhere. And I regret that and I resent it until the day I die. Until you have enough intestinal fortitude to look me in the eye, extend your hand, and tell me you apologize because you handled it wrong and you know you did. That's all I have to say.

Mr. Ledney – Jim, it was a private meeting, there were only 3 people there and we just couldn't get any answers.

Mr. Spinos asked who Mr. Ledney approached - You only approached one person on the committee, I can't profess what went on at that meeting. Fred was there many a time when I brought checks up from Crusin's and Fred walked around with us when we were setting up when we were setting up for Thunder in the Valley and he knew what was going on and everything came through the Borough last year, we did everything the same way and nothing was questioned. What transpired at that meeting, I do not know. Mr. Penrod will have his chance to speak. If you had come to me personally, I would have sat down with you. I would have showed you everything. And I don't appreciate being called ...

Mr. Ledney – Well, what occurred when we did ask you, Jim, what had happened with Crusin' money, you said you didn't know, you turned it in, you didn't know where it is at, you don't know what was done with it. And so forth and so on. I looked at the cash balance reports and that is what I go by.

Mr. Spinos – Right, because George, it is not my responsibility once I give it to the proper people like I did the year before. You guys never said to create an event fund. Mrs. Gates did that on her own.

Mr. Ledney – No, Jim, it's in the minutes. It was Mr. Penrod, it was Mr Penrod said he would like the Borough to create an event fund in the February 2009 minutes.

Mr. Spinos – The bottom line is ...

Mr. Ledney – And that was the proper thing to do.

Mr. Spinos – And we did it by procedure of ourselves. I was never told how to do it. Not by anybody. Last year, prior to being on Council, I was never told, I read every minutes for the whole year so far, and nothing in any minutes ever told me how the procedure should be.

Mr. Ledney – That's a lie, Jim, when we got into the discussion about Thunder in the Valley.

Mr. Spinos – That was after the event was over.

Mr. Ledney – OK, but when I am saying is that why from that point on wasn't there record keeping, in other words, I don't know what it cost for and event.

Mr. Furmanchik - George, what I hear about this now, you should have discussed this a month or two ago.

Mr Ledney - Excuse me, I don't know how much you charge an individual to participate in a crusin', OK, but did you have a receipt for yourself Jim if someone gave you cash?

Mr. Spinos – OK, the Crusin's aren't big generators I try to go ... the only money and I stated that this as I gave you updated is in my minutes of the Crusin's and Thunder in the Valley and whats going to happen and what's going to transpire ... remember I brought up about the 4 wheelers, that are going to perform, I updated everybody. Not one time throughout those updates did anyone say, are you bringing the money in, are you doing it this way, or are you doing it that way. Not one time. So naturally, I thought everything was smooth. And as far as the Crusin's, George, I do things to help people in town. OK, like I stated with Hospice, I don't charge, the Abruzzi Club comes selling sausage, it was nice to have food there. The Cancer Society, I didn't charge anything for them. Mr. Penrod paid for the majority of the bands, there was one night a band was going to play for nothing, the Band we got was the best bands we had, it was the perfect band for the Crusin's, that band was \$500 +; so that night I got \$25 off the Abruzzi Club. So I said at this spot, what Scott did and I did on our own, we got a small games of chance from Windber Stadium, we sold 50/50 tickets, we announced it to the public with that money Officer **Diseri**, 50 years old, had a stroke, had no hospitalization, no nothing, he was forced into a coma for weeks, the bill was \$14,000 - \$16,000/day, and I told the citizens what we were going to do this. You guys don't know what we are doing, all you do is make accusations, and right now if you had come to me and said Jim we need some kind of this, that I would have sat down with you and as far as the Audit why don't you tell the folks in this audience what happened with the audit. It wasn't the Borough's fault, it was the accounting firm that was handling it. And it was all taken care of. They paid back on their own. This is the story you are telling the public.

Mr. Ledney – But one of the issues that came out of that audit was the poor record keeping.

