

A meeting of Portage Borough Council was held on Monday, November 4, 2019, at 6:30 p.m., in Council Chambers.

Those in attendance were:

Sharon McCarthy, President	John Morgan
Dave Hayes	George Wozniak
Mayor James Kissell	Jerome Yetsko
Todd Learn	

Also present were: Robert Koban, Borough Manager; Michael Emerick, Solicitor; Gary Wisor, Engineer; Scott Maul, Public Works; John Branick, Public Safety; Ron Portash, Dispatch; Randy Griffith, Tribune Democrat; and Sharon Squillario, Recording Secretary.

Absent/Excused: Chief Miller, Public Safety; Michelle Claar, Borough Secretary.

I. CALL TO ORDER

Ms. McCarthy called the meeting to order at 6:30 p.m., which was followed by a roll call with all members being present.

II. RECOGNITION OF GUESTS

Ms. McCarthy recognized the following guests: Ron Portash, Portage Dispatch; Randy Griffith Tribune Democrat.

III. REFLECTION/PLEDGE OF ALLEGIANCE

Mayor Kissell offered a reflection bringing recognition to the upcoming Veterans Day. This was followed by the Pledge of Allegiance.

IV. BID OPENING FOR CHRISTMAS DECORATIONS

Mr. Koban apprised Council that no bids were received and that this matter would be discussed under his report.

V. REPORTS

A. Borough Manager's Report

Mr. Koban commented that a copy of his report was provided to Council prior to the meeting.

Mr. Koban noted that the Borough was the successful bidder for the hotel owned by the Gaunts; and he is recommending not to do anything until this is officially recorded in the courthouse. Mr. Koban pointed out that discussion will need to take place on what we will do with the business property now that the structure is down, and what we will do with the Gaunt property. Ms. McCarthy stated that she has heard that the Gaunts have been entering the property and stripping it; i.e., one time before the Borough took ownership and most recently today she was told they are taking items out of the building as well. Attorney Emerick questioned if there is anything inside the property that we may want, to which Mr. Koban replied that he does not know if there is anything inside the property that they could scrap, such as copper, radiators, etc. Ms. McCarthy indicated that the door was shut on the building this evening; however, two different individuals have told her that they took the electrical box out and the back wall has been stripped. Mr. Koban noted that perhaps we should request that a patrol be placed on it. Attorney Emerick commented

that the Borough can send the Gaunts a letter stating that the Borough is now the owner of the property and nothing should be removed from the property. Mr. Hayes noted that, now that we are the owners, perhaps a camera could be placed on the property.

Mr. Koban pointed out that Council will need to decide what the next steps will be relative to the property; i.e., tear it down or whatever Council decides. Mr. Kissell questioned if we can place it on the County list, to which Mr. Koban replied that we have already obtained two prices on the cost to tear it down; however, we would need to obtain two official bids. Both prices were over \$21,000, so the project would have to be bid out. Mr. Koban commented that this is something we would have to budget for as well as we would not want to take the cost out of the Capital Improvements Fund this year.

As it relates to the storage trailer as discussed in Mr. Koban's report, Mr. Kissell questioned if we have checked with Pepsi to see if they had a trailer available. Mr. Koban explained that he included in his report a baseline price for purchase of a trailer, which is similar to a steel shipping container. It would be placed in the Legion lot. Mr. Koban explained that the new Christmas tree is huge and would need stored along with the other Christmas decorations. All of these things are being stored in one of the Borough garage buildings; and the building they are being stored in will probably be torn down at some point. Mr. Koban noted that the proposed trailer is a 40 foot trailer; and the tree itself will probably take up one-half of the space. He emphasized the need to get the Christmas decorations out of the Borough garage area and to a central location for storage.

Mr. Koban noted that he obtained a basic price from Craig's List; however, there are other places that could provide them a perhaps a lower price. Mr. Kissell suggested that Mr. Koban check additional prices and report back to Council. Mr. Koban indicated that the price for the trailer will not be more than what was included in his report. Mr. Kissell questioned if the shipping costs were included in Mr. Koban's basic price, to which Mr. Koban replied affirmatively. Mr. Morgan questioned if all of the decorations will fit into the trailer, to which Mr. Koban replied affirmatively. Mr. Morgan further questioned if perhaps we should look at some type of pole barn for both the decorations and some of the equipment, to which Mr. Koban explained that he did not want to get into a rental cost of any kind. Mr. Koban noted that his thought was that the purchase of the trailer would alleviate the concern of building another structure for storage.

