

Borough of Windber
Borough Council Regular Meeting
October 18, 2011, – 7:00 PM

President Turcato called the meeting to order at 7:00 PM and led the Council in the reciting of “The Pledge of Allegiance to the Flag”. Council members present were Furmanchik, Ledney, Jerley, Pekala, Spinos, Turcato, and Winas. Also present were Manager Oliveros, Chief Skiles, Clerk Denk and Solicitor Berkey. Mayor Ohler was absent.

Mr. Turcato stated that there were no bids to open for the sale of the Municipal Building at 1409 Somerset Avenue, due to the fact that no one showed an interest and none were submitted.

Public comment from Mr. Kondas regarding continued financial support for CamTran. He questioned that if we continue to support them, will they resume the route to Railroad Street and Mine 35. Mr. Oliveros explained that Railroad Street, along with other CamTran routes was cut due to lack of riders. The continued support was to maintain bus service for the routes in Windber where there is still were frequent riders. It would not be to get service back to Mine 35 but to continue bus service in Windber all together.

There were many members of the public present to discuss the proposed rental property ordinance. President Turcato explained that they would have a chance to speak when Council reached Unfinished Business on the agenda.

Ledney made a motion to accept the minutes of the September 20, 2011, meeting. Motion seconded by Pekala. All council members present voted yes. Motion carries.

President Turcato asked Council if there was any comment on Correspondence in their packets. Mr. Furmanchik indicated that he directly received a letter from one citizen with a viewpoint and some comments in regard to the rental property ordinance. President Turcato told him to hold it until Unfinished Business.

Business Items

Council review and comment on the payroll. Mrs. Pekala made a motion to approve payroll as presented. Motion seconded by Ledney. All council members present voted yes. Motion carries.

Council review and comment on the list of bills for payment. Furmanchik made a motion to approve the bills for payment as presented. Motion seconded by Winas. All council members present voted yes. Motion carries.

Council review and comment on the Treasurer's Report. Ledney made a motion to approve the Treasurer's Report as presented. Motion seconded by Pekala. Ledney, Pekala, Turcato, and Winas vote yes. Furmanchik, Jerley and Spinos vote no. Motion carries 4 to 3.

Council review and comment on the Cash Balance Report. Ledney made a motion to accept the Cash Balance Report as presented. Motion seconded by Pekala. Ledney, Pekala, Ledney, Pekala, Turcato and Winas vote yes. Furmanchik, Jerely and Spinos vote no. Motion carries 4 to 3.

Council review and comment on the 3 Year contract proposal from Herbert CPA & Associates to continue to provide bookkeeping services for Windber Borough through 2014. Ledney commented that he did research as to the cost savings for using Herbert CPA as opposed to having an in-house bookkeeper. Taking into account the cost of hospitalization as well as salary, the cost savings are \$70,789.00 over a 3 year period. This also provided us with checks and balances. Jerely asked for a copy of Ledney's research and asked why go with a 3 year contract over a yearly contract. Ledney stated that it enables the Borough to lock in a better rate. Spinos questioned if they accepted bids from any other CPA's or bookkeepers. Oliveros stated that the previous manager got quotes two years ago when they hired them. Herbert was recommended by Kotzan CPA who does the Borough's yearly audit. Oliveros is happy with Herbert's services and working relationship. Ledney recommended motion for approval for a 3 year contract for Herbert CPA with support from the Finance Committee. Motion seconded by Pekala. Spinos wants Oliveros to check for local services in Windber. Furmanchik wants recent quotes. He sees no reason to rush into a contract at this time. Turcato called for a roll call vote. Ledney – yes, Pekala – yes, Furmanchik – no, Jerley – no, Spinos – no, Turcato – yes, Winas – yes. Motion carries 4 to 3.

Council review and comment for 3 year contract for the Payroll Department at Herbert CPA for payroll services through 2014. Ledney made a motion for approval. Motion seconded by Pekala. President Turcato called for a roll call vote. Ledney – yes, Pekala – yes, Furmanchik – no, Jerley – no, Spinos – no, Turcato – yes, Winas – yes. Motion carries 4 to 3.

