

BOROUGH OF AKRON COUNCIL MEETING- JUNE 8, 2015

Council Members present- Perry Lorah, Vice-President; Justin Gehman, John Taylor, Jeff Shirk, Dan McCormac, Earl Shirk. (Thomas Murray-not present)

Others present- Mayor John McBeth, Dan Guers, Borough Manager; Susan Davidson, Borough Secretary; Kenelm L. Shirk III, Solicitor; Police Chief Thomas Zell, Carol Stark, Penny Talbert, Ephrata Public Library; Kay McKellhenney, Greg Fitzpatrick, Brian Boyer, Marsh Barr, Tammy Ruth, Dick Wanner, Ephrata Review; Glen Beiler, Don Reese, Tina L. Thompson, Senator Aument's Office; Bob Rollman, Lora Gomboc, Annette Swartz, John Winkelspecht, Roberta Winkelspecht, Phil Benigno, Ann Small, Ephrata Public Library.

Meeting opened with the Pledge of Allegiance.

Approval of Minutes

Dan McCormac made a motion to approve the May 11, 2015 Borough of Akron Council Meeting minutes. Earl Shirk seconded the motion. Motion carried.

Earl Shirk made a motion to approve the May 27, 2015 Borough of Akron Council Meeting minutes. John Taylor seconded the motion. Motion carried.

Visitors

Brian Boyer, Westview Drive distributed a list of vehicles in the Borough that need to be investigated. Kenelm L. Shirk III mentioned the trailer on Diamond Street because it is owned by a person in the military no action can be taken.

Brian Boyer mentioned at 58 Third Street his scooter can't get through.

Tina Thompson was representing Senator Aument's Office and they are here to assist the public by contacting their local office in Lititz Pa.

John & Roberta Winkelspecht, Crestview Drive mentioned last Sunday cars and four wheelers were speeding on the trail. Jeff Shirk mentioned this was reported to police. Chief Zell mentioned report this as soon as possible. Chief Zell mentioned we should have removable offset barriers.

Kay McEllhenney, 11 Scenic View Drive mentioned visitors should stand to address Council.

Robert Rollman, 128, N. 7th Street, Akron mentioned that crack sealing is really slippery for motorcycles. Rollman also mentioned his granddaughter will have to walk to school because the school bus won't pick her up at Hoover Drive & Fulton Street. Chief Zell mentioned he is aware of this situation and is trying to resolve this situation along with the Ephrata SRO Officer.

Ann Small and Penny Talbert from the Ephrata Public Library distributed the 2015 first quarter report for the library and thanked Council for their support. Penny Talbert mentioned she will continue to give updates.

Glen Beiler, 117 Broad Street, Akron PA mentioned how nice the Rail Trail is and there is a parking problem at the entrance of Main Street behind Bomberger and Crestview. Dan Guers will look into getting more pedestrian crossing signs.

Glen Beiler then read the decision by PA State Supreme Court in regards to the Mayor's salary. Glen Beiler said drop the lawsuit.

Don Reese, Miller Road asked if the Balmer tree issue has been resolved. Dan Guers will contact Horst to see if they spoke to Balmer Bros.

Mayor Report- Mayor John McBeth

Mayor McBeth mentioned the Lady Lions Softball Team are Division Champions.

Joshua Eberly and Matthew Eberly both members of Akron Troop 57 have achieved the status of Eagle Scout.

Akron Night at the Barnstormers is Friday, June 19 and tickets are \$8.00.

Police Report-Chief Zell

Distributed May 2015 report

Chief Zell mentioned the lab is finished and the contractor did a good job.

Painting speed lines on 7th Street and hope to get more painted in the next few weeks.

The coin box at the tennis courts in Roland Park has been damaged and this does not allow for the lights to be utilized.

Chief Zell mentioned Naloxone (Narcan) will be distributed to county departments through the DA's office in the near future. Officers must complete on-line training before dispensing the medication which reverses the effects of opioid overdoses such as heroin.

Finance Committee-

Jeff Shirk read into the minutes the May 2015 month-end balances.

General Fund	\$268,092.51
Water Fund	\$ 8,711.08
Sewer Fund	\$ 16,050.12
Escrow Fund	\$ 60,979.99
Highway Aid Fund	\$239,783.63
Gen. Reserves Fund	\$103,178.52
Water Reserves Fund	\$ 20,526.43
Sewer Reserves Fund	\$198,009.13
Capital Projects Fund	\$ 29.25
Rail Trail Const.Fund	\$342,617.75
Bldg Repairs Fund	\$ 41,112.20
Community Fund	\$ 3,367.81

Total \$1,302,458.42

Jeff Shirk made a motion to pay the bills as reviewed by the Finance Committee with the exception of an invoice from CGA Law Firm, PC in the amount of \$1,376.91. The invoice is billed to the Pennsylvania State Mayors Association. John Taylor seconded the motion. Motion carried.