B. Solicitor's Report

Attorney Emerick reported that he provided a copy of his report prior to the meeting; however, what was provided was his October report and not the November report.

As it relates to the American Roofing matter, Attorney Emerick noted that depositions have not been scheduled to date. Once he receives notice, he will inform Council and depositions will be scheduled.

Attorney Emerick commented that we did receive the Motion for Judgment on the pleadings granted relative to 720 Orchard Street. The court will now schedule a hearing to determine civil penalties; and Mr. Koban and Mr. Wisor will be present. Any other Council member may attend the hearing as well.

Concerning the Kowalczyk alley matter, Attorney Emerick has prepared and filed a preliminary objection. The court will set up a briefing schedule; and a hearing will be scheduled by the judge in the near future.

Attorney Emerick commented that he did provide a Letter of Interest dated November 1, 2019.

C. Engineer's Report

Mr. Wisor noted that a copy of his report was provided to Council prior to the meeting; and he had nothing further to report.

Discussion ensued relative to the movement of the water lines on Main Street. Mr. Maul commented that the Water Authority is applying for a grant to help defer the cost to replace the water lines. Mr. Koban noted that included on the agenda for the meeting was a request received from the Water Authority to provide a letter of support for relocation of the water lines. Ms. McCarthy questioned where this project is located, to which Mr. Koban replied that between this project, the sidewalk project and some of the storm sewer work, it will be from the traffic light to the County line. He noted that there are several components to all of the projects. The replacement of the water lines will start at the light at Dulancey Drive and will move up Main Street.

D. Police Chief's Report

In the absence of Chief Miller, Officer Branick noted that he had nothing to report as Chief Miller's report was provided prior to the meeting. Discussion took place relative to a police officer that has now returned to full-time duty. Ms. McCarthy questioned if we are still advertising for part-time officers, to which Mr. Koban replied affirmatively.

E. Director of Public Works Report

Mr. Maul noted that he provided his report to Council prior to the meeting and had nothing further to report. Mr. Maul updated Council on collection of leaves.

VI. CORRESPONDENCE

Mrs. Squillario noted that there was no correspondence to be presented.

VII. CITIZEN'S INPUT ON AGENDA ITEMS

No residents present at the meeting.

VIII. MINUTES OF PREVIOUS MEETINGS

The minutes from the regular meeting of October 7th and the committee meeting of October 21st, 2019, were not provided to Council for approval.

IX. BILLS AND TREASURER'S REPORT

Ms. McCarthy noted that copies of the bills and Treasurer's report were distributed for review by Council members prior to the meeting. She pointed out that the interest and service charge on the Fund Control Sheet were interchanged and will need to be corrected (interest should read \$465.31 and the service charge should read \$30.15).

FOLLOWING A ROLL CALL VOTE, ON MOTION OF MR. HAYES, SECONDED BY MR. WOZNIAK, COUNCIL UNANIMOUSLY ACCEPTED THE TREASURER'S REPORT AND AGREED THAT THE BILLS AND ADDITIONAL BILLS BE PAID AS PRESENTED IN WRITTEN FORM, IN THE AMOUNT OF \$12,575.57. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MAYOR KISSELL, MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN AND MR. LEARN.

X. REPORTS RECEIVED

Ms. McCarthy noted that minutes of the September meetings of the Portage Water Authority and Portage Sewer Authority were received for review by Council prior to the meeting, as well as the LMIA August and September minutes.

ON MOTION OF MR. LEARN, SECONDED BY MR. MORGAN, COUNCIL UNANIMOUSLY ACCEPTED THE REPORTS RECEIVED, AS DESCRIBED ABOVE. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MAYOR KISSELL, MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN AND MR. LEARN.

