

December 12, 2022

POTTSTOWN BOROUGH COUNCIL

ANNOUNCEMENT

Borough Manager Keller explained the format for this evening's meeting, advising that the meeting is a GoTo Virtual Meeting and an in-person meeting. All persons wishing to speak during Public Comment, whether participating by GoToMeeting or telephone, must submit their name and address through chat or email at administration@pottstown.org. Requests to speak will be accepted until 7:05p.m., at which time chat will be closed, and no further requests for comment will be honored. As always, Public Comment will be limited to three minutes per person.

CALL TO ORDER

The regular meeting of the Pottstown Borough Council was called to order on Monday, December 12, 2022 at 7:00 p.m. as a hybrid, in-person and Go-To Meeting, with President Weand in the Chair.

INVOCATION

President Weand requested a moment of silence.

PLEDGE OF ALLEGIANCE

ROLL CALL

Councilors present were Ryan Procsal, Lisa Vanni, Donald Lebedynsky, Trenita Lindsay and Dan Weand. Also present were Manager Justin Keller, Solicitor Charles Garner (virtual), Assistant Solicitor Matthew Hovey, Mayor Stephanie Henrick and Borough Secretary Virginia Takach. Councilors Joseph Kirkland and Michael Paules were absent.

PRESENTATION – CITIZENS' LEADERSHIP ACADEMY

Kourtney High, Grants Administrator and Director of the Citizen's Leadership Academy, presented graduation certificates to the 2022 graduating class to the following participants: Wayne Fenstermacher, Mayor Stephanie Henrick, Nathan Lenker, Jake- Anthony Nye (absent), Jamie Sanchez, Linda Vondercrone, Phil Vontor, Tammy Vontor, Tre Wilkins and Cynthia Willison.

EXECUTIVE SESSION

President Weand recessed the meeting to executive session at 7:05 p.m. for one item of litigation.

MEETING RESUMED

The regular meeting resumed at 7:50 p.m.

Assistant Solicitor Matthew Hovey read the following statement on behalf of Borough Council.

December 12, 2022

We anticipate public comment this evening on the temporary shelter. Please know that, on the advice of legal counsel, we will not be responding to those comments tonight due to the ongoing nature of the proceedings. Nevertheless, we want to again acknowledge that there is a homelessness crisis in our region. Our ordinances, however, are in place to protect the health and safety of individuals and the general public. Too often once an issue develops or complaints are received from residents, a preventable problem cannot then be as easily solved or fixed. Our ordinances address not just the short-term interests of the Borough but its long-term interests as well. They are intended to address issues before foreseeable, preventable harm is done. Our ordinances must be respected so that people are protected. Lastly, please know that our Solicitors will be reaching out tomorrow to legal counsel for Beacon of Hope and St. Paul's Church to explore a path forward. We hope to find a resolution that will address the issue of homelessness in the short term while also respecting our ordinances and codes. In the meantime, Council acknowledges tonight's Code Blue and wants to publicly state that we do not intend to take any enforcement during a Code Blue. Thank you for your attendance this evening. We look forward to your input and we are listening

APPROVAL OF MINUTES

Motion by Councilor Procsal, seconded by Councilor Lebedynsky to approve the minutes of the November 14, 2022 Council meeting as presented. Motion carried: 5 ayes.

SUBCOMITTEE REPORTS

a. Finance & Administration – President Weand advised that at 85% of the year, General Fund revenues collected are at 101%. Real estate taxes collected are at 101% and local taxes at 110%. He added that the Audits are in progress. There were no new Lerta applications.

COMMITTEE REPORTS

- a. EAC – There was no report.
- b. Regional Planning – Councilor Procsal reported that there is progress on the Ambulatory Hospital and the Super Wawa proposed near Costco.
- c. Blighted Property Review Committee – There was no meeting.

