

BOROUGH OF PORTLAND
COUNCIL MEETING AUGUST 2, 2021

The Portland Borough Council Meeting of August 2, 2021 was called to order at 7:03 PM by Stephanie Steele, President of Borough Council.

The meeting was held in-person at the Borough Hall Council Chambers.

Council Members Present for Call to Order:

Stephanie Steele* Kay Bucci* Robert Ivancich* William Godshalk*

- Council member Yvonne Gumaer was absent.

Others Present:

2. Lance Prator, Mayor
3. Mark Bahnick, Van Cleef Engineering Associates
4. Carol Hummel, Borough Secretary

Public Present:

1. Drew P. Sonntag, Vice President, URDC Corp.
2. Patrick McHugh, resident
3. Hubert McHugh, resident
4. James Potter, Fire Chief, PH & Ladder Co. # 1

Application for Vacant Council Seat: Table and move to agenda item # 36.

Action on Minutes:

A motion was made by Kay Bucci, 2nd by Robert Ivancich approving the minutes of the regular meeting of July 5, 2021, as presented. Motion Carried 4-0-0

Secretary/Treasurer's Report: Carol Hummel

Bills Presented for Payment:

1. Approve the July 2021 Financial Report

- Approve Payments of Bills Presented

| | |
|------------------------------------------------------------------------------|---------------------|
| Borough Operations & Borough Operations Already Paid: | 13,858.95 |
| Sewer Operations & Sewer Operations Already Paid: | 19,690.66 |
| Garbage Operations & Garbage Operations Already Paid: | 4,994.82 |
| Slate Hills Enterprises Escrow: King, Spry; Ott Consulting | 2,201.50 |
| Dunkin Donuts Streetscape Escrow: Van Cleef Engineering | 146.00 |
| Suburban EMS Annual Budgeted Allocation | 550.00 |
| Real Estate Tax Account – tax cert from CoreLogic | 10.00 |
| General Checking Account to Fire Tax Account: 2019 Taxes in Trust delinquent | 87.40 |
| General Checking Account to Fire Tax Account: 2020 Taxes in Trust delinquent | 27.72 |
| August 2021 payroll & taxes, approximate | 9,000.00 |
| August 2021 WEX Sunoco Fleet Gas, approximate | 400.00 |
| | <u>\$ 50,976.05</u> |

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A motion was made by Robert Ivancich, 2nd by Kay Bucci approving the treasurer's report and the bills presented for payment in the amount of \$ 50,976.05. Motion Carried 4-0-0

Bills Presented for payment to Portland Contractors Inc.:

| | |
|------------------------|-----------------|
| WWTP monthly services: | 2,660.00 |
| Other: | <u>2,330.92</u> |
| | 4,990.92 |

A motion was made by Kay Bucci, 2nd by Robert Ivancich approving the bills presented for payment to Portland Contractors, Inc., in the amount of \$4,990.92. Motion Carried 3-0-1. William Godshalk abstained.

- Attorney Elizabeth Kelly, of the King, Spry Law Firm, Borough Solicitor entered the meeting at 7:11 PM, Attorney Kelly attended in place of Attorney Michael Gaul, King, Spry's regular representative, who had a scheduling conflict.

Public Comment:

1. Drew P. Sonntag, Vice President, URDC Corp: Grant Writer for Gymnasium Demolition

Ms. Steele stated that the contract needs approval. Ms. Bucci previously had made some changes to the time frame. Mr. Sonntag stated that the time frame could start right away after tonight. Could be done in December?? Demolition in January. Ms. Bucci asked if the time frame could be sooner; Mr. Sonntag replied it's possible.

Ms. Bucci replied that the bid documents for advertising could be ready in September or October. Part of the demolition is to hire a company to evaluate asbestos removal so that the information could be included in the bid specifications for the demolition. Ms. Bucci stated the scope of the work was understood when URDC was hired as the grant writer; they are just following through with awarding of the grant.

A motion was made by Kay Bucci, 2nd by William Godshalk authorizing Ms. Steele to execute the Municipal Contract Services Agreement with URDC, subject to the review and approval by Solicitor Gaul.