Mr. Spinos – And let's set the record straight, by who the poor record keeping was. That was in house OK.

(Mr. Ledney/Mrs. Pekala talking over each other)

Mr. Furmanchik – As far as the poor record keeping goes, how many times would we have budget workshops and we would have a question on a line item and nobody would have an answer? I'll tell you who would know the answer. You kicked her out the door.

Mrs. Pekala – I had spoken whenever this came about, and Mr. Penrod said we asked about the money and he had said he kept it. I had spoke to him after the meeting, I had said that we don't want him to incur the expense, all that you had to do is turn in all the money and turn in your receipts for your expenses. THAT'S ALL WE NEEDED! The whole time I don't know how much more explicit it is that

all money has to come into the Borough I don't have a problem if you wanted to donate the money to him, I think that's great. The only problem is ...

Mr. Spinos - that had nothing to do with the Borough.

Mrs. Pekala – Let me finish. All I 'm saying is none of this would have happened if all the money had come through the Borough and when the expenses came to us to get reimbursed that is what we said in the beginning. I don't know how much more explicit you needed it to be explained all the money had to go through and all expenses get reimbursed through the Borough.

Mr. Spinos – The only question I have, Sonja, is when was that instructed to me? Prove it.

Mrs. Pekala – It was in the minutes.

Mr. Spinos – What minutes, March 9 minutes have nothing in it.

Mrs. Pekala – There is other minutes.

Mr. Ledney – That was explicitly explained in the July meeting.

Mrs. Pekala – No, it was explained prior to that.

Mr. Ledney – I said that.

Mr. Spinos – But that was after the fact.

Mrs. Pekala asked Mr. Berkey - What meeting was that, because you were here and you said that the Borough has to have everything go through the Borough. I can't even remember, but I know you were here because we asked exactly what that entailed.

Mr. Berkey – I certainly don't remember at what meeting that was.

Mrs. Pekala – I think it was the original one in 2008 whenever it came up about the insurance.

Mr. Turcato - Let us give Mr. Berkey time to speak.

Mayor Ohler indicated that we should move on.

Mr. Turcato indicated that we could be here until next year.

Recognition of Visitors

1. **Vince Brunetto** - co-president for the For the Fallen Charity events and representing the vendors and charities that are direct benefactors of the events. Mr. Brunetto asked Mr. Turcato why he is not informed of the benefactors of the events. The money is now gone when these events go out of the community. helped with the event . Those people who never come to the events. The members that help do not come back an attack you. Pulling Borough sponsorship of the events in this community not only impacts the Charities that participate but my job and the jobs of others who work there. Mr. Brunetto asked for an apology from the members of council who are accusing Mr. Furmanchik, Mr. Spinos and Mr. Jerley, members of council that are instrumental in putting on these events. Mr. Turcato should be aware of their efforts of the community as President of Council this should be his responsibility.
2. **Scott Penrod** – Please enter into the record. Typed letter presented to the Recording secretary. Mr. Palumbo was a maverick and did everything that was for the betterment of the community.

Mr. Penrod read into the record the following letter.

In March of 2008, Windber Mayor, Art Palumbo, approached me at my business, the Windber Hotel. He said that the boro was looking to join Johnstown's "Thunder In The Valley" event, and wanted my ideas to attract people to town. After a few phone calls, I suggested that the Starboyz stunt team would be a good choice. They have a large fan base and would be available that weekend.

A few weeks later, it was brought to my attention that the boro had little or no money available to bring this attraction to town. I, then, suggested that if I paid for the Group, I would have to hire my own vendors to help offset the costs. Mayor Palumbo agreed with this suggestion and brought it forth to the committee that was in charge to bring the "Thunder" event to town. Some of the people at these meeting included Jim Furmanchik, George Ledney and Barry Jerley. No one in the group was against me collecting money through my own sponsors.

It was established this first year, that Mayor Palumbo, and Boro Admin. Asst., Robin Gates, would gathered vendor and sponsorship monies on behalf of the boro, while my business partner, Tom Piscitella and I, would contract our own vendors and sponsors.

