

**Borough of Windber
Borough Council Regular Meeting
June 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 (MO) Absent, Borough Manager Fred Oliveros (FO), Police Chief - Rick Skiles (RS), Solicitor – Jeffrey L Berkey (JB), Recording Secretary - Cynthia McCracken
Public comment on agenda No comment
Reading of the Minutes – <ul style="list-style-type: none"> • Moved and seconded (Ledney/Pekala) to approve the minutes of the previous meetings. Windber Borough Council Regular meeting of May 25, 2010 and Joint Special Meeting of June 2, 2010 with Paint Township as presented. (Motion Carried)
Correspondence <ol style="list-style-type: none"> 1) Fax – Penn Dot – Road Closing/Usage Request form 2) Somerset County Planning Commission – Tire Collection Date of Saturday June 19, 2010 from 9:00 am to 12:00 N at Conemaugh Twp Bldg @ \$2.00/tire. 3) UPJ - Community Education and Outreach Learn enrichment camp for grades 3-8. Asking for donation for Graduation prize giveaway to UPJ; Community Education & Outreach Office 114 Blackington Hall; Johnstown, PA 15904 or call 814-269-2099. 4) PSA Update including Municipal Legal update seminar Thursday August 19, 2010 in Harrisburg. <ul style="list-style-type: none"> • No comments on Correspondence
Business Items <ol style="list-style-type: none"> 1) Approval of Payroll <ul style="list-style-type: none"> • Moved and Seconded (Furmanchik/Winas) to approve Payroll (Motion Carried) 2) Approval to Pay bills <ul style="list-style-type: none"> • Moved and Seconded (Pekala/Ledney) to approve (Motion Carried) 3) Approval of Treasurer’s Report <ul style="list-style-type: none"> • Moved and Seconded (Pekala/Winas) to approve <ol style="list-style-type: none"> ○ Discussion: Mr. Spinos questioned the event fund monthly charges of \$10.68/mo, the Recreation Fund charge of \$85. He is questioning if these fees are being charged and missed on the smaller accounts; is it possible that we are being charged on other larger accounts? ○ The bank has indicated that they will reimburse for fee since last year, providing statements are brought down to the bank for reconciliation. ○ Various other charges were questioned. • Solicitor Berkey requested an investigation regarding the fees and why these amounts are recurring. Action Item for Mr. Oliveros to contact corporate banking to find out what the problem is and how to keep this from reoccurring in the future <ul style="list-style-type: none"> • Vote – Approve GL – SP – MW – AT - Opposed JF – BJ – JS (Motion Carried) 4) Approval of Cash Balance Report <ul style="list-style-type: none"> • Moved and Seconded (Pekala/Winas) to approve the Cash Balance Report • Vote – Approve GL – SP – MW – AT - Opposed JF – BJ – JS (Motion Carried) 5) Motion was made and seconded (Furmanchik/Spinos) to approve advertising the Joint Municipal Ordinance between Windber Borough and Paint Twp for Police services <ul style="list-style-type: none"> • Discussion: <p>Mr. Berkey has reviewed drafts and made presentation of the agreement to be reviewed. Chief Skiles has been provided of the mark up. Windber Borough is ready to advertise the ordinance for consideration at a Special meeting June 29 2010 at 7:00 pm for the adoption of the Joint Municipal Agreement that would direct Paint Township to provide police service to Windber Borough.</p> • Vote – JF – BJ – GL – SP – JS – MW – AT – All in Favor (Motion Carried) • Action Item for Mr. Berkey - Mr. Berkey has requested a summary of the Police ordinance. • Chief Skiles asked a question regarding the Police ordinance indicating that the ordinance only lists the full time not the part time employees and officers. We need to be put in writing to clarify the part time

employee agreement. Mr. Keller representing the police union reiterated the need

- Mr. Berkey stated that it is intended to protect that the agreements made with the union and make certain that the part time people are protected.

- Chief Skiles questioned that in the event that the new police building project is not completed is the Borough going to charge for the use of the building? Mrs. Pekala expressed concern regarding payment of utilities. Mr. Spinos asked about the option to move into trailers. Mr. Furmanchik stated that local government should be gracious enough to allow the police department to stay in the building without charge. Mr. Turcato indicated the Borough will accommodate the move.

- 6) Approval to contract Cynthia McCracken for Recording Secretary Services
Moved and Seconded (Furmanchik/Jerley) to approve (Motion Carried)
Mr. Turcato welcomed Cynthia McCracken.

