

Economy Borough Council  
Regular Work Session Minutes  
November 24, 2015

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**MEETING** was called to order at 7:00 p.m. with Mr. R. J. Burns presiding and the following members of Council and officials of the Borough present: Mr. R.J. Burns, Mrs. Courtney Barthelemy, Mr. Gary Bucuren, Mr. Tom Fetkovich, Mr. Frank Morrone, Mrs. Pat Skonieczny, Mayor David Poling, Borough Manager Randy Kunkle, Borough Secretary Margie Nelko, Borough Solicitor Mr. Joseph Askar, and Joshua Kail, Esq.

**ABSENT:** Mr. Larry Googins (Excused)

**OPENING PRAYER**

**PLEDGE OF ALLEGIANCE**

**FINANCE COMMITTEE:** No Report.

**PARKS and RECREATION COMMITTEE:** Mr. Fetkovich, Chairperson of the Parks and Recreation Committee, stated that Breakfast with Santa has been scheduled for Saturday, December 12, 2015, from 9 a.m. to 11 a.m. at the Economy Volunteer Fire Department Social Hall.

**PROPERTY and BUILDING COMMITTEE:** No Report.

**PUBLIC SAFETY COMMITTEE:** Mr. Morrone, Chairperson of the Public Safety Committee, presented Council with an overview of the part-time police officer interviews. There was some discussion regarding hiring four (4) part-time officers to help with overtime hours. Mr. Fetkovich reviewed the interview process for the nineteen (19) applicants that were interviewed.

**PUBLIC UTILITIES and ORDINANCE COMMITTEE:** No Report.

**PUBLIC WORKS (PW) COMMITTEE:** Mr. Bucuren, Chairperson of the Public Works Committee, presented Council with an overview of the meeting with the Borough Engineer regarding the drainage issues on Fernwood Drive and Shaffer Road. Mr. Fetkovich stated that the residents are happy with the proposed plans and has agreed that the project would realistically begin around spring of 2016. The Borough Engineer will present the plans and proposed cost of the project at the next regular scheduled meeting of Council.

**MAYOR'S REPORT:**

The Mayor reviewed an ongoing issue regarding a bank account (statement) that was addressed to a Borough employee at the office address. A letter was received from the Borough's Association President acknowledging that there was a bank account belonging to the association that was being mailed to the employee in question. The Mayor stated that this is not the account that Mr. Burns and he had seen and that the account in question is from Friendly's Federal Credit Union (formerly Wyse Federal Credit Union) and not First National Bank. There was some discussion regarding looking more into this matter.

The Mayor reviewed an email regarding a life insurance policy for a previous public works department employee who is deceased. The Borough Manager stated that this was/is a policy in the contract, which entails a letter and copy of the contract being placed in their personnel file and one for the employee so that upon the employee being deceased it could be collected by the heir(s). The Borough Manager stated that in the past there was some discussion regarding changing the policy to giving the employee the policy amount

at the time of retirement as a clean final transaction. There was some discussion regarding changing this policy to giving the amount to the employee at the time of retirement and not at the time of their death.

**MANAGER'S REPORT:** No Report

1. Northern Lights Shopping Center (NLSC) Pylon Sign Special Exception Hearing – The Borough Manager presented Council with an update from the Zoning Hearing for the NLSC Sign. The Zoning Hearing Board denied the request due to a technicality revolving around the issue of the applicants being lead to apply for a special exception and not a variance. There was some discussion regarding the Borough having taken the sign by condemnation, therefore, the applicant is due a sign. The Borough Manager stated that after looking into the Developer's Agreement, should NLSC win anything from the condemnation, then Walmart would be liable for any expenses. Mr. Burns stated that he had received a phone call requested Council to act upon the sign issue due to the applicant feels they were misled and that the applicant would be going to the court house tomorrow morning at 9 a.m. if action is not taken due to the lack of a sign will hold up development to file against the Borough for the cost of the sign and any/all other fees. There was some discussion regarding whether the Borough would be financially liable and whether this matter is important enough to vote on during the Work Shop meeting. The Borough Solicitor stated that at the time of the Zoning Hearing an amendment could have been made to have the request presented as a variance and not a special exception. There was some discussion regarding how the denied sign would hold up development. The Borough Solicitor explained the difference between a special exception and a variance and does not believe the applicant falls into a category where they needed to re-apply due to the hardship was caused by the Borough. **After some review and discussion, the motion of Mr. Burns, seconded by Mr. Morrone to approve the erection of the NLSC replacement sign as shown on the proposed plans was unanimously carried.**

Mrs. Skonieczny inquired if Lt. Jerry Droz was given his sick days back. The Borough Secretary stated they had not as of yet, that she would make a note to have this done and send Lt. Jerry Droz an email stating it has been completed.

