

BOROUGH OF PORTLAND
COUNCIL MEETING MAY 6, 2019

The Portland Borough Council Meeting of May 6, 2019 was called to order at 7:00 PM by Stephanie Steele, President of Borough Council.

Council Members Present for Call to Order:

Stephanie Steele Bridget Kenna* William Godshalk* Michael Sullivan* Ralph Frasca* Yvonne Gumaer

Mayor Lance Prator and Councilman Brian Kardos were absent.

Others Present:

1. Michael Gaul, Borough Solicitor
2. Mark Bahnick, Borough Engineer
3. Peter Layman, Esquire
4. David LaFiura, Ultra-Poly Corp.
5. John McCullam, Ultra-Poly Corp.
6. Carol Hummel, Borough Secretary
7. Members of the Public

Resolution 2019-4:

A Resolution of the Borough of Portland, County of Northampton and Commonwealth of PA, Approving the Proposed Amended Slate Belt Council of Governments Articles of Agreement Between and Among the Governments of the Townships of Lower Mount Bethel, Upper Mount Bethel, Plainfield and Washington; and the Boroughs of East Bangor, Pen Argyl, Portland, Roseto, Wind Gap; and the Pen Argyl School District (along with other political subdivisions from time to time), who have adopted ordinances or resolutions authorizing them to enter into Articles of Agreement for the Slate Belt Council of Governments (SB-COG), or amendments thereto.

- i. Solicitor Gaul reviewed the Articles of Agreement which two (2) changes made; (1) the requirements for the sale of property and (2) the deletion of two (2) municipalities that have left the SB-COG.

A motion was then made by Michael Sullivan, 2nd by Yvonne Gumaer adopting Resolution 2019-4. Motion carried: 6-0-0

Action on Minutes:

A motion was made by William Godshalk, 2nd by Ralph Frasca approving the minutes of April 1, 2019, as presented. Motion carried 6-0-0

Secretary/Treasurer's Report:

Carol Hummel

1. Bills Presented for Payment:

Borough Operations:	12,123.98
Sewer Operations:	12,927.24
Sanitation Operations:	4,986.32

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Ultra-Poly Escrow	1,390.50
Portland Neighborhood Development Plan	2,400.00
Ultra-Poly Improvement Escrow	3,692.50
Community Events - Easter	37.44
Northampton County Gaming Grant	18,915.00
May Payroll & Taxes	9,000.00
May Sunoco Fleet Gas	500.00
TOTAL	65,972.98

A motion was made by Michael Sullivan, 2nd by William Godshalk approving the bills as presented in the amount of \$ 65,972.98. Motion carried 6-0-0.

2. WWTP Bills Presented for Payment to Portland Contractors, Inc.:

WWTP Contractor monthly services: 2,520.00

A motion was made by Bridget Kenna, 2nd by Yvonne Gumaer approving the bills presented for payment to Portland Contractors, Inc. in the amount of \$ 2,520.00. Motion carried 4-0-2 (William Godshalk and Michael Sullivan abstained).

3. Bill presented for Payment from the Real Estate Tax Account to the Fire Tax Account:

A motion was made by Bridget Kenna, 2nd by Yvonne Gumaer authorizing the transfer of \$ 20,618.80 from the Real Estate Tax Account to the Fire Tax Account; collection of March and April 2019 (2) mill tax. Motion carried: 5-0-1 (Michael Sullivan abstained)

4. A motion was made by Bridget Kenna, 2nd by Yvonne Gumaer approving an \$ 18,000 payment to KS State Bank to subsidize a portion of the Portland Hook & Ladder Co. # 1 scheduled loan payment for purchase of the 2015 Emergency One Typhoon Rescue Pumper. Motion carried: 5-0-1 (Michael Sullivan abstained)

i. Chief Potter stated that the fire company check portion and the Borough's check portion can be mailed together, certified, and the fire company will take care of the mailing.

4. A motion was made by Yvonne Gumaer, 2nd by William Godshalk approving the \$ 7,000 allocation from the 2019 budget to the Portland Hook & Ladder Fire Co. #1, from the Local Service Account. Motion carried: 5-0-1 (Michael Sullivan abstained)

Public Comment:

Bangor Area Middle School, Clean-Up Day: Tamara Utess

Ryan Ramsey, student, presented the participation of the middle school students and their advisor with the clean-up day events. This year marks the 16th Annual Community Pride Clean-Up Day which is to be held on Wednesday, May 22nd, with a rain date of Thursday, May 23rd from 10:30 AM to 1:30 PM. Borough Council will provide supplies, bottled water, snacks, and assistance,

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Sewer Shut-Off Notices:

Council will return to this line item later in the meeting.