Through several meetings with the Thunder Committee, several things happened. The name Windber Rumbles was chosen, as the events namesake, and the structure by which the event would be held was unfolded.

The committee noted that several things needed to be in place for a successful event. The first was the main attraction (The Starboyz). Second, the restroom facilities (Porta-Johns), food and merchandise vendors, and trash removal and clean up had to be determined. The boro also stated the Hotel will have to have a separate liability insurance to cover any loss dealing with the stunt show.

At the conclusion of the first event, council stated that the event had cost the taxpayers several thousand dollars, but that they would try it for one more year and reevaluate the event if the boro lost money again. I then took a larger role in organizing the event. I wanted a more streamlined crew to reduce meeting times and I took the people that put forth the most effort. These persons, in my opinion, were Robin Gates, Jim Furmanchik, Art Palumbo and Barry Jerley. During the weekend of Windber Rumbles I had noticed how much effort that a boro citizen, Jim Spinos, had put forth in crowd control and assistance to the Starboyz. After confiding in him about the costs that were incurred by the taxpayers to fund Windber Rumbles, we brainstormed and came up with a way to offset some costs. The event became know as the "Windber Friday Night Cruise Ins". In order to protect the boro and individuals from liability, two committees were formed. Now known as the "Cruise In Committee and Windber Rumbles Committee". In months to follow, the boro council combined both committees to form the "Events Committee".

The second Windber Rumbles came and went with very few problems. Mayor Palumbo and Robin Gates continued their roles in finding sponsors and vendors for the boro and I continued my role in paying for the main attraction. The Cruise Ins were very favorable throughout the town, but nasty weather hampered some turnouts. The cruise in vendors where not as successful as they hoped they would be, making it more difficult to get as many for the next year.

By combining the monies raised by both events, the second "Windber Rumbles" became a success and no money was used from the General Fund. The Hotel once again paid for the Starboyz, the musical entertainment and the liability insurance.

By the time the third Windber Rumbles event came around, a few things had changed for the boro. Mayor Art Palumbo had past away, and, the Administrative Asst., position held by Robin Gates, was eliminated by boro council, due to budgetary reasons. These two people were instrumental in getting the vendors and sponsors for the first two events. At this time, I would like to make note that George Ledney was the finance chairperson through all three events. No accusation of any misappropriation of funds, were mention until July 20,2010, three weeks after the event.

I made a pledge that there would be no taxpayer money use for "Windber Rumbles". I did get (with the help of the committee) all vendor and sponsorship money and used the money to pay for Windber Rumbles cost, not Windber Hotel costs. The boro pledged \$2,000. To assist in paying for the event both years and both years we did not have to use the money. I want to stress that no taxpayer money was used to offset any personal or business costs.

The costs of 2010 Windber Rumbles events are as follows:

Starboyz & Team	
Contraband	\$6,000.00
Event Insurance	
(\$3,000,000)	1,642.85
Bands (6 X\$300.00)	1,800.00
JTK Hauling (Clean Up)	650.00
Porta-Johns	577.70
Total	\$10,670.55
Hotel Reimbursement to	
Boro	1,500.00

<i>Total</i>	\$12,170.55	<i>Including 2,000 from Zepka</i>
<i>Total Monies Collected</i>	-4,876.00	
<i>Total Hotel Costs</i>	\$7,294.55	
<i>Fees paid by Boro:</i>		
<i>Event sponsorship</i>	\$2,500.00	
<i>Dumpster Fee</i>	274.32	
<i>Total Windber Rumbles Costs:</i>	\$13,444.87	

