

A meeting of Portage Borough Council was held on Monday, May 4th, 2020 at 6:30 p.m.

Those in attendance were:

George Wozniak	Todd Learn	James Kissell (teleconference)	
David Hayes	Ron Cadwallader	Brent Kinley	Bruna Kissell

Also present were: Robert Koban, Borough Manager; Michael Emerick, Solicitor; Gary Wisor, Engineer; Scott Maul, Public Works; Chief Ed Miller, Public Safety; and Michelle Claar, Borough Secretary.

Mr. Wozniak welcomed everyone to the first teleconferencing meeting, held by Borough Council due to the Covid-19 pandemic with social distancing.

### **REFLECTION/PLEDGE OF ALLEGIANCE**

Mr. Wozniak offered a moment of silence and then proceeded with the Pledge of Allegiance.

### **RECOGNITION OF GUESTS**

Mr. Wozniak recognized the participants in the teleconference: Ron Portash; Portage Dispatch, Randy Griffith; Tribune Democrat, and Jean Kinley. There were two other numbers dialed into the conferencing that were unidentified.

ON MOTION OF MR. LEARN, SECONDED BY MR. KINLEY, COUNCIL UNANIMOUSLY APPROVED TO GO OUT OF ORDER ON THE AGENDA TO RECOGNIZE ANY PUBLIC INPUT. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0. THERE WERE NO ISSUES OR CONCERNS.

### **REPORTS**

#### **A. Borough Manager's Report**

Mr. Koban provided a copy of his report to Council prior to the meeting. Mr. Koban advised that most of the issues and updates are listed on the agenda.

#### **B. Solicitor's Report**

Attorney Emerick reported that he provided a copy of his report prior to the meeting. Mr. Emerick provided updates on the following:

- Mr. Emerick disseminated American Roofing depositions to several council members.
- Mr. Emerick informed Council that the Plummer hearing was held on March 25<sup>th</sup>, 2020, via telephone conference, regarding the structure located at 720 Orchard Street. Mr. Emerick advised that the Judge ordered the parties to work toward a resolution to have the structure be demolished. There was no contact from the Plummers regarding a demolition contractor.
- The Nicholson hearing has been continued. Chief Miller advised there are only a few properties left that are non-conforming. A hearing will be rescheduled.
- Mr. Emerick informed Council that he received an Agreement of Safe and Transfer of property from PennDot for the right of way at Caldwell Avenue and Branch. Mr. Emerick advised Council that PennDot was offering \$800.00 for the property and requested a warranty. There were several other concerns that Mr. Emerick discussed with Council. After a lengthy discussion on the concerns/issues;

ON MOTION OF MR. CADWALLADER, SECONDED BY MR. KINLEY, COUNCIL UNANIMOUSLY APPROVED TO HAVE MR. EMERICK REACH OUT TO PENNDOT REPRESENTATIVES CONCERNING THOSE ISSUES AND REPORT BACK AT THE NEXT MEETING. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

- Mr. Emerick elaborated on the combined Contribution Agreement with PennDot for Phase 2 and Phase 3A for the Main Street Improvement Projects. The project has been delayed with the Covid-19 pandemic and other related items:
  - Brick pavers and lighting
  - The number of sidewalks that will be replaced during the project
  - Awaiting on additional plans from PennDot
  - Mr. Wisor requested that a preliminary and final design be submitted prior to the agreement being approved.
  - Mr. Cadwallader provided an update with the Water Authority Water Line Project concerning waterline replacement on Main Street. Mr. Cadwallader suggested that the borough project and waterline replacement project be discussed together so there is no lack of communication between them.

After a discussion, Mr. Wisor will contact PennDot for clarification of the scope of the work, preliminary, and final design for the Phase 2 and Phase 3A project.

- Kowalczyk litigation-Mr. Emerick advised that there was no update until the Covid-19 restrictions are lifted.

#### C. Engineer's Report

Mr. Wisor noted that a copy of his report was provided to Council prior to the meeting.

- Mr. Wisor informed Council that the only update he had was concerning the documents for the demolition of the 828 North Railroad Street Property. He advised that the documents have been completed but not final reviewed yet. Once approved, the Mr. Wisor advised that the documents will be ready for bidders by the end of the week. Mr. Koban commented that we had two (2) prior quotes from last year.

#### D. Police Chief's Report

Chief Miller reported that he provided a copy of his report prior to the meeting. Chief Miller had nothing additional to report.