Sewer Matters and Borough Engineers Report:

Mark Bahnick: Van Cleef Engineering Associates:

- a) Plant operations were in compliance with DEP Permits for the month of April.
- b) The primary sewer tank needs to be cleaned and maintained.
 - i. A motion was made by Yvonne Gumaer, 2nd by Bridget Kenna authorizing the installation of piping connections to put currently unused second treatment tank online (\$ 22,500) and the cleaning of the used MBR and return it to service (\$ 13,500) for a total cost of \$ 36,000; the funds are available from the sewer savings account
Motion carried: 5-0-1 (Michael Sullivan abstained)
- c) Discussion occurred regarding was the response letter from John Bermingham, Chairman of the Upper Mount Bethel Township (UMBT) Board of Supervisors, to Solicitor Gaul's letter dated April 24, 2019, concerning UMBT's efforts to update its Act 537 Plan. As a result of the planning that UMBT is undertaking UMBT officials and residents have made inquiries to Borough Officials. Responding to some inquiries involves work by the Borough engineer.

Portland Borough Council has never been formally approached with regards to establishing a procedure for requests for information/work by the Borough engineer and reimbursement of the costs. Borough Council has determined that it is in the best interest of both municipalities that a formal request be made by UMBT for information and/or work by the Borough engineer. Borough Council will discuss the request formally and determine the procedure to handle the matter. Until Borough Council receives a formal request from UMBT Borough Council has determined that its engineer should not engage in any work related to the UMBT Act 537 plan.

The matter of the Borough engineer's information/work was prompted by the secretary's request from the April 1, 2019 Council meeting that Van Cleef invoice 66001902-1, presented to Portland Borough Council for payment, should be broken down into two (2) invoices. One (1) for Mr. Bahnick's review of potential sewer capacity availability for UMBT. UMBT should be billed for this portion of the invoice. And one (2) another invoice billed to Portland Borough, for Mr. Bahnick's attendance at the monthly Portland sewer committee meeting.

Mr. Rick Fisher, UMBT Manager, responded by reviewing the history of their Act 537 Plan update. In year 2003 the then UMBT engineers gave direction to the UMBT Board of Supervisors of the alternatives for sewer service, if pursued would be the area of Middle Village in the township. Mr. Fisher asked if Portland would be interested in providing sewer service; UMBT has other options to consider; what does Portland want from UMBT?

Solicitor Gaul replied that UMBT should send a request to Portland Borough Council, Solicitor Gaul stated that once the UMBT Act 537 plan is adopted UMBT will have to move forward with sewer service.

Mr. Fisher stated that sewer matters will be discussed at the next UMBT Board of Supervisors meeting, after which, a formal request will be sent to the Borough. UMBT understands and

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agrees that it should pay the costs of the Portland Borough engineer related to UMBT's planning.

d) UMBT resident, Howard Klein, questioned Solicitor Gaul about the letter Mr. Gaul sent to Chairman Bermingham and if the letter would be considered a Right-To-Know request. Solicitor Gaul replied that that would have to be researched. Solicitor Gaul explained to Mr. Klein that the Portland sewer committee is purely focused on operational matters. It is not authorized to undertake or make decisions regarding intermunicipal sewer planning matters.

e) Fire Pond: Site work has begun at the Ultra-Poly expansion site. Ultra-Poly has requested permission to access the WWTP site to complete the fire pond conversion.

Resolution 2019-5 "Authorizing and Approving the Portland Borough's Transfer of Tax Parcel No. C-11-26-15A to Portland Industrial Park, L.P. (PIP); and Providing for other Miscellaneous Matters".

i. Solicitor Gaul stated that the land was owned by Ultra-Poly at one time but was transferred to Portland Borough through condemnation of a larger tract of land for the Borough's WWTP. The lot has no value to the Borough. As part of the condemnation, the Borough reserved to PIP an easement over the property, for use as storm-water detention and fire protection purposes.

A motion was made by Michael Sullivan, 2nd by Yvonne Gumaer adopting Resolution 2019-5 authorizing the transfer of Parcel No. C-11-26-15A to Portland Industrial Park, L.P. (PIP)

i. Question from Councilman Frasca:

a) Are both sides on agreement of the easement?

b) Attorney Layman replied that the rights of the party has not changed just the property lines.