Question: Hubert McHugh asked if the septic was going to be filled in. Mr. Sonntag replied that it is part of the project.

Motion carried: 4-0-0

Mr. Sonntag explained the asbestos inspection; he replied further that there are three (3) other hazardous features, lead, mercury, and fluorescent light bulbs.

Mr. Sonntag left the meeting at 7:16 PM.

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2. Patrick McHugh, 405 Pennsylvania Avenue:

Mr. McHugh applied for a vacant Council Seat and failed to be appointed. Mayor Prator stated to Attorney Kelly that Council members have (30) days to appoint a person to fill a vacant Council seat. If no action is taken, the vacancy can be filled by the Vacancy Board within (15) additional days. Ms. Bucci replied that there is no Vacancy Board for the Borough of Portland.

Since there is no Vacancy Board, Council can appoint a committee to fill the vacancy within the (15) additional days. If the committee does not appoint someone to fill the vacancy, the members of Council must petition the Court of Common Pleas to appoint someone. The question is "can the vacancy board be formed now or is it too late and does someone have to petition the Northampton County Court of Common Pleas".

Mr. McHugh addressed Council and the Attorney Kelly, with questions concerning an appointment. Mr. McHugh stated that he had several write-in votes during the Primary Election. He asked about past practice. Ms. Kelly replied that because something was done in the past, doesn't mean that you follow past practice. This works with collective bargaining agreements but not with statutes. Attorney Kelly stated that she could not provide any answers at this time because research has to be done. It is important to find out the court approved procedure.

The Borough Engineer stated that Attorney Kelly is not obligated to give any answers, she will provide an opinion. Attorney Kelly is trying to avoid Council doing something that would be inappropriate.

Ms. Bucci replied that Council should address the reason for not appointing Patrick McHugh to the vacant Council seat.

Sewer Matters:

Sewer Shut-Offs 407 Delaware Avenue

A motion was made by Robert Ivancich, 2nd by Kay Bucci approving the termination of water service at 407 Delaware Avenue, due to the customers delinquent sewer account; authorizing President Steele to execute the Work Order to the Portland Borough Authority. Motion carried: 4-0-0

Sewer Matters & Borough Engineers Report: Mark Bahnick, Van Cleef Engineering

a) A motion was made by Kay Bucci, 2nd by William Godshalk approving the Penn Power Group, Emergency Power Generator, planned maintenance three (3) year renewal package at \$2,031 per year; authorizing President Steele to accept and execute the renewal.

- Inspection dates: September 2021, 2022, 2023
- Maintenance dates: March 2022, 2023, 2024

Motion carried: 4-0-0

b) A motion was made by Kay Bucci, 2nd by William Godshalk accepting the proposal of Penn Power Systems to perform coolant drain and flush, per abnormal sample results at the Pump Station location, MTU Generator Model #50PJC6DT2, at 402 Delaware Avenue, in the amount of \$ 898.80. Motion carried: 4-0-0

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c) The vacant lot on the corner of Main and Jennings Streets owned by Jean Louis Todeschini, is in the process of being sold. The prospective buyers have a contingency to verify that upon building a home on the vacant lot, a letter of verification is needed for them to tap into the Borough sewer line. The Borough Engineer replied that he would prepare a letter of validation.

d) 303 Demi Road – River Pointe Industrial Park: Mark Bahnick

There was no contact or feedback concerning the written comment letters sent to the UMBT Planning Commission by Van Cleef Engineering or the traffic engineer McTish-Kunkle and Associates; the commission met on July 19, 2021. The developer has applied to the Portland Borough Authority for water service for domestic use and fire suppression. The current land development plans for this project show that an on-lot septic system will be used to provide sewer service.