#### E. Director of Public Works Report

Mr. Maul noted that he provided his report to Council prior to the meeting. Mr. Maul had nothing additional to report.

### **CORRESPONDENCE**

There was no correspondence at this time since.

### **CITIZEN'S INPUT ON AGENDA ITEMS**

None

### **MINUTES OF PREVIOUS MEETINGS:**

The minutes of the March 2<sup>nd</sup>, 2020 regular meeting were distributed to Council prior to the meeting.

ON MOTION OF MR. KINLEY, SECONDED BY MR. CADWALLADER, COUNCIL UNANIMOUSLY APPROVED THE MINUTES FROM THE MARCH 2<sup>ND</sup>, 2020 REGULAR MEETING. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

### **BILLS AND TREASURER'S REPORT**

Mr. Wozniak noted that copies of the bills and Treasurer's report were distributed for review by Council members prior to the meeting.

FOLLOWING A ROLL CALL VOTE, ON MOTION OF MR. HAYES, SECONDED BY MS. KISSELL, 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 \$107,845.79. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MR. HAYES, MS. KISSELL, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

### **REPORTS RECEIVED**

Mr. Wozniak noted that minutes of the Portage Water Authority and Portage Sewer Authority were received for February, Portage Area Planning Commission for February, 2020 and LMIA and Portage Area Regional Planning Commission for February, 2020.

ON MOTION OF MS. KISSELL, SECONDED BY MR. LEARN, COUNCIL UNANIMOUSLY ACCEPTED THE REPORTS RECEIVED FROM THE PORTAGE WATER AUTHORITY AND SEWER AUTHORITY, LMIA AND PORTAGE AREA PLANNING COMMISSION FOR FEBRUARY, 2020. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MR. HAYES, MR. KINLEY, MS. KISSELL, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

### **UNFINISHED BUSINESS**

Mr. Koban provided updates and elaborated on each item for the new members as follows:

- Item A: Update on Recreational Peer Group Committee-Mr. Koban advised that the May meeting has been cancelled due to the Covid-19 pandemic. Future meetings will be scheduled once the restrictions are lifted.
- Item B: Update on Borough Building Roof – discussed earlier in the meeting.
  - Item C: Update on Trout Run Rehabilitation – There was no update. Mr. Kissell questioned the timeframe for project.
  - Item D – Update on PennDot Project on SR 164 –The issue was discussed earlier in the meeting.
  - Item E – Update on Phase II for Main Street Multimodal Grant – discussed earlier in the meeting.
  - Item F – Update on Phase 3A for Main Street Improvements/Sidewalks Right Side Caldwell and Mountain – Discussed earlier in the meeting.

- Item G – Update on Phase 3B for Main Street Improvements/Sidewalks for the left side of Caldwell and Mountain –There was no update.
- Item H – Update on Sonman Avenue Bridge 12 Year Plan – There was no update.
- Item I – Update on Small Community Grant Funding through DCNR for Park Improvements – There was no update.
- Item J – Update on Mainline Trail Feasibility Study Phase I-No update.
- Item K – Update on Norfolk Southern representative for emergency access- There was no update.
- Item L – Update on ATV’s utilizing borough streets and alleys-Mr. Emerick questioned the topic since he thought the issue was dead with the insurance company advised that the underwriters will not cover liability. Mr. Hayes informed Mr. Emerick that according the ATV statues, the municipality has immunity from any incidents. Mr. Hayes also commented that the Township did not provide the correct information regarding the insurance to the residents at their last meeting. Mr. Emerick elaborated to Council that with any incidents or injuries, individuals can still file civilly against the municipality. After a short discussion;

ON MOTION OF MR. LEARN, SECONDED BY MR. KISSELL, COUNCIL UNANIMOUSLY APPROVED TO TABLE THE ISSUE UNTIL PORTAGE TOWNSHIP HOLDS THEIR NEXT MEETING REGARDING THE INSURANCE. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

- Item M – Update on parking request from Matt Decort for Main Street-Mr. Koban informed Council that Ebensburg Borough advised Ms. Claar that they do not have and parking permits or free parking on any street within the borough. They do have parking lots that are metered. Ms. Claar also informed Mr. Koban that Mr. Penatzer; Boro Manager for Ebensburg, advised that any metered parking is enforced between the hours of 8:00 a.m. to 4:00 p.m. After that time, parking is free.
- Item N–Update on ARS portable asphalt heater- Bids were to be due on April 24<sup>th</sup>, 2020 with bid opening on May 4<sup>th</sup>, 2020. There were no bids received and no opening due to no meeting due to the Covid-19 pandemic.