Motion then carried: 6-0-0

f) License Agreement between Portland Industrial Park and the Borough of Portland:

PIP has an easement over property of Portland Borough which allows temporary access for maintenance improvements to the fire pond/retention pond. As part of land development, PIP will need temporary access through a fence, constructed by the Borough in connection with the WWTP, that is operated by the Borough. Insurance certificates are to be provided by the contractor to Portland Borough and Portland Contractors as additionally insured.

i. Solicitor Gaul stated that the fence will come down during the day and put back up at night.

A motion was made by William Godshalk, 2nd by Yvonne Gumaer authorizing President Steele to execute the license agreement for temporary access, as presented, in substantial form and modifications as recommended by Solicitor Gaul. Motion carried:
5-0-1 (Michael Sullivan abstained)

g) Solicitor Gaul stated that the Erie Insurance Bond needs to be revised. He has discussed that already with Attorney Peter Layman.

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h) The WWTP is in need of an exterminator to eliminate the rat population. A motion was made by Ralph Frasca, 2nd by Michael Sullivan authorizing the expenditure of up to \$ 500 for that purpose. Motion carried: 6-0-0

- Mark Bahnick left the meeting at 8:00 PM.

Zoning Officer Report:

a) Ms. Serfass was absent. No report was sent for the month of April.

b) Solicitor Gaul presented information on short term residential rentals. The zoning laws have changed per a recent PA Supreme Court decision issued on April 26, 2019. The Supreme Court's decision reverses/overrules at least (3) short term rental cases decided by the Commonwealth Court. Under the decision, purely transient, short term rentals do not constitute a single-family dwelling use. As a result, under state zoning law, a municipality is not required to permit short term rentals in a single-family residential district.

UCC Building Code Inspectors Report: Tina Serfass

Solicitor Gaul stated that he spoke with Ms. Serfass concerning the Borough's open UCC permit files.

Zoning Hearing Board (ZHB):

- No hearings are scheduled at the present time.

Planning Commission:

- None

Portland Borough Authority (PBA): Lance Prator, Chairman

- None

Legal:

- A reminder to Solicitor Gaul of the District Court 03-3-03 hearing at 9 AM on May 3, 2019.

Subdivision and Land Development:

- None

Community Development, Slate Belt COG & Grants:

- The balance in the Northampton County Gaming Revenue & Economic Development Authority Grant is \$ 0.
 - i. \$ 18, 915 was paid to Hallett Contractors to pave the municipal building parking lot.

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ii. \$ 1,057 was paid from the General Checking Account for the balance of the paving to the municipal building parking lot.

- Christine Cahill, Prestige Animal Control Services:
 - I. The contract for services has been signed by President Steele and Ms. Cahill.
- The Slate Belt COG met on April 24, 2019.
- Ms. Steele reported that three (3) representatives from Portland are needed to sit on and attend the LVPC Slate Belt Multi-Municipal Comprehensive Community and Economic Development Plan. Ms. Steele and Mayor Prator were appointed at the April 1, 2019 Council meeting. A third person is needed.
 - i. A motion was made by Ralph Frasca, 2nd by William Godshalk appointing resident/property owner Hubert McHugh as the third representative. Motion carried: 6-0-0

Community Development, Slate Belt COG & Grants:

a) Inter-municipal Agreement for the Slate Belt Multi-Municipal Comprehensive Plan:

Solicitor Gaul approved the agreement after review. The Borough's financial responsibility is less than \$ 1000. The Slate Belt Multi-Municipal Comprehensive Plan will replace the Borough's Comprehensive Plan.

b) A public meeting will be held on Wednesday, May 15, 2019 at 6:30 PM at the Wm. Pensyl Social Hall, 111 State Street for the Downtown Redevelopment Plan. The plan will be presented by Triad Associates of Vineland NJ which was engaged to develop a strategy for the Borough.

Community Events/Recreation Board:

1. The Mount Bethel-Portland Memorial Post 216 American Legion will hold their annual Memorial Day service on Monday, May 27, 2019 at 11 AM at Riverview Cemetery, Portland PA.

2. Annual Yard Sale Daze: Saturday, May 18, 2019 from 8 AM to 2 PM.

3. The next committee meeting will be held on Sunday, May 19, 2019 at Portland Borough Hall.
Police Report:

1. The police report was provided in writing by Chief Mulligan.

2. This is most likely the last month of Officer Austin Jones' employment with the Borough. Chief Mulligan suggested that another police officer be hired even though Officer Rui Macedo will be graduating soon from the police academy.