There are traffic concerns for Demi Road, which intersect with a PennDOT highway, PA Route 611 in the Borough. Demi Road has been upgraded from a low grade to a medium grade driveway and since the road is part of both the Borough and UMBT Mr. Bahnick stated that the Borough should be part of the discussion with PennDOT, concerning the driveway and permitting. The proposed warehouse facility and the traffic study should also be part of the conversation. The former Gen-On power generating station has also been acquired by River Pointe and will be redeveloped.

e) Dunkin Donuts:

The 2010 revised diagram of the traffic signal light was supposed to be installed in 2010. The diagram does show crosswalks and the potential for crosswalks below the Dunkin driveway. The Borough can offer comments on what could be done to the crosswalks. This would impact the existing garage at 400 Delaware Avenue. Mr. Bahnick stated that Dunkin is spending a lot of money for this project; the Borough should be in the conversation with Dunkin and PennDOT.

Ms. Bucci replied that the issue was brought up because the garage and curbing has always been in that location. The owner is trying to sell the property and will not be able to enter the doors into the bay area with the plan that has been presented by PennDOT.

Ms. Steele stated that she was curious why there are no upper crosswalks on the Dunkin side. Jim Potter, retired PennDOT supervisor, replied that the original permit was issued in 1999 to a previous owner, Gus Hatges. The original permit expired after (15) years; Mr. Hatges never completed the project. Mr. Bahnick explained further that the driveway was partially built but never completed; the permit was then closed out by PennDOT. Ms. Bucci commented that PennDOT activated the traffic signal light without Mr. Hatges in compliance? Mr. Potter replied YES.

Ms. Steele stated that she understood Ms. Bucci's argument; the owner of the garage (Andrej Madej) and the potential buyer should be involved in a conversation with PennDOT. Ms. Steele stated that Mr. Madej has access and will always have access from the rear of the building. Ms. Steele asked Mr. Bahnick if the Borough should force PennDOT's hand to re-assess the situation. Mr. Bahnick replied that another crosswalk is needed on the opposite side of the intersection.

A motion was made by Kay Bucci, 2nd by William Godshalk authorizing the traffic engineer,

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McTish-Kunkle and Associates, to draft a letter to PennDot, on the Borough's behalf, to add another crosswalk and curbing to the opposite side of the intersection. Motion carried: 4-0-0

- Hubert McHugh commented that during the fire of the Cramer building, at 394 Delaware Avenue, the water pressure was so low that residents had no water during that fire. Ms. Steele replied that Mr. McHugh should attend a PBA water meeting.

Zoning Officer Report:

Keller Zoning & Inspection Services

a) None

b) Erin Long: 501 Northampton Street

Questions and discussion were addressed to Council concerning the racing of dirt bikes on 109 First Street and the associated noise level. A written complaint was received to Council by a neighbor with an accompanying tape recording of the noise that a dirt racetrack has been created at 109 First Street. The complaint was forwarded to the Zoning Officer who sent an enforcement notice to the property owner at 109 First Street. Mr. Long and his children were also part of the dirt racetrack racing and noise. Mr. Long did not understand that a racetrack was not allowed in a residential district.

Ms. Steele read section 405.4 from the Zoning Ordinance 2015-1, that a racetrack is not a permitted use in a residential district. A racetrack is a permitted use in a commercial district with the proper permits and approvals from the Borough Zoning, Planning and Engineer. Failure to comply constitutes a violation, with sanctions and fines. The property owner is responsible to apply for the necessary permits to have the property rezoned.

Ms. Bucci replied there is also the noise issue to be addressed. Mr. Long asked when the zoning ordinance was adopted. Ms. Steele replied in 2015 and that the process took two years; the zoning ordinance was advertised publicly, all meetings were open to the public.

Mr. Bahnick stated that this is a zoning issue with the zoning officer and the zoning hearing board. The zoning hearing board procedure was explained to Mr. Long. Fines of \$ 500 are rendered for the first offense and \$ 500 every day thereafter. Mr. Bahnick stated that in his opinion a racetrack riding operation should be done at a professional site, far enough away from people's residences. Ms. Bucci stated that the Borough enforces a Noise Ordinance. Mr. Bahnick stated an example of noise abatement was during the construction of the new Ultra-Poly building expansion. Complaints were received from the public concerning noise issues emitting from the original Ultra-Poly site operation; the noise issues were addressed and corrected during that construction.