A. 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: The Nicholson property hearing was rescheduled for Friday, April 17<sup>th</sup>, 2020 at 1:00 p.m. at the Court of Common Pleas in Ebensburg.
- Item D – Update on 828 North Railroad-The Borough has the deed to the property. Mr. Koban suggested initiating demolition bids for the structure.

ON MOTION OF MR. CADWALLADER, SECONDED BY MR. KINLEY, COUNCIL UNANIMOUSLY APPROVED TO ADVERTISE FOR DEMOLITION BIDS AT 828 NORTH RAILROAD STREET. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 6-0.

- Item E – Update on Roy and Patricia Plummer at 720 Orchard Street – The Cambria County Court Administrator scheduled a civil-penalties hearing for March 25<sup>th</sup>, 2020 at 9:00 a.m.
- 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 Gaunt Property at 532 Dulancey Drive-No updates.
- Item I – Update on 1010 Jefferson Avenue (Seese)  
There was no update.
- Item J – Update on 901 Main Street (Fox)- No update

**NEW BUSINESS:**

A. Approval of Ordinance 1-2020 concerning a loan with 1<sup>st</sup> Summit Bank

ON MOTION OF MR. KINLEY, SECONDED BY MR. CADWALLADER, COUNCIL UNANIMOUSLY APPROVED ORDINANCE 1-2020 BY AUTHORIZING A SMALL BORROWING LOAN WITH 1<sup>ST</sup> SUMMIT BANK; IN THE AMOUNT OF \$49,300.00 FOR THE PURCHASE OF A 2020 CASE 580SN BACKHOE. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

B. Approval to disburse a check to Groff Tractor for the 2020 Case backhoe from the Capital Improvement Fund.

ON MOTION OF MR. KINLEY, SECONDED BY MR. CADWALLADER, COUNCIL UNANIMOUSLY APPROVED DISBURSING FUNDS TO GROFF TRACTOR FROM THE CAPITAL IMPROVEMENT FUND; IN THE AMOUNT OF \$49,300.00 FOR THE PURCHASE OF A 2080 CASE 580SN BACKHOE, AND THEN BE REIMBURSED BACK WHEN THE LOAN CLOSES. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

C. Opening of bids for the Christmas Decorations that was postponed on April 6<sup>th</sup>, 2020 due to the Covid-19 Pandemic. Mr. Koban opened the only bid from New Stanton Borough, for the Christmas Decorations that was advertised in the PA Borough News with bid opening of April 6<sup>th</sup>, 2020.

ON MOTION OF MR. CADWALLADER, SECONDED BY MR. LEARN, COUNCIL UNANIMOUSLY AWARDED NEW STANTON BOROUGH, THE 22 CHRISTMAS DECORATIONS BID, IN THE AMOUNT OF \$500.00. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

D. Approval of Chief Miller's request to amend the Police Policy and Procedures manual.

ON MOTION OF MR. KISSELL, SECONDED BY MR. LEARN, COUNCIL UNANIMOUSLY APPROVED THE POLICE POLICY AND PROCEDURES MANUAL CONCERNING FIRE ARMS QUALIFICATIONS AND HANDGUNS, PER MANDATED FEDERAL AND STATE REGULATIONS. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

E. Review and discuss a PennDot offer to purchase right of way property at the Caldwell Intersection and Main Street-The issue was discussed earlier in the meeting under the Solicitor's report.

F. Review and approval of an amended contribution agreement between PennDot and Portage Borough for Main Street Improvements. This was discussed earlier in the meeting.

ON MOTION OF MS. KISSELL, SECONDED BY MR. LEARN, COUNCIL UNANIMOUSLY TABLED THE CONTRIBUTION AGREEMENT BETWEEN PENNDOT AND THE BOROUGH UNTIL SEVERAL ISSUES ARE RESEARCHED BY MR. WISOR. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

G. Approval of a Declaration of Emergency for Covid-19 BY MAYOR JAMES A. KISSELL

ON MOTION OF MR. LEARN, SECONDED BY MR. KINLEY, COUNCIL APPROVED RESOLUTION 11-2020 BY ISSUING A DECLARATION OF EMERGENCY TO THE CORONA VIRUS (COVID-19) PER GOVERNOR WOLF AND PRESIDENT TRUMP. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, AND MR. WOZNIAK. MOTION CARRIED 6-0-1 WITH MR. KISSELL ABSTAINING.