3. The updated EOP Plan is still a work in progress.

4. Previously discussed by Council was the installation of a garage door opener for the garage that houses the police car. There is no secondary exit door on the garage in case someone would get locked inside because of a power outage or just locks themselves in. Permission would be needed since the garage is owned by the Portland Borough Authority. President

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Steele stated that there is no preference from the police department whether they have an opener or not. No action was taken

Back to Sewer Shut-Off Notices:

705 Hillcrest Drive, Sewer Account No. 183:

Solicitor Gaul cited the Landlord-Tenant Act concerning this property. The owner is not living there but the occupant who resides there is not in attendance this evening and has made no contact with the Borough office. Councilman Sullivan stated that there is activity at the residence/house. Solicitor Gaul recommended that Borough Council delay its decision on shut-off until its next meeting if resident makes payment for the most recent period.

A motion was made by Yvonne Gumaer, 2nd by Bridget Kenna to review further the Tenant Act in detail; the Borough agrees to postpone the decision to shut-off the water until the June 3, 2019 Council meeting conditioned upon the occupant making an \$ 80.00 payment within the next (10) days. Motion carried: 6-0-0

411 Pennsylvania Avenue, Sewer Account No. 174:

A motion was made by Yvonne Gumaer, 2nd by Bridget Kenna authorizing President Steele to execute the work order of May 7, 2019 to the Portland Borough Authority for the water shut-off at 411 Pennsylvania Avenue.

- i. Councilman Frasca asked the history of the property owner/resident. President Steele replied that the property owner/resident owns 411 Pennsylvania Avenue and property in another state.

Motion carried: 5-0-1 (Michael Sullivan abstained)

Mayor's Report:

- None

Streets Department:

a) William Godshalk provided a written proposal from Asphalt Maintenance Solutions for crack sealing of various streets throughout the Borough at \$ 11,050. Councilman Godshalk stated that crack sealing would last for (5) to (7) years. Mr. Godshalk would like to single lane patch Delaware Avenue from Duckloe's (by the thrift store) to Northampton Street and then crack seal. This portion of Delaware Avenue is in bad shape.

b) The catch basin by Ron Angle's house - Mike's Auto on Main Street - Northampton Street has caved in. The curbing is still there but the sidewalk would have to be removed. It would be a major cost to replace the storm sewers since the storm drains all along Main Street need major repair. President Steele suggested that the Borough engineer research the costs for drain boxes. Councilman Godshalk replied that the Borough doesn't need the cost of the engineer; the Borough can rent a backhoe and do the work themselves. Mr. Godshalk suggested that the Borough investigate grant funding; Ms. Steele stated that in order to apply for a grant the Borough needs to have a dollar figure.

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A motion was made by Bridget Kenna, 2nd by Yvonne Gumaer to repair the drain boxes on Main Street with the cost not to exceed \$ 4,000; the monies for the repairs will be spent from the Liquid Fuels Account. Motion carried: 6-0-0

- i. The crack sealing is tabled until the repair of the drain boxes.

c) The Borough received (2) quotes for street sweeping.

- i. Bangor Borough at \$ 110 per hour.
- ii. Elegant Lawn Care Services at \$ 125 per hour.

A motion was made by William Godshalk, 2nd by Yvonne Gumaer accepting the quote from Bangor Borough at \$ 110 per hour.

- Councilman Frasca left the meeting at 8:46 PM

Discussion:

- i. Ask to have the street sweeping done before Memorial Day.
- ii. Councilman Sullivan asked where would the water supply come from; Fred Farleigh, maintenance laborer, told Ms. Steele, the firehouse.
- iii. Jim Potter suggested asking Portland Contractors about Demi Road.

Motion carried: 5-0-0

- Councilman Frasca returned to the meeting at 8:48 PM.

d. Purchase of trailer to tow the lawn tractor equipment to the WWTP for mowing.

William Godshalk recommended the purchase. Mr. Farleigh researched prices and gave a price of \$ 759 for the trailer at Lowe's and \$ 25 for the wheel at Home Depot. A motion was made by Michael Sullivan, 2nd by William Godshalk authorizing the purchase of the trailer and wheel, not to exceed the amount of \$ 900. Motion carried: 6-0-0

Sanitation:

David Keller, former owner of 400 Jacoby Creek Road:

A civil complaint was filed against Mr. Keller for non-payment of 2018 garbage service on February 12, 2019. Since then the property has been sold at Judicial Sale to Joe Lobb. When the secretary took the complaint to District Court to have the judgment certified Ms. Hummel was told to ask Solicitor Gaul if the civil complaint against Mr. Keller should now be considered "settled" or "satisfied".