- Mr. Bahnick left the meeting at 8:24 PM.

Zoning Hearing Board (ZHB):

a) Slate Hills Enterprises and Attorney Peter Layman has filed an appeal/variance of the Zoning Officer's denial of the grading plan. The ZHB Appeal will be held virtual on August 19, 2021, at 7 PM. For anyone interested in attending they should contact the ZHB Attorney, Scott Amori for the virtual link.

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UCC Building Code Inspectors Report: Keller Zoning & Inspection Services

- Two (2) permits were issued:
 - i. 312 Main Street
 - ii. 505 Collins Avenue

Planning Commission:

- There has been no action taken on the review of the Slate Hills Enterprises grading plan for Delaware Avenue. The plan has been deferred until the August 16, 2021, planning commission meeting.
- Hubert McHugh, Chairman of the ZHB, stated that he would like to attend the planning commission meeting as a resident. Mr. McHugh asked if that would be a conflict of interest. Attorney Kelly replied NO.

Portland Borough Authority (PBA): Lance Prator, Chairman

- Chairman Prator reported that the Northampton County bridge at Laurel Hill Road is in repair.
- PBA is proposing a new well for residential use. The time frame is two to three years away.
- Vice Chairman James Potter provided information and cost estimates for a transmission line through the areas of Middle Village, Route 611; another with Turkey Ridge Road and Boulder Drive to Church Street. Approximately \$6.1 million.

Legal: Elizabeth Kelly, Associate Attorney

- None

Subdivision and Land Development:

- None

Community Development, Slate Belt COG & Grants:

- a) There was no meeting for the month of July. The next meeting is August 25, 2021.
- b) The COG purchased a smaller leaf vacuum. The previous leaf vacuum that was used for the Borough was too big for the streets. The Borough's snowplow/dump truck will be able to tow it. The rental fee is \$75 per day.
- c) The estimate for the repair of the COG street sweeper, that was damaged while in use at the Borough, was provided by Easton Auto Body (EAB) in the amount of \$4,853.38. The secretary stated that if the Borough turns a claim in to the insurance company the deductible is \$1,000.
 - i. A motion was made by Robert Ivancich, 2nd by William Godshalk authorizing the repair of the COG street sweeper repair by EAB, in the amount of \$4,853.38, from the General Fund Account; no insurance claim involved. Motion carried: 4-0-0

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d) 2021 Hotel Tax Grant Program:

A motion was made by Kay Bucci, 2nd by Stephanie Steele authorizing the Borough to apply for a Hotel Tax Funding Request through the County of Northampton DCED, for repairs to the "Pokey". Motion carried: 4-0-0

- i. The application process opens Wednesday, July 14, 2021, at 8:30 AM. The deadline is Friday, August 20, 2021, at 4:00 PM.

e) Pioneer Pole Building: Kay Bucci

Ms. Bucci stated that Solicitor Gaul has been researching Co-Stars for the past month. Ms. Bucci stated that Co-Stars has different categories that have different meanings. Ms. Bucci reported that \$89,929 is the final cost per the Pioneer Pole representative. Ms. Bucci stated that time is ticking. Attorney Kelly explained that Pioneer is a vendor of supplies for building supplies and materials on Co-Stars. As an ancillary service Pioneer will install the building. This Co-stars contract with Pioneer cannot be used for new construction. Attorney Kelly called Co-stars and spoke with an official. The contract presented has one line listed for prevailing wage instead of wages listed for every building trade. Attorney Kelly stated the official would be willing to attend a conference call with Borough Council. Attorney Kelly has questions as to whether Council is legally justified to enter into this contract that has been presented to Council.

Attorney Kelly advised Borough Council to engage in a conference call with Co-Stars officials before doing anything else; invite contractors on the Co-Stars list of vendors for prices/proposals. Ms. Bucci replied that Council should forget about Co-Stars and put the project out to bid.

f) LSA Grant Update, Gymnasium Demolition: Kay Bucci

Ms. Bucci presented three written proposals for an asbestos inspection/report for the Portland Gymnasium, prior to demolition.