Jeff Shirk mentioned the year to date budget looks good. Legal bills in the general fund are at 64% and the highway snow budget is at 113%.

Ordinance & Safety Committee- Dan McCormac

Dan McCormac mentioned we should not establish the Mayor's salary until this legal lawsuit is done.

Dan McCormac made a motion to drop the lawsuit for the Mayor's financial compensation. There was no second to the motion. Motion did not pass.

Parks & Personnel Committee- John Taylor

John Taylor made a motion to correct the employment start date for Brady Sipe (summer part-time help). The correct date is May 11, 2015 not May 12th, 2015. Earl Shirk seconded the motion. Motion carried.

John Taylor and Jeff Shirk will review the Broad Street pavilion lighting information by the next committee meeting. John Taylor requested committee time.

John Taylor again mentioned having goats eating grass at our parks especially in the pines area where there is a lot of weeds and poison ivy. PPL uses goats to maintain grassy areas around there power lines.

The entrance at the Roland Park on Main Street (at the sign) has a lot of weeds. The aerator at the Roland Park pond is not working.

Rail Trail

Jeff Shirk mentioned that he has contacted a lot of residents in regards to screening and has met with some and will meet with everyone who want screening. All meetings were extremely positive. Jeff Shirk also mentioned there is heavy wash on the south side of the trail and will get a recommendation from our engineer in regards to this issue.

Jeff Shirk made a motion to ratify the action of Jeff Shirk and Thomas Murray to have ELA submit spec's for the sidewalk on Fulton Street. Justin Gehman seconded the motion. Motion carried.

Property & Planning Committee- Earl Shirk

Earl Shirk made a motion to have Susan Davidson, Borough Secretary petition the Lancaster County Assessment Office to make the Municipal Building downstairs(the area that is not rented) area tax exempt. John Taylor seconded the motion. Motion carried.

The hot water heater in the basement of the Borough Office building will be turned back on to provide hot water.

Earl Shirk and Kenelm L. Shirk will have a conference call with T-Mobile to resolve some pending issues.

The Akron Rail Trail hours are 6 am to 11 pm. There is no decision in regards to porta-potties.

Streets Committee- Justin Gehman

Dan Guers mentioned the notice to proceed for Third Street will be sent out Friday and July 15th is the start date and the work should be completed the first week of August.

Dan Guers mentioned he is trying to schedule a meeting in regards to the ADA driveway issue on Third Street.

Dan Guers also mentioned the telephone pole maintenance issue will be discussed with the public works department.

Justin Gehman requested committee time.

Water & Sewer Committee- Jeff Shirk

Distributed May 2015 report

Jeff Shirk mentioned the flow rates look good.

Ephrata Borough wants us to be online with the chemical feed by July 1, 2015.

Borough Manager- Dan Guers

Distributed May 2015 report

Jesse Horst has completed installation of the Fulton Street sidewalk.

Tom Murray, Jeff Shirk and Arro Engineers have met to address stormwater issues along the trail.

Dan Guers continues to work with Farley Fry regarding the MS4 storm water permit that is due June 12, 2015.

Crack sealing and patching is complete and we have exceeded project material by 15%.

All but one sidewalk has been completed on Third Street and one minor and one major ADA issue remains.

Bill Hensel our meter reader is retiring and Dan Guers will have a replacement by the next meeting.

Borough Solicitor

The Front Street parking issue will be discussed at the next committee meeting and we will have Chief Zell’s input on this.

Dan Guers and Steve Sawyer (Ephrata Twp Manager) will meet with Rosenberger in regards to Rail Trail parking.

Fire Chief

Distributed May 2015 report

Planning Commission

The Borough Secretary will schedule a Planning Commission meeting to discuss commercial district change definitions and other pending issues.

Zoning Hearing Board

Two zoning applications have been received

- 1) Change of use in a commercial district on N. Seventh Street
- 2) Fence variance

Tax Collector-Ann Nolt

Distributed May 2015 report

County Real Estate Taxes collected in May 2015	\$70,248.45
Borough Real Estate Taxes collected in May 2015	\$51,722.78

Borough Treasurer

Distributed May 2015 Call Log

Borough Treasurer

Nothing to report

Unfinished Business

Dan McCormac mentioned solicitor fees to date are at 64% and the fees should be 41%.

Dan McCormac said he will ask for a motion to withdraw the Mayor’s lawsuit at every meeting.

Earl Shirk mentioned we are not suing over \$600, it is the ordinance that dictates and we need clarity from a court of jurisdiction.

Jeff Shirk mentioned it was not this Council that made a mistake, it was this Council that discovered it and it is our responsibility to follow the current ordinance.