Borough Reports

- **Mayor's Report** – Mr. Turcato asked if there were any questions for the Mayor's report. He asked that the report be accepted.
- **Borough Manager Fred Oliveros** – Spring cleanup made a profit of \$590. I will look to reduce price to increase participation. Question by Mr. Ledney how many permits were sold. Mr. Oliveros indicated that a total of 37 permits sold with a concern that advertizing needed to be better.
- **PennDot on schedule to pave Graham Avenue** next summer 2011 from Route 56 to 9th and Village St to 21st St. depending on PennDot budget. The Council indicated that this was encouraging news.
- **Codes and Zoning Report** – (Borough Manager Fred Oliveros) -- Top Hat Cleaners is back in business. Mr. Oliveros complimented them on a good job done with no complications due to fire.
- **Flood Plain Mgmt Ordinance** - Changes recommended. New model ordinance should have a report by next regular meeting. Mr. Berkey indicated that the model ordinance needs to be specific to the Borough. Need to review the maps to make sure they are consistent to those areas we believe are at risk. The problems come if there are any changes to the designations. If there are any changes then there will have to contract the state.
- Mrs. Pekala asked about **property maintenance**. Mr. Furmanchik asked whether Tyler has come back to work yet? Mr. Oliveros indicated that as of this date he has not. Are property maintenance issues in the Borough and complaints being given proper attention. Mr. Oliveros addressed the issue stating he will make certain that the Borough properties are up to standard as it is difficult to enforce an ordinance if we do not maintain our own buildings.
- Mr. Berkey - Only thing he had is the **Police ordinance** regarding Parking ordinances Odd/Even days for Railroad Street – to facilitate sweeping and in Snow Emergency. Mr. Spinos pointed out the need to have the option of extending to the entire Borough. Mr. Turcato indicated that there are certain neighborhoods that do not have alternate parking solution. There is a need to continue to explore the parking solution. Mayor Ohler can declare odd/even emergency. This may be enacted for up to a seven day period. Mr. Furmanchik asked to please have Mr. Oliveros address snow removal of the downtown business area first. The three streets that link the entire length of the Borough are Jefferson, Graham & Somerset Ave

Standing Committees of Council

- Mr. Furmanchik addressed **moving the Borough offices** into the first floor of the Community Building. Mr. Oliveros should meet with the occupants, and get some hard numbers, and so that we can move expeditiously when the time comes. Mr. Oliveros brought up the Windber Municipal Authority. Mr. Ledney reminded that Pro Med building is also a consideration.

Action Item Mr. Turcato asked that the committee meet with the Municipal Authority President to negotiate with the Authority to facilitate moving into the Community Building.

- Mr. Oliveros looked at the Community Building before, for relocation of the Borough offices. Findings were that we may have to evict a few people. Need to think about those people. Pro Med is a nice building that is also under consideration. Mr. Furmanchik pointed out that the Borough is paying the utilities and that we own the Community Building.
- Mr. Turcato pointed out the need to meet with the Municipal Authority.
- Mr. Furmanchik suggested that the Borough Manager, who is the CEO of the Borough, contact the Municipal Authority President. The Borough Manager should be able to handle the negotiations. He reiterated that this is an easy negotiation.
- Mr. Oliveros stated that Sheetz's representative has been contacted regarding their old building and what they are going to do with the property. Mr. Spinos had a few questions - Is Sheetz going to sell their old building? Lengthy discussion regarding the disposition of the old Sheetz property between Mr. Spinos, Mr. Turcato, Mr. Furmanchik, Mr. Ledney, and Mr. Winas and the Borough's interest.

- Mr. Spinos, “Do we still own the community building and the park?” Mr. Turcato indicated that this is spelled out in the agreement? Mr. Spinos asked, “Where is the agreement?”
- Mr. Furmanchik asked why we would want to purchase another building?
- Mr. Spinos – Community building has maintenance issues that need to be addressed and is concerned that we will let the community building go like the Borough building has been allowed to go.

Unfinished Business

- **Bus shelter on Graham Ave** - Mr. Winas requested that the bus shelter be put back. The bus stop is located across from Mimo’s Restaurant (on the same side as Miner’s Park Memorial.) The transit authority will erect, clean and maintain the shelter. Mr. Spinos asked if this would obstruct the view of the Memorial?
Mr. Furmanchik asked if there is another place where they could erect the bus stop to keep Miner’s Park unobstructed? Suggestions ranged from in front of the Community Building or elsewhere. Need approval for the bus stop.
Mr. Turcato tabled the vote to research alternate locations for the shelter.

New Business

Closing of Graham Avenue (SR 160) for Miner’s Day and Thunder in the Valley

PennDot Form to be filled out and faxed for Miner’s Day and for Thunder in the Valley closure of Graham Avenue (Route 160.)