1. ACM Associates, Inc. \$730
 - i. includes lab samples at \$25 each, approximately (30) samples.
 - ii. roof samples at \$35 each, approximately (3) samples.
2. Datom Products, Inc. \$950
 - i. (15) samples included in above price; additional samples \$45 each.
3. Element Environmental Solutions (E2S): \$2,400
 - i. estimating (30) polarized light microscopy bulk samples; additional or less, handled through unit costs provided.

Ms. Bucci had previously reviewed the proposals and recommended the firm ACM Associates, Inc., in the amount of \$730. All that needs to be provided is a ladder for access to the roof. President Steele stated that she would provide the ladder.

A motion was made by Kay Bucci, 2nd by William Godshalk accepting the asbestos inspection/report proposal of ACM Associates, Inc., in the amount of \$730. Motion carried: 4-0-0

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g) Portland Hook & Ladder Co. #1:

The Portland Hook & Ladder Co. #1 asked Council for support of their LSA Grant application. The fire department would like to retire an older vehicle. Ms. Bucci replied that she supports the fire department and the remaining Council members agreed.

Back to the Pole Building:

To keep the project moving forward, discussion addressed the advertisement of bid specifications for the construction of a pole building on the Borough's Municipal Parking Lot at 206 Division Street.

A motion was made by Kay Bucci, 2nd by Robert Ivancich for Council to work with the Borough Engineer on bid specifications for the Pole Building, authorizing advertisements in a newspaper publication of general circulation and on the Penn Bid Website. Motion carried: 4-0-0

Community Events/Recreation Board:

- A free ice cream social will be held at the Park & Walk Lot on Saturday, August 28, 2021 from 6:30 to 8:00 PM.
- The committee will meet on Sunday, August 8, 2021, at 7 PM.
- RiverFest, sponsored by Slate Belt Rising, will be held on Saturday, August 28, 2021, at the train station parking lot, 222 -228 Delaware Avenue, from 10 AM to 3 PM.

Air Liquide Safety Committee:

- Meetings are postponed until September 2021.

Police Report:

- No police report was provided. Chief Mulligan is on vacation.
- Police coverage was provided by Officer Pysher for the Borough Council meeting.

Mayors Report:

- Founders Day will be observed in Delaware Water Gap Borough. The link provided is the 911 trail and the Liberty Water Gap Trail.
- The PA House of Representatives and PA Senate are now involved with the I-80 Rockfall Mitigation to defund the project. Ms. Bucci thanked Mayor Prator and a small group of people for their efforts in fighting this project. Mayor Prator stated that there is a link to watch the meeting.

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Streets: William Godshalk

- a) No quotes have been received from Hallett Contractors for needed paving projects that have been addressed previously.
- b) No quotes have been received for the tree removal behind the police car garage in the municipal parking lot where the new pole building will be constructed.
- c) Discussed was holding a special meeting to discuss with the Borough Engineer the specifications for the new pole building and the opening of bids. No action was taken.
- d) Someone needs to investigate the electric poles that are in the right-of-way on Delaware Avenue at the proposed (6) unit apartment building. Ms. Steele replied that the ZHB hearing is scheduled for Thursday, August 19, 2021, at 7PM in Borough Council Chambers.
- e) Hubert McHugh stated that Market Street has two big "ruts" that need modified installed.
- f) Ms. Bucci stated that the Borough lot across from her house also needs modified for potholes.

Sanitation Committee:

- None

Building Committee:

There was no report on the disconnecting of electric and propane service at the gymnasium building.

Budget, Finance, Insurance, & Cable TV Contract:

a) There was discussion, but no action taken concerning how to spend the COVID-19 American Rescue Federal Stimulus funds. Council should familiarize themselves with the information provided by the federal government.

b) Ms. Steele reported there are several options that were provided by Service Electric, concerning the WIFI connection for the downtown business district near the Borough's Park & Walk Lot.