Solicitor Gaul stated that there is no obligation to satisfy the complaint, to just leave it in place. The complaint can be transferred to Northampton County Court.

Building Committee:

a) The cork board inside the outside bulletin board needs replacing. Mr. Farleigh will take care of it.

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b) The handrail on the handicap ramp needs replacing with composite decking. No action was taken until quotes are obtained.

Budget, Finance, Insurance, & Cable TV Contract:

- None

Ordinance Update Committee:

- None

Council Policy & Procedure Committee:

- None

Slate Belt Rising Committee (SBRC): Stephen Reider, Director/Stephanie Steele

The tenant workshop, sponsored by Slate Belt Rising, was cancelled due to lack of interest.

Air Liquide/Voltaix Safety Committee:

- Mr. Kardos was absent.

Liberty-Water Gap Trail Alliance: Cindy Fish

- The monthly meeting of the Alliance will be held on Wednesday, May 15, 2019, 9 AM, at the Delaware Water Gap (DWG) municipal building.

Correspondence:

1. Correspondence was received from Matthew Dees, West Easton, PA Councilman requesting that Portland Borough adopt a resolution to amend the Right-To-Know law to provide relief to municipalities from serial requesters. West Easton has received more than (80) requests from the same resident since the beginning of 2019.

A motion was made by Michael Sullivan, 2nd by Yvonne Gumaer adopting Resolution 2019-6 "Resolution to Amend the Right-To-Know Law and Provide Relief from Vexatious Requesters".

- i. Question from Councilman Frasca that this is setting a dangerous precedent.
 - ii. Solicitor Gaul replied that there is a policy in law about disruptive requests. The resolution is asking the State of PA to consider changing the Right-To-Know rules. Also, it is not just an issue of harassment but compensation of the employees time to do the research.
- Councilwoman Gumaer left the meeting at 9:10 PM.
- iii. Councilman Frasca stated that this is a slippery slope that government entities cannot give out information.

Motion then carried: 4-1-0 (Ralph Frasca opposed)

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2. Correspondence from the State of New Jersey that Portland Borough will be added to the stakeholders list as a consulting party concerning the Route 80 Rockwall Mitigation Plan.

3. Complaint from Patricia Melillo 61 Morningside Drive Mount Bethel, PA with regards to the Jacoby Bridge closure and the State Street signage and tractor trailers. The secretary will respond to Ms. Melillo that she should contact PennDOT District 5-0.

Secretary's Announcements:

- A reminder to Council members that their ethics forms for 2018 are due to the secretary.
- The secretary will be out of the office on Tuesday, May 21, 2019 for Primary Election day.

Old Business:

A motion was made by Ralph Frasca, 2nd by Michael Sullivan authorizing President Steele to execute the Inter-Municipal Agreement and the Planning Services Agreement for the Slate Belt Multi-Municipal Comprehensive Plan; the agreement for the planning scope of the Regional Comprehensive Plan, to hire the Lehigh Valley Planning Commission to develop the Regional Comprehensive Plan and to provide technical planning guidance to the participating communities. Motion carried: 5-0-0

New Business:

a) President Steele reported that she attended a grant workshop on, May 2, 2019 at Bath Borough.

b) Fire Chief Jim Potter asked about the As-Builts for the sewer connections in the Borough. The apartment building next to the fire company social hall has their clean-out on fire company property. Chief Potter stated that their insurance carrier wants the clean-out pipe off of fire company property. Solicitor Gaul advised Chief Potter to submit a Right-To-Know request of the UCC file of the apartment building to find out who the contractor was that installed the sewer line.

c) Hubert McHugh also stated that he had the same problem with the sewer connection at 425 Delaware Avenue. There are no records.

Executive Session:

- None

Public Comment, Non-Agenda:

- None

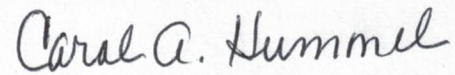
Adjourn:

The next Council Meeting will be held on Monday, June 3, 2019 at 7:00 PM.

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A motion was made by Michael Sullivan, 2nd by Ralph Frasca to adjourn the meeting at 9:23 PM. Motion carried 5-0-0.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Carol A. Hummel".

Carol A. Hummel, Secretary