- Moved and seconded (Spinos/Furmanchik) to fax to PennDot. (Motion Carried)

Patty’s Italian Restaurant Letter regarding the hardships of the closure of 15th Ave and complaints of people parking in her parking spaces that do not frequent her establishment, broken beer bottles and vomit in the streets etc.

Question is: what does she want us to do?

Discussion on the following topics ensued:

- The closure of 15th Street for events - Miner’s Day, Thunder in the Valley, Cruise-In’s.
 - Consuming alcohol on the streets in designated areas and the liability involved.
 - Enforcement of the existing ordinance being applied and the ramifications to tourism in the Borough.
- Mr. Spinos indicated that the event organizers always try to accommodate her business and have not closed 15th St, as Chief Skiles has advised. 15th Street should be closed to protect the pedestrian traffic. Mr. Furmanchik reiterated that it is almost impossible to have an event without shutting down 15th.

Mr. Turcato and Mr. Winas addressed public drunkenness complaints. Mr. Spinos, speaking for the organizers of recent events, stated that he has addressed the problem and is working with the Police to patrol the area affected. Mr. Furmanchik indicated that cleanliness is always our main concern with any event. No matter what the organizers do, it is impossible to control behaviors of some individuals. Mr. Jerley also indicated that there is no way to prove who is doing this behavior, or when it is happening (during or after the events). Mr. Spinos also indicated that the organizers patrol and clean up directly after the events. He also indicated that we have no way of knowing what is going on after the clean-up efforts.

Mr. Turcato - “Where is alcohol is allowed?”

Mr. Furmanchik stated that the people in attendance to recent events are not that type of people. Let’s get back to Patty’s Italian Restaurant problem.

Chief Skiles – A problem is that there is a lot of pedestrian traffic. Police concern is pedestrian safety walking across the street is paramount. Scott Penrod answered Mr. Turcato’s question regarding the area and liability - Whoever gets the license defines the area. You have a serving area. This is where you can sell beer. The designated drinking area is up to the group getting the license. Mr. Cicon (Windber Fire Dept) clarifies - drinking is allowed as long as someone is within the designated area.

Scott Penrod stated that these events are good for the Windber Hotel. I am policing my property.

Mr. Turcato asked Solicitor Berkey “If an event is sponsored by the Borough, are they covered by the Borough’s insurance? Scott Penrod indicated that the liability falls on the licensee (permit holder).

Mr. Berkey stated that the Borough may not be responsible.

Mr. Ledney asked “Is the Borough responsible?”

Chief Skiles – If you follow the ordinance on the books, there is no drinking in the Recreation Park.

The reason, I bring that up is, if we enforce the ordinance in the Borough, you have to do it everywhere. This would curtail any alcohol anywhere in the open in the Borough.

Mr. Turcato suggested maybe we need to amend the ordinance.

Mr. Furmanchik – No one has ever held a closer reign on alcohol than Scott Penrod and Aaron Cicon. The whole purpose of holding these events is to draw people into this community.

Mr. Cicon – indicated that the Fire Company lost Miner’s Day festivities because of confinement issues. Scott Penrod – we are trying to highlight police presence at the major events with demonstrations and presence.

Mr. Turcato – what do we do with 15th St. in the light of the events coming up. It is not the time for this regarding this year’s events and not be fair to all concerned.

Mr. Furmanchik - you have to do what is right for all businesses in the area. Parking is at a premium for all businesses when the events are going on.

Mr. Ledney - “nobody is saying not to have the event.”

Mr. Spinos - “What is her suggestion?”

Chief Skiles suggested closing Graham Ave from 15th to the clock tower and from 15th to first entrance to BiLo.

Recognition of Visitors

- Jane Zack, resident – complained that her neighbor is raising chickens. Neighbor said that he asked for permission. Mr. Turcato indicated that no permission had been given by Council. Mr. Oliveros stated that there is no ordinance against raising chickens. Mrs. Pekala asked whether raising chickens could be considered a nuisance. Mrs. Zack stated that the chickens are confined to an area and that permanent housing is under construction.

Mr. Turcato “We will address the problem expeditiously.”

- Mrs. Pekala advised Mrs. Zack to get a petition together indicating the nuisance and give to Mr. Winas.

Executive session – 8:37 pm for contractual & personnel matters until 9:10.

Next Meeting Date – Special Meeting June 29, 2010 -7:00 pm To adopt Police Service Agreement.

Regular Meeting July 20, 2010 - 7:00 pm

Adjourn - Mr. Turcato, adjourn 9:10