Option One: in the rear of the lot by the property of John Vallance's machine shop there is a Service Electric connection and an available pole. The utility wires can be buried underground and routed to the Borough's on-site restroom facility, where a hole can be dug to make the connection into the concrete.

Option Two: The better option is at the rear of 413 Delaware Avenue, property owned by Stephanie and James Steele. No trenching of holes is required; better than installing holes in Borough property. An agreement would be needed between Mr. & Mrs. Steele and the Borough.

A motion was made by Kay Bucci, 2nd by William Godshalk authorizing Solicitor Gaul's office to draft an agreement, with a right-of-way access, between Knott Necessarily LLC 413 Delaware

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Avenue, and the Borough of Portland, for the installation of a wi-fi modem by Service Electric Cable TV. Motion carried: 4-0-0

Ordinance Update Committee:

- None

Personnel, Policy & Procedure Committee:

- None

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

- There will be no meeting held in August.

Plan Slate Belt:

- The August 4, 2021, meeting is cancelled.
- A special meeting will be held on August 18, 2021, at the Weona Park Community Center, Pen Argyl at 6 PM, a roundtable discussion on infrastructure.
- Liberty-Water Gap Trail Alliance: Cindy Fish
- Ms. Fish was absent.
- The next quarterly meeting is scheduled for August 25th, 5:30 PM at the UMBT Community Park.

Correspondence:

- The Never Forget Walk: Sal Panto, Jr., Mayor, Easton City

An invitation to participate in the 20th anniversary of the tragic event of September 11, 2001, which will highlight a day long events schedule in downtown Easton, PA., paying tribute to the thousands that lost their lives that day and the many first responders that still suffer from the effects of the tragedy.

Secretary's Announcements:

- None

Old Business:

- The State Street – Jacoby Creek Bridge opened on July 6. The Borough has received the DVD of the road survey and the original brass plaque that was installed on the bridge in 1921.

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New Business:

- Act 65 of 2021: Amendments to the PA Sunshine Act

President Steele read the amendments to Council which brings additional transparency and accountability to municipal governments and school boards. The law becomes effective August 29, 2021.

- The agenda cut-off date has been changed to Wednesday before the meeting at 5 PM. This will be posted on the Borough website and at the Portland post office.
- The Borough received (8) cases of free hand sanitizer from EMS of Northampton County. The sanitizer was divided between the PH & L Fire Dept., the Portland Police Department and the Borough.
- Jim Kenna, 507 Pennsylvania Avenue, forwarded a complaint through Mayor Prator asking to adopt an ordinance concerning the mowing and blowing of grass cuttings onto Borough streets. Ms. Steele replied that she is positive there is an ordinance pertaining to this issue.
- Mayor Prator presented correspondence to Council from Charles Hentz, UMBT resident, concerning the BAC-IDA and River Ponte Logistics.

Executive Session:

- None

Public Comment Non-Agenda:

Patrick McHugh, 405 Pennsylvania Avenue, produced pictures and video from his computer showing water run-off from various streets in the Borough, i. e., behind the Borough dumpster at 206 Division Street, Pennsylvania Avenue, Crestmont Drive, Gobel Street, Market Street. Mr. McHugh asked Council to come to some resolution with this issue.

President Steele replied that Mr. McHugh should respond to the zoning officer, Bettina Serfass, since a letter was sent by her office to Mr. McHugh concerning water run-off from Mr. McHugh's driveway onto Pennsylvania Avenue and State Street with the debris entering the intersections storm drain. Ms. Steele stated that Council addressing the complaint about water issues is costly and the Borough does not have the funds for such a big project.

Ms. Steele stated that she feels that Mr. McHugh does not deserve to be a Council member. Attorney Kelly responded that the statute states that Council make the appropriate choice. Time is the legal question.

Adjourn:

The next Council Meeting will be held on Monday, September 13, 2021, at 7:00 PM

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A motion to adjourn the meeting at 10:08 PM was made by Kay Bucci, 2nd by William Godshalk.

Motion Carried 4-0-0

Respectfully Submitted,

Carol A. Hummel

Carol A. Hummel, Secretary