**SOLICITOR'S REPORT:**

1. Blum Litigation (PIRMA) – The Borough Solicitor presented Council with an update he received from the PIRMA Attorney. The courts are demanding mediation for this matter scheduled for December 29<sup>th</sup> or December 30, 2015 with a minimum of one (1) Council Member present. There was some discussion regarding why a Council Member or more would need to personally appear when they are not able to settle/agree anything without a vote. The Borough Solicitor stated that he believes it is a federal court rule/regulation. There was some discussion regarding whether a physical appearance was needed or if a phone call, skype or video conference could be used and it was determined that no one on Council was available to appear. The Borough Solicitor stated that if this matter is before Judge Schuab then a physical presence will be demanded. Mayor Poling inquired if Attorney Chris Gerber should be kept on as our legal representative for PIRMA. The Borough Solicitor stated that this would need to be discussed with the insurance company. Mr. Burns volunteered to contact PIRMA to discuss this matter. There was some review and discussion regarding why some individuals of Council are unhappy with his performance. Mayor Poling will be contacting PIRMA to discuss the dismissal of Attorney Chris Gerber as the legal representation for this litigation matter.

**ENGINEER'S REPORT** – No Report.

**OLD BUSINESS:**

1. 2016 Proposed Budget – Mayor Poling inquired if the proposed budget included a tax decrease. The Borough Manager stated no and explained that the budget is dipping into the cash reserves and if it continues it will be hurtful to the Borough. There was some discussion regarding line items 301.100,

387.300 and 400.342. Mr. Burns expressed concerns regarding monies available for paving due to there is no way of knowing the price of asphalt and prevailing wages for 2016. There was some discussion regarding the need for a more detailed breakdown for paving from the Borough Engineer. The Borough Manager recommended advertising the proposed 2016 Budget so that it may be adopted at the next regular scheduled meeting of Council. **After some review and discussion, the motion of Mrs. Barthelemy, seconded by Mr. Bucuren to authorize advertising of the proposed 2016 Budget was unanimously carried.**

2. 2016 Tax Ordinance – A proposed Ordinance establishing a tax rate of 13.5 mills for the year 2016 was presented to Council. The Borough Manager recommended advertising the proposed 2016 Tax Ordinance so that it may be adopted at the next regular scheduled meeting of Council. There was some discussion regarding reducing the tax millage. **After some review and discussion, the motion of Mrs. Barthelemy, seconded by Mr. Bucuren to authorize advertising of the 2016 Tax Ordinance No. 452.**
3. Office Assistant Positions – Mr. Fetkovich stated that Elizabeth Petalino has accepted the Office Assistant Position offer and requested that Council receive a copy of the letter. Mr. Fetkovich thanked everyone for all their help. Mr. Burns requested the Borough Manager to set up the required testing as outlined in the letter.
4. Community Building Furnace(s) – The Borough Manager stated that it took two (2) weeks for Economy Plumbing to inform him that they are not able to do the job due to the inability to place the furnace in the ceiling. There was some review and discussion regarding the comparison of the two (2) quotes received. There was discussion regarding having Albert's Heating & A/C, Inc. install option two for the furnaces and option one for the air conditioner from there quote. There was some discussion regarding this bid being placed on the next Regular Meeting of Council agenda for review and/or action.
5. Ambridge Water Authority (AWA) Fire Hydrant Agreement – Mr. Burns requested an update regarding the fire hydrant agreement renewal. The Borough Solicitor stated that he still has not had a return call from the AWA's attorney. There was some discussion regarding a stop payment for the maintenance service and to place the funds into an escrow account until the agreement is updated and/or renewed. There was some discussion regarding this agreement being placed on the next Regular Meeting of Council agenda for review and/or action.
6. Various Board Vacancies - Mrs. Skonieczny inquired if the board vacancies have been advertised and requested a copy be given to Council. The Borough Manager stated yes and that he would forward the list to Council.
7. E. Fitzgerald Litigation (PRIMA) – There was some discussion regarding a letter inquiring if Council would agree to a settlement in the amount of \$28,500.00 for the E. Fitzgerald litigation matter. Mrs. Skonieczny is against taking action on this matter due to having not received a settlement agreement and not know what it contains. **On a motion of Mrs. Skonieczny, seconded by Mr. Bucuren to table a vote on the E. Fitzgerald settlement amount was put to vote.** The Borough Solicitor stated that Council would only be agreeing to the dollar amount and not to an agreement, which would be at a later date by court order. There was discussion regarding the litigation being against individual capacity and Borough Council as a whole and how PIRMA is representing as such. Mrs. Barthelemy explained that we are not being really asked to approve, these two (2) parties who are acting on our behalf is agreeing upon this dollar amount and as an individual you can voice any objections to the insurance company if you wish but there is no draft of an agreement until the first preliminary step is agreed upon. **A roll call vote was taken, the motion failed after receiving two (2) affirmative votes out of six (6) of all member of Council Present. Mrs. Skonieczny and Mr. Bucuren voted for the motion.** There was discussion regarding whether an individual capacity would be protected for an intentional act and how a vote could be swayed by whether the individual could be protected or not,