Council review and comment for continued financial support for CamTran in the amount of \$2,551.39. Furmanchik made a motion for approval. Spinos seconded the motion. All council members present voted yes. Motion carries.

Council review and comment for use funds from Capital Improvement Account for the HVAC replacement at Windber Borough Community Building in the amount of \$77,785.00. Solicitor Berkey commented that it requires a Super Majority (5) to approve to use money out of the Capital Improvement Fund. Spinos questioned Oliveros on the total amount of the bid with the inclusion of engineering fees in relation to the Municipal Authority's share of the costs.

Oliveros responded that the total bid was around \$92,000 some odd dollars with the Municipal Authority's cost share of around \$14,500. Pekala made a motion to approve using the funds from the Capital Improvement Account to pay for repairs. Winas seconded the motion. Turcato called for roll call vote. Pekala – yes, Winas – yes, Furmanchik – yes, Jerley – yes, Ledney – yes, Spinos – yes, Turcato – yes. Motion carries unanimously.

Borough Reports and Standing Committees of Council

Ledney would like to schedule another Budget Workshop and will call everyone with a date and time.

Review and comment on Mayors Report. No comments. Report accepted as presented.

Review and comment on Manager's Report. Oliveros reported that the gentleman he had in mind to fill the Property Maintenance position has decided to not apply for the position and there is no one to fill the vacancy at this time. Turcato asked if anyone had any direction for the manager since professional services do not fall under the need to advertise. Furmanchik and Spinos asked if Oliveros was maintaining the position for now. Oliveros said that he would handle the immediate need on the most urgent issues. Pekala made a motion to allow Oliveros to advertise for the position of Property Maintenance if he finds no one to fill it. Winas seconded the motion. All council members present voted yes. Motion carries.

Review and comment on Codes Report. No comments. Report accepted as presented.

Solicitor Berkey gave a verbal report to Council. His firm is researching the Rental Property Ordinance and believes it is possible to draft a lawful ordinance if Council directs him to proceed. Furmanchik made motion to direct Solicitor Berkey to proceed with initial draft of Rental Property Ordinance. Pekala seconded the motion. All council members present voted yes. Motion carries.

Unfinished Business

Furmanchik again referred to the letter he received from a resident. He would like to read it and leave out names and addresses to protect those mentioned due to legal ramifications. The letter was signed. Pekala asked if it was legal to read the letter without knowing the person who drafted it. Berkey stated that it is a practice of an entity to only accept letters that are signed, not a law. Spinos stated that the letter *is* signed and he feels it should be read whether or not it is made public who the author is, council can know after the fact, in private. Oliveros suggested summarizing the letter. Furmanchik said that summarizing would lose the impact of letter. Chief Rick Skiles was asked his opinion on

reading the letter out loud for public record. Council decided that Skiles and Furmanchik would go into a private session to review the letter.

Recess at 7:30.

Meeting resumes; called into session at 7:35.

Furmanchik stated that Chief Skiles recommends that Furmanchik contact the author of the letter to revise it so that it can be read for public record without implicating those mentioned in letter.

Turcato opens the floor to public comment and recognition of visitors on Rental Property Issue only.

Furmanchik wanted comment first. He expressed his concern and has an issue with forced interior inspections as a violation with Constitutional Rights. Chief Skiles asked Solicitor Berkey if in the event the Rental Ordinance is passed, and law enforcement is called out by a Codes Inspector to gain entry into someone's home, how can law enforcement enter without a search warrant. Solicitor Berkey replied that these are the issues that have to be addressed and is not prepared to deal with them at this meeting. Furmanchik believes that landlords need protection also, and feels this can be accomplished by more stringent enforcement of the ordinances regarding property maintenance that are already on the books. This needs to be done through a stronger Codes Enforcement and Property Maintenance division and would eliminate the need for most of what is laid out in a Rental Property Ordinance.

Oliveros discussed that he attended a workshop on Rental Property Ordinances. The biggest topic discussed was the forced entry issue. The procedure defined in the seminar is to seek out an Administrative Search Warrant issued by a judge.

Chief Skiles stated that law enforcement can, and has in the past, been able to use other agencies such as Children & Youth Services as a reason for entry and then in turn, alert the Borough on internal condition of properties. Skiles stated that these means could be used if necessary.