COMMENTS FROM CITIZENS PRESENT

a. Scott Bentley, 212 East High Street – (statement read by Manager Keller due to meeting delay) – commented that lately he has been saddened and angered by the Borough's actions – fighting with churches doing what churches do, and the shameful statement on Beacon of Hope, all organizations that help the most vulnerable of Pottstown's citizens at no cost to the taxpayer. Among the worst arguments made is that other communities have not done anything for their vulnerable citizens, as if that is some reason to make our homeless suffer in the cold. He noted that there are two things Borough Council can do to start to turn things around. Two motions that could be made and passed tonight:

December 12, 2022

1. Urge Beacon of Hope to reopen their shelter at St. Paul's, with rules substantially the same as they have done with their warming center in the past.

2. Direct Pottstown's employees to work with Beacon of Hope to fix whatever paperwork, license, or zoning problems may exist.

b. Bill Ehritz, 200 High Street – spoke as the owner of the Keystone Running Store and expressed a concern regarding the parking situation for his employees.

This will be addressed through the Finance Department.

c. Susan Bentley, 2039 St. Peters Road – commented that she is angry and disappointed regarding Council's portrayal of the efforts of the Beacon of Hope and urged Council to immediately to proceed with its efforts.

d. Cathy Skitko, 860 Beech Street – spoke as a private citizen regarding the Beacon of Hope noting that she appreciates the need for regulations in Borough government. She questioned if it is right to put good people out into the street because of a communication issue.

e. Bruce Madara, 543 North Adams Street – stated that he recalls Pottstown as a community of many churches and noted that common theme of helping the needy. He agreed government rules should be followed and questioned if a warm meal or shelter from the cold would destroy Pottstown.

f. Philip Thees, 63 South Evans Street – commented that the Beacon of Hope acted in bad faith by not abiding by the local rules. He also spoke as a janitor for Franklin Elementary School and recently found a person sleeping on the steps surrounded by cigarette butts. He added that the Borough has a responsibility to the children and their safety. Mr. Thees also commented that Montgomery County has caused this problem in Pottstown by selling its homeless shelter in Norristown, leaving this the only shelter in the County.

g. Johnny Corson, 544 Jefferson Avenue - spoke on behalf of the NAACP and expressed support for the Beacon of Hope and the warming shelter at St. Paul's United Church of Christ, which is an obligation of the community. He added that they are offering solutions to the problem not causing a problem.

h. Pastor Justin Valentine – commented that the religious organizations feel the Government is overstepping its bounds by telling a religious entity how to fulfill its obligations. He added that safety, shelter and housing are the first steps towards recovery.

i. Tracy Purdy, 1016 East High Street – spoke in favor of the temporary warming center at St. Paul's church until a permanent shelter is built. She added that she was stunned by Council's Cease and Desist order for caring for the needy. She noted that this costs the Borough nothing and urged Council to lift this order.

j. Kelly Horvat, 1134 South Street – spoke in support of the Beacon of Hope warming center and noted that her mother and siblings experienced hard times in the 1970's, noting that this issue is the same.

December 12, 2022

k. Tom Niarhos, 846 East High Street – spoke as Executive Director of the Beacon of Hope. He thanked Council for not enforcing the Cease & Desist order during the Code Blue events. He added that the warming center was closed last Friday evening in collaboration with the Borough’s requests. He also acknowledged that paperwork was not filed as it should have been. Mr. Niarhos advised that the appeal has been filed on this date and as per Section 915.1, they are now legally allowed to be open. He urged Council to continue to work with Beacon of Hope on short term and long term efforts. He also noted that three townhall meetings were scheduled with the School community to address any issues.

l. Reverend Nichole Jackson, 1511 Cherry Lane – spoke as pastor for Open Table, United Church of Christ. She noted that she does not believe that Borough Council believes that these folks do not deserve shelter but that is how this action looks. She urged all to stand up if they are in support of Council rescinding the Cease and Desist order this evening. (Most of the attendees stood up.) Reverend Jackson asked Council to do the right thing.

m. Carolyn Mock, 916 North Franklin Street – commented that the Beacon of Hope did not follow procedures. She noted disturbances on the first two nights that the center was opened adding that the safety of the school children should be considered. She also addressed the drug problem throughout Pottstown. Ms. Mock also complained about all the grocery carts around town.

n. Congresswoman Madeleine Dean (statement read by Mayor Henrick – advised that she is dedicated to working on a solution so no one is ever left in the cold. Solving the problem, does not include shutting down the shelter. Representative Dean added that how can Borough Council not recognize the humanity in these people.