which could be a conflict of interest. There was discussion regarding the Borough and the individuals being liable for the dollar amount rewarded, attorney fee and any other expenses should the litigation not be found in the Borough's favor. **After some review, the motion of Mrs. Barthelemy, seconded by Mr. Fetkovich to accept the settlement amount of \$28,500.00 as proposed by Attorney Chris Gerber, of PIRMA, in the matter of Fitzgerald vs. the Borough of Economy et al., subject to terms and conditions as outlined by both parties was put to a vote. A roll call vote was taken of the members of Council present.** The Borough Solicitor reviewed an email from Mr. Googins expressing and requesting an affirmative vote be placed on record (email is attached to minutes). **On a motion of Mr. Bucuren, seconded by Mrs. Skonieczny, a phone call to Mr. Googins was placed by the Borough Solicitor.** The Borough Solicitor reviewed the motion and current status of the roll call vote with Mr. Googins. Mr. Googins voiced an affirmative vote to the motion made and thanked Council for allowing him to participate. **The motion was approved after receiving five (5) affirmative votes of the seven (7) participating members of Council. Mrs. Skonieczny and Mr. Bucuren voted against the motion.**

#### **NEW BUSINESS:**

Mrs. Barthelemy inquired as to why there was an increase to the proposed 2016 Budget line item 453.300. The Borough Manager explained that the expense recorded for this line item is \$4,600.00 as of October 2015, for electrical and grounds maintenance service. Mrs. Barthelemy inquired if the surviving Veterans benefit from this line item and if not then in the future the Borough should recognize these Veterans. The Mayor stated that there is approximately \$10,000.00 in the foundation that he is trying to get back for the Borough. Mrs. Barthelemy suggested that if the Borough is able to give to the Senior Citizens Group then we should be able to do something for the Veterans. There was discussion regarding the annual Community Day event possibly having an area set up for Veterans or possibly a breakfast could be done at the Ambridge Jr. High School. Mrs. Barthelemy stated that the Community Day event could be better without the politics. Mr. Fetkovich agreed and stated that it has the potential to a better community event.

Mrs. Barthelemy informed Council that she will not be in attendance at the next regular scheduled meeting of Council due to family obligations. Mrs. Skonieczny thanked Mrs. Barthelemy for all of her service to the Borough as a Council Member.

There being no further business, the motion of Mr. Burns, seconded by Mr. Morrone to return to the regular session and adjourn the meeting at 8:55 p.m. was unanimously carried.

Margie L. Nelko  
Borough Secretary

Randy Kunkle  
Borough Manager

Motion(s) made and/or Council consensus decision(s):

1. Approval of NLSC replacement sign
2. Approval of advertising the 2016 Proposed Budget and 2016 Tax Ordinance
3. Roll Call Vote and Failed Motion to table action for E. Fitzgerald Litigation
4. Roll Call Vote to accept the settlement amount for E. Fitzgerald Litigation
5. Motion to contact Mr. Googins by phone for his vote on the E. Fitzgerald Litigation matter
6. Passed Motion to accept the settlement amount for E. Fitzgerald Litigation