Food Vendors

<i>Bella's Pizzeria</i>	<i>Paid</i>	\$200
<i>The Pie Shoppe</i>	<i>Paid</i>	200
<i>Windber Fire Auxillary</i>	<i>Paid</i>	50
<i>Laytons Concessions</i>	<i>Paid</i>	200
<i>Scalp Level Fire</i>	<i>Paid</i>	50
<i>Hoovers Concessions</i>	<i>Paid</i>	200
<i>Harry Sheetz</i>	<i>Paid</i>	200
<i>St. Anthony's</i>	<i>Paid</i>	50

Total \$1,150.00

Vendors

<i>Global One Sports</i>	\$200
<i>Slide / Balloon Pop</i>	76
<i>Johnny Lancaster do- rags</i>	200
<i>Fish pond/Games</i>	200
<i>Terry Lauper/jewelry</i>	200

Total: \$876

Sponsors:

<i>FIT Optimized Solutions</i>	50
<i>Dr. Antinoro</i>	100
<i>William Kisiel Funeral Home</i>	50
<i>Shaffer Oil Company</i>	50
<i>Rosebud Mining Company</i>	500
<i>Berwind Coal Company</i>	100

Total: \$850

Total Revenue: \$2,876

Hand written comments as follows: Did not include Advertisement fees for the Thunder Guide paper or Radio. Did not include housing the entertainment. Providing water to all event vendors. Provided 220 power to all bands. Mr. Penrod reiterated that this is his opinion.

Comments regarding the letter read by Mr. Ledney at the last meeting. The statements made by Mr. Ledney are completely false statements regarding Mr. Penrod handling of the expenses.. (*Reading of January 12 minutes regarding the support of Council for the events.*) Other points that were brought up were the Mayor's authority concerning these events, was not addressed to Mr. Penrod.

Mr. Penrod stated his support to the Borough by coming to the meetings his support to the Borough but organizing these events. Any council member could have stated that any accounting deficiencies were not being done should have been addressed by the Finance Committee directly to me. He restated that he supports the Boroughs efforts to support the many organizations supported by the Borough.

Regarding the liability. Not one other business in town has put in the effort and taken on the liability that I have done. My neck has been sliced off.

Mr. Penrod referenced the Accountant's letter asking why the Finance committee wait for three weeks to come to me. It was quoted that "I was ashamed of you guys and said that the Members made poor decisions". He is personally ashamed of the handling of personnel issues in the past. Five businesses paid for the advertizing of the events The Crusin's brought up an ordinance from 1980 that was not enforced for 30 years. This was brought up in respect to open containers, 20 years after the Dog Run, 12 years after Miner's Day and 5 years for the Fallen Run Now the ordinance is brought up. Why is this now an issue? He reiterated the benefits that these events bring into the town. He mentioned the motion to cancel these events and stop the support of these events.

Mrs. Pekala stated that this was sponsoring not the donation.

Mr. Penrod stated that this has been discussed and agreed to procedures for future events with Mr. Ledney, Mr. Oliveros - Why is this now such an issue? I thought this was taken care of at our meeting in July.

Mrs. Pekala took exception to the statement that taxpayer's dollars were not used. Where did the \$2000 donation come from, and there are still bills to be paid.

Mr. Spinos noted that this came out of the events fund and that the \$2000 available from the Borough was not used. All events were paid from the events fund.

Mr. Ledney asked Mr. Penrod if he considered sponsoring the events on his insurance and charges and fees would be incurred from the Borough.

Mr. Penrod the accounting procedure was an honest mistake but he thought this was put behind them in July. He feels that he is being prosecuted. Once he turns over revenues to the Borough He is not responsible to where they came from.

Mr. Ledney indicated that it was not the donations it was the vendor revenues.

Mr. Penrod feels that he is owed an apology.

Mr. Ledney apologized for the lack of inclusion of the check from Scott to cover the bills.

Mr. Penrod announced that he will be running for council in November.

Mr. Penrod thanked the members that have treated him civilly in this meeting.