President Weand announced the Borough Council Food Drive in cooperation with the Goodwill Fire Company and will be accepting donations until December 23rd with an expected \$1,000 in food to be transported to the Cluster.

UNFINISHED BUSINESS

None.

NEW BUSINESS

a. 2023 Budget - Motion by Councilor Lebedynsky, seconded by Councilor Procsal to approve the 2023 Budget with total revenues of \$58,305,385 and total expenditures of \$58,305,385 as outlined in the 2023 Draft Budget dated November 9, 2022. Motion carried: 5 ayes.

b. 2023 Tax Ordinance - Motion by Councilor Lebedynsky, seconded by Councilor Procsal to adopt an Ordinance to fix the Borough Tax Rate for real property for the Year 2023 as follows:

ORDINANCE NO. 2220

AN ORDINANCE OF THE BOROUGH OF POTTSTOWN, MONTGOMERY COUNTY, PENNSYLVANIA, FIXING THE TAX RATE FOR THE YEAR 2023.

December 12, 2022

BE IT ENACTED AND ORDAINED, and it is hereby ordained and enacted by the Borough Council of the Borough of Pottstown, Montgomery County, Pennsylvania, as follows:

SECTION 1. That a tax be and is hereby levied on all real estate within the Borough of Pottstown, subject to taxation for the fiscal year 2023, with total millage of 14.229 mills, as follows:

Tax Rate for General purposes, the sum of	10.394mills
For Street Light purposes, the sum of	0.337 mills
For Parks and Recreation purposes, the sum of	1.150 mills
For Library purposes, the sum of	0.230 mills
For Fire Protection purposes, the sum of	2.031 mills
For Debt purposes, the sum of	<u>0.087 mills</u>
TOTAL:	14.229 mills

SECTION 2. That any ordinance, or part of ordinance, conflicting with this ordinance be and the same is hereby repealed insofar as the same affects this ordinance.

ADOPTED this 12th day of December 2022.

Motion carried: 5 ayes.

c. Police Chief's Contract - Motion by Councilor Lebedynsky, seconded by Councilor Procsal to approve and authorize the execution of a Fourth Addendum to the Police Chief's contract. Motion carried: 5 ayes.

d. Borough Manager's Contract – Motion by Councilor Lebedynsky, seconded by Councilor Procsal to approve and authorize the execution of a Second Addendum to the Borough Manager's Employment Agreement. Motion carried: 5 ayes.

e. Civil Service Commission/Sergeant - Motion by Councilor Lebedynsky, seconded by Councilor Procsal, to certify the Borough's Civil Service Commission Sergeant's Eligibility List, in rank order, dated December 5, 2022 and as certified by the Civil Service Commission. Motion carried: 5 ayes.

f. Civil Service Commission/Corporal - Motion by Councilor Procsal, seconded by Councilor Lebedynsky to certify the Borough's Civil Service Commission Corporal's Eligibility List, in rank order, dated December 5, 2022 and as certified by the Civil Service Commission. Motion carried: 5 ayes.

g. Precision Polymer - Motion by Councilor Vanni, seconded by Councilor Procsal to grant preliminary/final approval for the Precision Polymer Land Development Plan, 816-842 Queen Street, subject to satisfying the following conditions within 90 days:

- i. Compliance with the Cedarville Engineering Letter of November 11, 2022
- ii. Compliance with the Montgomery County Planning Commission Letter of April 6, 2022
- iii. Compliance with the HRG letter of September 29, 2022
- iv. Submission of an Indemnity/Hold Harmless Agreement to the Borough in a form acceptable to the Borough Solicitor
- v. A payment of a fee in lieu of open space in an amount of \$13,230

December 12, 2022

- vi. Borough Council approval of building elevations prior to issuing of building permits
- vii. Payment in full of all Borough review fees

Attorney Michael Murray was present, representing Precision Polymer, and stated that he is agreeable to the seven conditions as stated.