XI. UNFINISHED BUSINESS

Mr. Koban provided an update as follows:

A. General:

- Item A: Update on Recreation Consultant/Peer Group Committee – no update.
- Item B: Update on Borough Building Roof - covered under Solicitor's Report.
- Item C: Update on Trout Run Rehabilitation – Attorney Emerick commented that Ms. Claar had emailed a copy of the agreement to him for review; and, if approved, the agreement will need to be returned to the State. He outlined the following for consideration by Council as a result of his review of the agreement:
 - ✓ Indemnity and hold harmless agreements included in the agreement.
 - ✓ Borough would need to establish a written non-discriminatory sexual harassment policy and post same at the office, which must be part of the contracts.
 - ✓ Contracts must include ADA requirements, anti-pollution stipulations, illegal alien labor requirements, and must be part of all contracts signed by the subcontractors.
 - ✓ Normally you are under a \$20,100 bid requirement for public bidding, but in these contracts it is anything in excess of \$10,000 that must be bid.
 - ✓ Record and reporting requirements.
 - ✓ Erect sign at the project site acknowledging Commonwealth's financial assistance.
 - ✓ Grant can be suspended if other Borough projects are considered incomplete. If the Borough has another grant where paperwork is not in line or is not completed, the Commonwealth can suspend this grant based on the incompleteness of the previous grant.
 - ✓ Community has sole discrimination to terminate the contract.

ON MOTION OF MAYOR KISSELL, SECONDED BY MR. WOZNIAK, COUNCIL UNANIMOUSLY APPROVED THE FLOOD MITIGATION PROGRAM GRANT WITH THE COMMONWEALTH OF PENNSYLVANIA IN THE AMOUNT OF \$499,800 AND UNANIMOUSLY AUTHORIZED MR. KOBAN AND MS. CLAAR TO ELECTRONICALLY SIGN THE AGREEMENT ON BEHALF OF THE BOROUGH OF PORTAGE. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MAYOR KISSELL, MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN AND MR. LEARN.

- Item D – Update on PennDot Project on SR 194 – Intersection of Caldwell and Main Street Paving and Curbing – no update.
- Item E – Update on Phase II for Main Street Multimodal Grant – no update.
- Item F – Update on Phase 3A for Main Street Improvements/Sidewalks Right Side Caldwell and Mountain – no update.
- Item G – Update on Phase 3B for Main Street Improvements/Sidewalks for Left Side of Caldwell and Mountain – no update.
- Item H – Update on Restroom Project at Crichton McCormick Park – no update. Mr. Yetsko questioned if the cameras have been moved in that area as there was tree blocking the camera view. Mr. Morgan noted that you are unable to view anyone coming in or out of the bathroom, but you can see that the garbage can was pushed over either by someone pushing it over or the wind blowing it over. You cannot see anyone due to the location of the camera, so you do not know if someone was in the area. Mr. Koban commented to Mrs. Squillario that there was a question of the Borough placing a camera in this area but there is a camera already in this area. Mrs. Squillario replied that PAJRC is looking to relocate this camera as well as a camera near the tennis court. Mrs. Squillario can discuss this matter with the PAJRC Board. Mr. Kissell questioned, since the restroom project has been completed, can this matter be removed from the agenda, to which Mr. Koban replied that this matter is still an open topic until we get resolution on the drainage on the back of the area. Mr. Wozniak questioned what the contractor has said in this regard, to which Mr. Wisor replied that the area has been regraded and top soil and mulch placed. He noted that this should be part of the retainage and make it a requirement of the performance bond. Mr. Koban noted that he would visit the area as well.
- Item I – Update on Sonman Avenue Bridge 12 Year Plan – no update.
- Item J – Update on Small Community Grant Funding through DCNR for Park Improvements – no update.
- Item K – Update on Mainline Trail Feasibility Study Phase I – Mr. Koban noted that he has heard that they were contacting property owners but has heard nothing further.
- Item L – Update on Welcome to Portage Signs – no update.

B. Buildings:

- Item A – Mark Greenwalt/Rebecca Windsor, 922 Sonman Avenue (penalty dated 4/8/19): no update.
- Item B – update on 616 Dulancey Drive property (Clair Adams): judicial sale in 2020.
- Item C – Update on junk vehicles: no update.
- Item D – Update on 828 North Railroad (Guants): Borough successful at bid (\$908.74) - discussed earlier in the meeting.
- Item E – Update on Roy and Patricia Plummer at 720 Orchard Street (hearing filed 4/11/19) - no update.

- Item F – Update on Jason and Sarah Barclay at 406 Caldwell Avenue (penalty hearing 7/22/19) – no update.
- Item G – Update on Drayton Lewis for 925 Main Street (penalty hearing 7/22/19) - no update.
- Item H – Update on 532 Dulancey Drive (Guants) - no update.
- Item I – Update on 1007 Conemaugh Avenue - demolition has been completed.
- Item J – Update on 1012 Jefferson Avenue (D&S Sub and Pizza) and 1010 Jefferson Avenue (Seese) - no update.