3. **Mike Hunter** – Thank you, Jim Furmanchik for mentioning me for the comment. He asked the council if they were going to hold this event.
Mr. Ledney indicated that if the Auditor and Solicitor told them to pull the sponsorship but agreed that this could continue if certain procedures were followed,
Mr. Hunter indicated that the people in this room want this to continue? (applause from the room)
Mr. Ledney indicated that he wanted the events to continue.
Mr. Turcato indicated that it was the liability. He suggested that the Crusin's go together with another organization and they be part of it.
Mr. Spinos shouted WHO!
Mr. Spinos asked Who is the go to person?
Mr. Pekala indicated that the accounting procedures have to be in place for this to take place.
Mr. Oliveros is responsible as the Treasurer.
Mr. Hunter commented on the help he has received from the members of council that put on these events and members who have supported these events in the past. He stated that these events should stay in this town.
4. **Kevin Sheehan** – President of youth baseball and softball league. Read in the record. Asking for the continuation of the Dog gone run Windber Rumbles and Crusin's

Mr. Sheehan read into the record.

To: Windber Borough and Windber Municipal Authority

As the president of the Windber Youth Baseball and Softball League I hope that we can count on the needed support from the Windber Borough and Municipal Authority to continue the Dog Gone Run.

Our league has been trying for years to become part of this event not just for a financial reward but to help out the community. This year was the first time I attended the event since moving to Windber in 1996, I had no idea what I was missing. We had such a good time that most of us were looking forward to helping out in 2011.

One thing that has amazed me for the past fourteen years is the community involvement and support of the Dog Gone Run, Windber Rumbles and the Dog Gone Run. I can't think of any other event in our town that brings so many groups together working together. As an added bonus some of our local businesses gain extra income from all of the people coming to our town for a few days, generating even more tax dollars. Other towns can only wish to have such an event to benefit their whole community.

Sincerely,

Kevin J. Sheehan
President, WYBAS

5. **John Rugg** – Mr. Rugg stated that he was sorry that their names were used in a letter that questioned your character. He stated that this is far from the truth. (Members involved thanked him for his support) He asked for Mr. Turcato for his undivided attention. Mr. Rugg indicated that there are reporters here with nothing good to report. He noted the business owners present in the room. He asked whether the accounting procedures are now in place? Presented a motion that we go ahead sponsoring these events upon written operating procedures with the approval of our Solicitor as well as the Accounting firm to be put into place so there is no question there is no more discussions. We need something positive for the reporters to write about.
 6. Mr. Ledney asked for Mr Berkey's input.
Mr. Berkey indicated that there is the liability issues and need to discuss the development of these events over the years specific to the insurance coverage. Who is insuring the event and for what. What If the Borough is sponsoring the event the Borough is going to be responsible for the event. Part of the procedure will be to get approval from our insurance carrier. That this particular type of event will be covered. And if it requires additional premiums or what it would require that is the issue has to be handled that way relative to the liability. His role in council is the risk assessment and risk.
Mrs. Pekala asked that we could make a motion relative to those procedures being met.
Mr. Berkey indicated that we must follow the recommendations of the insurance carrier and must disclose the event procedures. My role here is risk, and I don't want the Borough to be exposed and I certainly appreciate that we have had this discussion before relative to the individual that brings in the activity and obtaining that Certificate of Insurance and Mr. Penrod indicated that he was the individual and he did obtain the proper documentation as it was prescribed in the past and that is the only way we can do it.
- **Move and seconded (Furmanchik/Pekala) that Windber Borough Council sponsor the Windber Borough Events and provide the stated \$2000 donation to the event as we have in the past (Crusin', Windber Rumbles & Dog Gone Run) pending approval of the Solicitors office, Insurance Carrier and the Accounting firm with written procedures on accounting and operations regarding how these events. The Treasurer is to be responsible for following the procedures set in place by the aforementioned.**

Mr. Turcato remarked that he does not know how to indicate and define the level of the responsibility of the Borough. That cannot be a gray area, can be next to nothing or everything. He wants the responsibility and degree of involvement defined.

Mr. Rugg indicated that we can do things to reduce risk but you cannot put a black and white.