All of these issues would have to be addressed in the draft of the Ordinance.

Visitor Comment

Jim Foster speaks on the proposed Property Rental Ordinance. He is opposed to the ordinance as it is presented at the time. All municipalities are different. Tenants should have the rights as homeowners. Ordinance singles out and targets certain people. How will HUD deal with inspections of its properties? Will Borough Inspector tell HUD that its inspection wasn't thorough enough? Foster

believes the Borough should facilitate a service to landlords to do background check on tenants to keep the criminal element out. Don't rush to pass anything until you see how it works out in the municipalities that have already done so.

Ed Nelson passed on his comment period.

Nick Spadone stated that he is a landlord in the borough. He brought pictures of blighted properties of homeowners. He feels the ordinance is to target landlords while homeowners get away with having dilapidated homes. This is unfair treatment of one group of people. The Borough would be practicing a double standard.

Borough Offices begin moving to the Train Station tomorrow, on Wednesday.

Review and comment of approval for Resolution 2011-5: Procedure for sale of unwanted items in Old Borough Building. Furmanchik questioned the new sign at the New Borough Building (Train Station). Oliveros stated that Patty Lee made it for \$350.00. Furmanchik once again stated that he does not think that the Borough needs a building for the two employees and the Administrative Offices. Oliveros told him that the new building is not a large building and will fit our needs. The Resolution states how the auction shall be conducted. Pekala made a motion to approve Resolution 2011-5. Ledney seconded the motion. Spinosa asked who determines what is unwanted. Turcato told him that all of Council can walk through the building for determination. Motion was taken to vote. All council members present voted yes for approval. Motion carries.

New Business

Review and comment for low bid of purchase for new snow plow. Three bids were solicited over the phone.

Company	Price & Date
Hercules Truck Equipment - 8' Western Pro Plus	\$4,995.00 on 09-08-2011
Walsh Equipment - 8' Western Pro Plus	\$5,215.00 on 09-23-2011
Milkie's Lawn & Garden - Snoway Contractor Series	\$5,400.00 on 09-23-2011

Pekala made motion to accept bid from Hercules Truck Equipment for \$4,995.00.. Motion seconded by Ledney. All council members present voted yes for approval. Motion carries.

Review and comment for consideration of full time Public Works Fourth Laborer position. Furmanchik asked if the money was there to support the move to full

time. Oliveros said that it was. Jerley made the motion to approve Roger Price to a full-time position as of November 1, 2011, at the rate of \$9.25 with benefits. Motion was seconded by Ledney. All council members present voted yes for approval. Motion carries.

Turcato would like Council to donate \$1,000.00 to Compassion House for assistance with heating for the upcoming heating season in January. Pekala made the motion to approve \$1,000.00 donation. Motion seconded by Ledney. All council members present voted yes for approval. Motion carries.

Turcato would like Manager Oliveros to look into salvaging one of the old chairs that was used by Borough Council to preserve for historical purposes.

Turcato would like Manager Oliveros to contact Berwind to see if they have anything in the vaults or building that they want. Also, contact Coal Heritage Museum to see if there is anything they would want.

Turcato proposed that he would like to use Light-Up Night 2011 to honor James DiBiase for his 36 years of local government service. He would like to dedicate the new borough office building at the Train Station and name it in his honor. Windber Borough will use this opportunity to have an Open House at the new offices. Oliveros and Turcato will look into a commemorative plaque for the building and ceremony. Oliveros and Denk should prepare for Open House with refreshments. Spinos would talk to Mr. DeBiase and family about attending Light-Up Night, and what provisions would need to be made to accommodate Mr. DiBiase. Pekala made motion to approve making Light-Up Night in honor of Mr. DeBiase along with naming the building (Train Station) in his honor. Motion seconded by Spinos. All council members present voted yes. Motion carries.

November 1, 2011, would be used for Budget Workshop at 7:00 PM instead of Regular Meeting.

Turcato adjourned meeting at 8:20 PM.

Respectfully submitted by:

Cheryl M. Denk
Windber Borough Clerk