Mr. Koban stated that the properties that we have had penalty hearings on are being kept on the agenda so that we do not lose sight of these. On the Greenwalt, Barclay and Lewis properties, we have \$100 per day in penalties. At some point, we would need to go back to the judge relative to the funds. Attorney Emerick commented that we would have to proceed through a sheriff's sale and go through the collection process. He pointed out that the Borough can file the paperwork now to go to sheriff's sale if it so desires.

Discussion ensued relative to the Nicholson property and the placement of tires in the hole on the property.

Mayor Kissell questioned if Items D and I can now be removed from the agenda, to which Mr. Koban replied that we have not decided what to do with the property at 828 North Railroad Street; and we also need to decide what to do with the property at 1007 Conemaugh Avenue (not obligated to do anything with this property other than maintain it since demolition has been completed). Mr. Koban indicated that we could put the property on Conemaugh out to bid in the spring. Mayor Kissell questioned what the total cost is that we have involved in this property to date, to which Mr. Koban replied that he would get this information for Mayor Kissell. Mayor Kissell commented that perhaps a community garden could be considered. Mr. Koban noted that his recommendation would be just to leave the property as is for the time being until a potential interested party approached the Borough for purchase of the property.

XII. MOTIONS AND NEW BUSINESS

1. Purchase of 40' Storage Trailer

ON MOTION OF MR. WOZNIAK, SECONDED BY MR. LEARN, COUNCIL UNANIMOUSLY APPROVED THE PURCHASE OF A 40' STORAGE TRAILER AS OUTLINED IN THE BOROUGH MANAGER'S REPORT. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MAYOR KISSELL, MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN AND MR. LEARN.

2. Approval of Audit Engagement Letter

ON MOTION OF MR. MORGAN, SECONDED BY MAYOR KISSELL, COUNCIL UNANIMOUSLY APPROVED THE THREE-YEAR FINANCIAL AUDIT ENGAGEMENT WITH KOTZAN CPA & ASSOCIATES FOR YEARS ENDING 2020 (\$5,500), 2021 (\$5,850) AND 2022 (\$5,850). COUNCIL MEMBERS VOTING

AFFIRMATIVELY INCLUDED MS. McCARTHY, MAYOR KISSELL, MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN AND MR. LEARN.

3. Review of Letters of Interest/Reappointment for Various Boards/Organizations

Discussion ensued relative to the applicants received for appointment to various boards/organizations. Following discussion, it was agreed that an interview of Tammy Lidwell, who applied for a position on the Planning Commission, be conducted at the next Committee of the Whole meeting at 6:30 p.m.

4. Accept and Approve Bids Submitted For Purchase of 22 Used Christmas Snowflakes

As noted earlier in the meeting, no bids were received. It was agreed to re-advertise for bids, as well as include information on the Borough website and Portage Dispatch.

ON MOTION OF MR. WOZNIAK, SECONDED BY MR. LEARN, COUNCIL UNANIMOUSLY AGREED TO READVERTISE FOR BIDS FOR THE PURCHASE OF 22 CHRISTMAS SNOWFLAKES. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MAYOR KISSELL, MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN AND MR. LEARN.

5. Approval of Flood Mitigation Program Grant Agreement

Discussed/approved earlier in the meeting.

6. Approval to Rent a Lift for Hanging of Christmas Decorations

Discussion ensued relative to borrowing a lift versus rental, to which Mr. Koban pointed out that he does have a concern utilizing any equipment without obtaining a rental agreement. Mr. Learn questioned if the cost of \$970 would be for each of the day is it used, to which Mr. Maul replied that it would be for two days. Mr. Koban pointed out that the purchase of a lift may be something we would want to look at down the road. The total cost, from his estimation, would be \$5,000 - \$7,500; and this would be something that would be available for usage for the next 10 years. We may even want to look at a bucket truck as an alternative as well.

ON MOTION OF MR. MORGAN, SECONDED BY MR. YETSKO, COUNCIL UNANIMOUSLY APPROVED THE RENTAL OF A LIFT FOR HANGING OF CHRISTMAS DECORATIONS AT A TOTAL COST OF \$1,940. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MAYOR KISSELL, MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN AND MR. LEARN.