Mr. Berkey indicated that some of the risks when we have these types of event are not usually related to municipal risks.

Mr Jerley asked for a roll call vote.

Roll Call Vote Approve JF (Y) - SP (Y) - GL (Y) - BJ (Y) - JS (Y) - AT (Y) - MW (Y) (Motion Carried Unanimously). (Applause from the citizens).

Andy Kondas – Released his time for next meeting

Business Items

- 1) Adoption of 2011 budgets. General Fund - \$1,218,431.59. Sewer - \$246,080.00, Liquid Fuels - \$109,012.04
 - a) *Moved and Seconded (Pekala/Ledney) to adopt the General Fund 2011 Budget of \$1,218,431.59 Revenues & Expenses as amended with the \$2000 adjustment.*
Roll Call Vote Approve SP (Y) - GL (Y) - JF (N) - BJ (N) - JS (N) - AT (Y) - MW (Y)
(General Fund Budget is therein adopted)
 - b) *Moved and seconded (Furmanchik/Ledney) to adopt the Sewer Fund 2011 Budget of \$246,080.00 Revenues & Expenses.*
Roll Call Vote Approve JF(Y) - GL (Y) - BJ (Y) - SP (Y) - JS (Y) - AT (Y) - MW (Y)
(Sewer Fund Budget is therein adopted)
 - c) *Moved and seconded (Pekala/Ledney) to adopt the Liquid Fuels 2011 Budget of \$109,012.04*
Roll Call Vote Approve SP (Y) - GL (Y) - JF (Y) - BJ (Y) - JS (Y) - AT (Y) - MW (Y)
(Liquid Fuels Budget is therein adopted)

Adoption of 2011 budgets
- 2) Adoption of 2010-4 Tax Ordinance setting milage rate of 12.92 Confirmed that the rate is the same.
 - a) *Moved and seconded (Pekala/Furmanchik) to adopt the milage rate of 12.92.*
Roll Call Vote Approve SP (Y) - JF (Y) - BJ (Y) - GL (Y) - JS (Y) - AT (Y) - MW (Y)
(2010-4 Tax Ordinance is therein adopted)
- 3) Approval of Payroll
 - *Moved and Seconded (Pekala/Spinis) to approve payroll. (Motion Carried)*
- 4) Approval to Pay bills
 - *Moved and Seconded (Pekala/Ledney) to approve pay the bills with the exception of Parking tickets. (Motion Carried)*
 - Printing of parking tickets for next year. Should be referred to Paint Township.
- 5) Approval of Treasurer's Report
 - *Moved and Seconded (Ledney/Pekala) to approve the Treasurer's Report.*
Vote – Approve GL/SP/MW/AT Opposed JF/JS/BJ (Motion Carried)
- 6) Approval of Cash Balance Report
 - *Moved and Seconded (Pekala/Ledney) to approve the Cash Balance Report*
Vote – Approve GL/SP/MW/AT Opposed JF/JS/BJ (Motion Carried)
- 7) Approval to hire part time laborer for PW Department taken care of last meeting
 - Mr. Furmanchik asked if we can we ask for background checks made available to Borough Council? Can require the applicant release background checks to the Borough as a condition of employment and be signed over with confidentiality agreement. Mr. Berkey indicated that this can be a requirement for employment.
- 8) Approval of meeting dates for 2011. First (1st) and third (3rd) Tuesdays of the month. Committees of council on Tuesdays from 10 am to 8 pm.
 - *Moved and Seconded (Spinis/Jerley) to adopt 2011 meeting dates as the first (1st) and third (3rd) Tuesdays of the month commencing January 4, 2011. Committees of council on Tuesdays from 10 am to 8 pm. (Motion Carries)*
- 9) Ratify the purchase of a new plow of \$4534.00 from Lincoln Supply.
Moved and Seconded (Pekala/Ledney) to ratify the purchase a new plow (Motion carries)

Borough Reports

Standing Committees of Council

- **Properties committee** – Mr. Furmanchik asked when we can install the new heaters. Mr. Oliveros indicated that once the police are moved out they will be winterizing the 2nd floor and they will go from there.