Motion carried: 5 ayes.

h. Precision Polymer – Motion by Councilor Procsal, seconded by Councilor Lebedynsky to grant the following waiver requests from the Subdivision and Land Development Ordinance, for the Precision Polymer Land Development Plan, as referenced in the Nave Newell letter of November 16, 2022:

- i. Section 22-202 -requirement to submit a preliminary plan prior to review of a Final Plan
- ii. Section 22-400.3.A; 22-402.1; 22-402.2 – requirement to show physical features and topography of the property within 100 feet of the site
- iii. Section 22-404.2 – Waiver of a Phase One Environmental Assessment
- iv. Section 22-505.1 – requirement for shade trees to be provided along street frontage

Motion carried: 5 ayes.

i. Tuscany Girls, LLC - Motion by Councilor Procsal, seconded by Councilor Vanni to grant the request for a Waiver of the Land Development Process for Tuscany Girls LLC, 1301 Glasgow Street, to build a 30' x 32' outside storage garage in the rear of the property. Motion carried: 5 ayes.

j. BASC - Motion by Councilor Procsal, seconded by Councilor Vanni to grant certain waiver requests from the Subdivision and Land Development Ordinance, of BASF Corporation, 860 Cross Street, as recommended by the Borough Engineer in the email dated December 6, 2022:

- i. Section 22-A403.10 - requirement of infiltration testing
- ii. Section 22-505-1 – requirement for total of nine (9) street trees
- iii. Section 22-A504.4; 22-A505.1; 22-A505.3 – requirement for Open space fees
- iv. Section 22-A518 – requirement for any increases to cartway width
- v. Section 26-221.10 (with conditions recommended by the Borough Engineer)

Motion carried: 5 ayes.

k. MCCC Waiver - Motion by Councilor Vanni, seconded by Councilor Procsal to grant the waiver and confirm hard surface foot path for Montgomery County Community College, 144 West High Street, as per the Fox Rothschild letter of November 22, 2022: Section 22-A514.3.

Motion carried: 5 ayes.

l. Trees, Inc. - Motion by Councilor Procsal, seconded by Councilor Lebedynsky to grant the request of Trees Inc., for a contribution of \$20,000 from the Borough Funds to re-treat Borough Ash trees, subject to receiving a \$20,000 matching grant from Pottstown Area Health and Wellness Foundation.

December 12, 2022

Manager Keller confirmed that the ash trees that were treated, have successfully survived. He added that the trees should be treated each year and it has been approximately three years since the last treatment.

Motion carried: 5 ayes.

m. DCED Waiver Form - Motion by Councilor Lebedynsky, seconded by Councilor Procsal to adopt a Resolution requiring the Borough's Elected Tax Collector to accept the DCED Waiver Form and not require the payment of addition charges for real estate taxes under certain circumstances.

RESOLUTION NO. 2022-27

A RESOLUTION OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN, PURSUANT TO ACT 57 OF 2022, REQUIRING ITS ELECTED TAX COLLECTOR TO ACCEPT THE DCED WAIVER FORM AND NOT REQUIRE THE PAYMENT OF ADDITIONAL CHARGES FOR REAL ESTATE TAXES UNDER CERTAIN CIRCUMSTANCES.

WHEREAS, the Pennsylvania Legislature has adopted Act 57 of 2022 (hereinafter referred to as Act 57) establishing a procedure to waive additional charges for real estate taxes when the taxpayer fails to receive the tax notice; and

WHEREAS, Act 57 requires a municipality to enact by ordinance or resolution, to permit the tax collector to waive "additional charges" for real estate taxes when the taxpayer has satisfied certain requirements.