Kenelm L. Shirk mentioned we filed a declaratory judgment action which is not a lawsuit against the Mayor but a request of the court to give an opinion on the subject. The Mayor’s counsel in response

filed an answer and then filed answer and new matter. The lawsuit can't be dropped without the Mayor's counsel's consent.

Scott Ruth, 928 New Street, Akron mentioned if Council gets itself out of it now, the Mayor is going to be the bad guy and you still get a decision and then Council looks good.

Tammy Ruth, 928 New Street, Akron, mentioned what else we are paying the solicitor for.

Greg Fitzpatrick, Diamond Street, mentioned the budget amount is an arbitrary number. Things have to be cleaned up. We have spent a lot of money because of this Mayor.

Don Reese, Miller Road mentioned is Council scared of making a mistake and we always have our Solicitor here at our meetings. Perry Lorah mentioned the biggest thing we look for as a Council is legal advice and we have a lot of questions and we need legal advice and if our Solicitor was not here we would have to table the issue and ask him later and that takes even longer. Earl Shirk mentioned having our Solicitor here is not running up the bill. Earl Shirk mentioned that he wants the Mayor issue resolved.

John Taylor mentioned we have to pay the Mayor according to the ordinance. Earl Shirk mentioned each Council member sitting here has taken an oath and we cannot ignore that oath and let the Court of Jurisdiction decide what that is. Dan McCormac said not to ignore the law but let the Mayor come after us then we have to make decision.

Mayor McBeth mentioned a mistake was made twenty two years ago and the only way to correct that mistake is the next term of office. What you are doing is two wrongs and that won't make a right. Mayor said send any proposal you want to my attorney.

Jeff Shirk had legal documents in regards to the Mayor and his activities since 2007 and it's time to put this issue to bed.

Jeff Shirk made a motion that Council requests the Borough Solicitor to file a complaint with both the Ethics Commission and the District Attorney's Office as it relates to Mayor McBeth's compensation issues including his wedding activities prior to 2012. Jeff Shirk mentioned if they decide to take that on we will get a ruling and it won't cost us anything. If they decide not to take it on we are done. Dan McCormac asked if we can get a roll call vote on this. John Taylor seconded the motion. Earl Shirk mentioned one caveat is this needs to be resolved then it needs to be let go. Perry Lorah asked the Solicitor what happens after these complaints are filed? Kenelm Shirk mentioned when you file with the Ethics Commission all proceedings are secretive by law and will pursue to whatever length they decide to go and you might not ever know what that end is. The Mayor will know and if you do know you might not be able to disclose it unless the Ethics Commission makes it public. The District Attorney's Office if they agree to take it on will go to the County Detective's office because it is a criminal investigation- 1) will prosecute 2) agree that there might be grounds to choose to exercise prosecutorial discretion and not move forward with the case. Then you would have the right to file a private criminal complaint and move that forward and that won't happen for at least a year. Don Reese mentioned he doesn't know

how you are going to benefit from this and how it looks. Sarah Shirk, Main Street mentioned that the Mayor has made a mockery of the resident's intelligence and ethics and not okay with that. Tammy Ruth mentioned she is shocked we are spending more money on this. Jeff Shirk mentioned we are only working on one small piece of the problem. Scott Ruth mentioned he knows there is a problem, if we withdrew the lawsuit then we can tackle the other problems and it's embarrassing. Jeff Shirk mentioned he has no grudge with Mayor McBeth and is trying to bring to the truth forward. Mayor McBeth mentioned Resolution #00092 adopted in January 2009 states the Mayor is entitled to accept outside fees and costs in lieu of the Mayor's statutory compensation. Perry read the resolution. Jeff Shirk mentioned that resolution was only good in 2009. In 2010 Council did not adopt the same resolution because of additional information that was received throughout the year by Susie Friedman. Mayor McBeth mentioned that investigation or payment was never approved by Council. The Mayor mentioned apparently Tom Murray did that by himself. Perry called roll call- Earl Shirk yes, Dan McCormac opposed, Jeff Shirk yes, Justin Gehman yes, John Taylor yes, Perry Lorah yes. 5 yes and 1 no. Motion carried but not unanimous.

New Business

Nothing to report

Committee Meeting- Monday, June 22, 2015

Council will meet at the Borough Office and then meet at the Rail Trail then back to Municipal Office
Rail Trail- 6:30 p.m. (meet at Municipal Office then go to Rail Trail)

Streets Committee-7:45 p.m.

Parks & Personnel Committee- 8:00 p.m.

Ordinance & Safety Committee- 8:30 p.m.

Finance Committee- 9:00 p.m.

This committee meeting must be properly advertised.

Jeff Shirk made a motion to adjourn the meeting. Justin Gehman seconded the motion. Motion carried.
Meeting adjourned.

Respectfully submitted,

Susan Davidson
Borough Secretary

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