Mayor Simon Ohler –Starting next month the report will change a bit. Comments on the general budget.

- 1) Council needs to look at the fact that they need a 4th full time person on the road crew.
- 2) Should look at reactivating the administrative assistant.
- 3) And the confidentiality agreement should be addressed.
- 4) As soon as the police vehicles will take possession of the. Mr. Ledney asked about the insurance.
- 5) Police payroll will end in the middle of the month.

Mayor's report was accepted as presented.

10) Borough Manager (Fred Oliveros) – Nothing to add

11) **Codes and Zoning Report** (Fred Oliveros) – Nothing to add from the codes. Notifying DEP on tanks. Will site this person with a hefty fine. Mr. Oliveros stated that he is current on the taxes.

12) **Solicitor's Report** (Jeffrey Berkey) –. Nothing to report.

Unfinished Business

Previously proposed ordinances

- 1) Ordinance setting forth Requirements for receiving funds and/or other types of donations from the Borough of Windber with documentation.
 - *Moved and Seconded (Ledney/Pekala) to approve advertisement of Ordinance # ___ setting forth Requirements for receiving funds and/or other types of donations and that payments made by Borough of Windber are not to exceed the amount of the funds collected (Motion Carried)*
- 2) Ordinance of the Borough of Windber designating snow emergency routes and parking restrictions (Graham/Somerset/Jefferson Avenues,.4th to Village, 4th to 23rd. 5th to Graham Avenue) to take effect upon declaration of a snow and ice emergency by the Mayor.
 - *Moved and Seconded (Pekala/Winas) to advertise Ordinance # ___ designating snow emergency routes and parking restrictions to take effect upon declaration of a snow and ice emergency. Motion carried*
- 3) Ordinance setting forth parking restrictions on Railroad Street (SR 1033) to facilitate street sweeping and snow plowing and removal.
 - *Moved and Seconded (Pekala/) to advertise Ordinance # ___ setting forth parking restrictions on Railroad Street (SR 1033) to facilitate street sweeping and snow plowing and removal Tuesdays and Fridays.(Motion Carried) Motion dies for lack of second*

Mr. Turcato and Mr. Ledney agreed that the alternative parking plan needs to be decided before this ordinance can be advertised.
- 4) Solicitor to rework wording on accounting procedures.
- 5) Minutes and Treasurer's Reports have been requested from Municipal Authority have yet to be received.. Mr. Oliveros to contact with written request.
- 6) Mr. Oliveros indicated that they will be asking for money to repair the heating. The Borough indicated that before any release of monies is made for repairs the Municipal Authority must provide Minutes and Treasure's Reports for the year. Mr. Spinos asked if something else happens to the building, who is responsible? Mr. Turcato indicated that these issues have not been addressed. Mr. Spinos indicated that the Council needs to address issues of property management.
Mr. Furmanchik asked whether the Borough can force them to use the line of credit. He also asked why bids have requested for repairs.
Mr. Berkey indicated that either way is acceptable.

Recognition of Visitors – no further

New Business

Holiday Schedule for Borough Staff: December 23 – ½ Holiday – Christmas Eve; December 24 – Holiday – December 25 - Christmas Day Observed; December 31 – Holiday – January 1, 2011 New Year's Day

- *Motion was made and seconded to accept the holiday schedule. (Motion Carried)*

Comment by Mr. Furmanchik that we require a signed release of information on mandatory background check for all new hires

- a. *Moved and Seconded (Furmanchik/Pekala) to require the candidate to release local and state background check reports as a requirement condition for hiring. (Motion Carried)*

Next Meeting Date – Regular Meeting scheduled for December 21, 2010 Cancelled. Recommended cancellation of this meeting. Agreed Next following meeting would be January 4, 2011 - 7:00 pm

Adjourn - Turcato, adjourn 9:31pm