NOW, THEREFORE, BE IT ENACTED AND RESOLVED by the Burgess and Town Council of the Borough of Pottstown, as follows:

SECTION 1. The Borough hereby adopts for use by its elected tax collector the waiver form as prepared and developed by the Pennsylvania Department of Community and Economic Development.

SECTION 2. The elected tax collector is hereby empowered to waive "additional charges" for real estate taxes beginning in the 2023 tax year, if the taxpayer shall comply with the following:

- A. Provide a waiver request of additional charges to the tax collector in possession of the claim within 12 months of a qualifying event.
- B. Attest that a notice was not received.
- C. Provide the tax collector in possession of the claim with a copy of the following:
 - i. A copy of the Deed showing the date of real property transfer; or
 - ii. A copy of the title following acquisition of a mobile home or manufactured home, subject to taxation as real estate, showing the date of issuance or a copy of the executed Lease Agreement.
- D. Pay the face value amount of the tax notice for the real estate tax with the waiver request.

SECTION 3. So long as the tax collector accepts a waiver and payment in good faith in accordance with this resolution, the tax collector shall not be personally liable for any amount due or arising from the real estate tax that is the subject in the waiver.

December 12, 2022

SECTION 4. The elected tax collector shall otherwise comply with all provisions of Act 57 utilizing the definition of terms set forth in said Act.

ENACTED and RESOLVED this 12th day of December, 2022.

Motion carried: 5 ayes.

n. Red Horse Car Shows - Motion by Councilor Procsal, seconded by Councilor Vanni to grant the request of Red Horse Motoring Club to hold its 2023 car shows, on May 6, June 3, July 1, August 5 and September 2, 2023, resulting in the closing of High Street from Manatawny Street to Evans Street and Hanover Street from King Street to the Norfolk Southern Railroad tracks, from 3:00 p.m. – 9:00 p.m., subject to review and approval of the Police and Fire Departments. Motion carried: 5 ayes.

o. Borough Right of Way, Yergey - Motion by Councilor Vanni, seconded by Councilor Procsal to approve and authorize execution of a Release and Hold Harmless Agreement between Anissa Yergey and the Borough of Pottstown to allow the construction of a fence on the property located at 512 Spring Street, encroaching the Borough's right-of-way. Motion carried: 5 ayes.

p. HARB - Motion by Councilor Procsal, seconded by Councilor Vanni to ratify action of the Building Permit Officer approving Certificates of Appropriateness for the following properties:

- i. 355 King Street
- ii. 824 High Street
- iii. 832 High Street
- iv. 69 North Charlotte Street
- v. 103 North Hanover Street
- vi. 237 Beech Street

Motion carried: 5 ayes.

q. 2023 Meeting Schedule - Motion by Councilor Lebedynsky seconded by Councilor Procsal to approve and authorize advertisement of the 2023 Council Meeting Schedule as presented. Motion carried: 5 ayes.

REPORT OF BILLS - Motion by Councilor Lebedynsky, seconded by Councilor Procsal to pay the outstanding bills in the amount of \$2,053,738.63. Motion carried: 5 ayes.

ANNOUNCEMENTS

Councilor Lindsay thanked all attendees for coming to the meeting this evening. She noted that we all have to do better to work together and take care of one another.

Councilor Vanni stated that she is disappointed to be in this situation again. She added that we need to work together and this gets nobody anywhere and not getting people help. She does not agree with the stance taken and both sides could have done better. Councilor Vanni added that if this happens again there will be no more talking about it and no bending.

Councilor Procsal thanked all for coming out and hoped for a successful meeting tomorrow.

December 12, 2022

Mayor Henrick agreed with Councilor Lindsay and Councilor Vanni and wished all Happy Holidays.

President Weand reminded all of the Councilors' Food Drive.

ADJOURNMENT

President Weand adjourned the meeting at 8:45 p.m. and deferred the executive session for another meeting.

Submitted by,

Justin M. Keller
Borough Manager