7. Request from the Municipal Authority of Portage Borough to Provide Letters of Support for Grants

ON MOTION OF MR. MORGAN, SECONDED BY MR. YETSKO, COUNCIL UNANIMOUSLY AGREED TO APPROVE LETTERS OF SUPPORT TO THE MUNICIPAL AUTHORITY OF PORTAGE FOR THREE GRANT FUNDING PROJECTS THROUGH PADCED FOR THE MARTINDALE RESERVOIR IMPROVEMENT PROJECT, MAIN STREET WATERLINE PROJECT, AND THE BENS CREEK IMPOUNDMENT IMPROVEMENT PROJECT. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MAYOR KISSELL, MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN AND MR. LEARN.

XIII. GOOD OF THE BOROUGH

- Winterfest

Ms. McCarthy apprised Council that Winterfest will be held on Friday, December 13, 2019 through Sunday, December 15, 2019.

- Veteran's Day/Borough Offices

Ms. McCarthy announced that the Borough offices will be closed on Monday, November 11, 2019 in observance of Veteran's Day.

- Library Board

Ms. McCarthy apprised Council that she received a telephone call this evening prior to the meeting notifying her that five members of the Library Board have resigned. This now leaves only three members on the Library Board.

- Bernazzoli Alleyway and Encroachment Matter

Attorney Emerick reminded Council relative to Mr. Bernazzoli being present at a past Council meeting relative to the alleyway and encroachment of the swimming pool. Attorney Emerick received an email from Mr. Bernazzoli's attorney, Attorney McGlynn, which stated that they did have a survey performed, which showed that the swimming pool is about halfway in the alley. The email stated that the buyer wishes to purchase the property and keep the pool in place. Attorney McGlynn asked that this matter be reviewed with Council to determine if the encroaching area could be deeded, vacated or some other solution. The email stated that the pool has been in place for many years without issue, but it presents a title insurance issue for the buyer.

Mr. Learn expressed his concern relative to placing anything in writing because this would definitely set a precedence. Ms. McCarthy commented that the pool on one side is four feet on Borough property and 15 feet on Borough property on the other side. Attorney Emerick indicated that the considerations could be: there could be a caveat included in the title insurance that it does not cover the pool; they could leave the pool where it is, and at a time when the Borough would want to open the alley, the pool would have to be removed; they could find another title insurance company; or the Borough could vacate the alley. Following discussion, Council advised Attorney Emerick to notify Attorney McGlynn that there is nothing that the Borough can do relative to this matter.

- Status of the Generator

Mayor Kissell questioned the status of the generator, to which Mr. Koban replied that it is still not up and running. The company came in and shut the power off, placed the generator, and completed the inspections. They did the connections and it is still not up and running. Mr. Wozniak questioned if there was a date by which the generator was to be up and running, to which Mr. Koban replied negatively. Attorney Emerick pointed out that the generator was purchased by the Fire Company with a donation from the Borough. Mr. Koban shared with Council the efforts he made in contacting Lowe's relative to this matter, where he found that the contractor for the project is out of Pittsburgh. Mr. Wozniak questioned if anyone reached out to the contractor in Pittsburgh, to which Mr. Koban replied that Matt did. Mr. Koban stated that there was a hold up with Penelec coming in to do the inspection, but the inspection has been completed.

Following discussion, it was agreed that Mr. Koban would contact the Fire Company to request that they have their attorney send a letter to the contractor to determine a date of completion for the project prior to the winter weather setting in.

- Use of ATVs for Plowing

Mr. Hayes informed Council that he would like to see Council come up with some type of agreement relative to the use of ATVs to assist in plowing snow. Mr. Koban stated that there is nothing in writing at the current time, so it would be up to Council to enact something. Mayor Kissell commented that, during a snow emergency, the use of ATVs is allowed for plowing and rescue.

- Unveiling of Memorial

Mayor Kissell apprised Council that on Veterans Day, at 11:00 a.m., in front of the American Legion, there will be an unveiling of a memorial in memory of Walter Mintus.

XIV. ADJOURNMENT/EXECUTIVE SESSION

ON MOTION OF MR. YETSKO, SECONDED BY MR. LEARN, COUNCIL UNANIMOUSLY AGREED TO ADJOURN THE REGULAR SESSION AT 7:44 P.M. AND ENTER INTO EXECUTIVE SESSION TO DISCUSS PERSONNEL MATTERS. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MS. McCARTHY, MAYOR KISSELL, MR. HAYES, MR. WOZNIAK, MR. YETSKO, MR. MORGAN AND MR. LEARN.

Respectfully submitted,

Sharon Squillario
Recording Secretary