H. Review and approve the advertising of a proposed ordinance to amend the Portage Borough Police Pension Plan.

ON MOTION OF MR. KISSELL, SECONDED BY MR. KINLEY, COUNCIL APPROVED THE ADVERTISING OF AN AMENDMENT TO THE PORTAGE BOROUGH POLICE PENSION PLAN PER THE RECOMMENDATIONS OF PENSION CONSULTANT; MR. STEVE FEASTER. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

I. Review of an amendment to the Portage Borough Non-Uniform Pension Plan with the PA Municipal Retirement System. Mr. Koban informed Council that he received information from PMRS concerning updated guidelines and calculations per the Internal Revenue Service. Mr. Koban advised Council that he needed additional time to review all the guidelines and discuss with Council prior to any advertising of the proposed amendment.

J. Approval of an amendment to the Emergency Declaration for the Covid-19 pandemic-the PA Emergency Management Agency submitted an amendment for the previous resolution 11-2020 concerning the coronavirus.

ON MOTION OF MR. CADWALLADER, SECONDED BY MS. KISSELL, COUNCIL APPROVED RESOLUTION 12-2020 BY AMENDING RESOLUTION 11-2020 CONCERNING THE DECLARATION OF EMERGENCY TO THE CORONA VIRUS (COVID-19) PER PEMA. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

K. Review and approve protocols concerning exposure to Covid-19. Mr. Emerick provided guidelines and protocols he received from the CDC and recommended that Council approve the protocols.

ON MOTION OF MR. CADWALLADER, SECONDED BY MR. KISSELL, COUNCIL APPROVED PROTOCOLS AND GUIDELINES CONCERNING EXPOSURE AND CONFIRMED CASES OF THE CORONA VIRUS (COVID-19) PER THE CDC APRIL 8<sup>TH</sup>, 2020 GUIDELINES. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

L. Approval to purchase a certificate of deposit with 1<sup>st</sup> Summit Bank-Mr. Koban informed Council that a certificate of deposit has reached its maturity date and new interest rates were obtained to purchase a new one.

ON MOTION OF MR. LEARN, SECONDED BY MR. KINLEY, COUNCIL APPROVED RESOLUTION 13-2020 BY PURCHASING A NEW CERTIFICATE OF DEPOSIT AND THE \$3,000 2020 APPROVED ALLOCATION WITH 1<sup>ST</sup> SUMMIT BANK, IN THE AMOUNT OF \$26,792.13 AT AN APR OF .61% FOR A TWELVE (12) MONTH TERM. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

**Additional Agenda Item:**

M. Review and approve a resolution concerning Council actions during the Covid-19 pandemic.

ON MOTION OF MR. CADWALLADER, SECONDED BY MR. KISSELL, COUNCIL APPROVED RESOLUTION 14-2020 BY FORMALLY RATIFYING COUNCIL ACTIONS TAKEN VIA TELECOMMUNICATION VOTE SINCE THE MARCH 2<sup>ND</sup> 2020 PUBLIC MEETING DURING THE COVID-19 PANDEMIC. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

**GOOD OF THE BOROUGH**

The Summerfest Committee sent notice that the Summerfest Event has been postponed until 2021. Mr. Kinley advised that there are several new individuals interesting in joining the Committee.

The Historical Society sent notice that the Great Portage yard Sale has been cancelled for 2020.

Mr. Koban requested an Executive Session.

ON MOTION OF MR. LEARN, SECONDED BY MR. CADWALLADER, COUNCIL UNANIMOUSLY APPROVED TO GO INTO EXECUTIVE SESSION FOR PERSONNEL REASONS. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MR. HAYES, MS. KISSELL, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

ON MOTION OF MR. LEARN, SECONDED BY MR. CADWALLADER, COUNCIL UNANIMOUSLY APPROVED TO GO OUT OF EXECUTIVE SESSION FOR PERSONNEL REASONS. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELLO, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

ON MOTION OF MR. LEARN, SECONDED BY MR. HAYES, COUNCIL UNANIMOUSLY APPROVED TO GO INTO THE REGULAR METING. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

There being no further business,

ON MOTION OF MR. KINLEY, SECONDED BY MR. CADWALLADER, COUNCIL UNANIMOUSLY ADJOURNED THE MEETING. COUNCIL MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CADWALLADER, MS. KISSELL, MR. HAYES, MR. KINLEY, MR. LEARN, MR. KISSELL, AND MR. WOZNIAK. MOTION CARRIED 7-0.

Meeting adjourned at 7:43 p.m.