

March 8, 2021

POTTSTOWN BOROUGH COUNCIL

The regular meeting of the Pottstown Borough Council was called to order on Monday, March 8, 2021 at 7:00 p.m. as a Go-To-Meeting with President Weand in the Chair.

CALL TO ORDER

INVOCATION

President Weand requested a moment of silence.

PLEDGE OF ALLEGIANCE

ROLL CALL

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

ANNOUNCEMENT

Borough Manager Keller explained the format for this evening's meeting, advising that the meeting is a GoTo Meeting and available on-line. Public comments are being accepted through email and chat and will be announced to all. Comments are limited to 300 words to be in compliance with Council's three-minute rule and participants shall be identified accordingly.

APPROVAL OF MINUTES

Motion by Councilor Procsal, seconded by Councilor Lebedynsky to approve the February 8, 2021 Council Meeting minutes as presented. Motion carried: 7 ayes.

COMMENTS FROM CITIZENS PRESENT

a. Jennifer Green, North Franklin Street – spoke in favor of allowing chickens in the Borough and highlighted the benefits, such as pest and insect control. She indicated that Mr. Ecker had chickens on his property in previous years. She also noted that she will be running for the 5th Ward Councilor position.

b. Aram Ecker, Winding Road – noted that his son was given a peep when he was one-year old. He also read a letter from Jeff Chomnuk and himself as Chairman and Vice Chairman of the Pottstown Borough Authority in opposition of changing the Animal Ordinance and in opposition of allowing chickens or farm animals in the Borough. The letter outlined the dangers of wildlife, water runoff and detriment to the sewer system in the Borough and indicated such action would lower property values in the Borough.

c. Tom Winterbottom, King Street – noted that Al's Heart officials may be coming before Council to request an extension of its agreement.

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- d. Bob Hartman, Maple Street – spoke in opposition to allowing chickens and farm animals in the Borough. He noted that chickens draw rats, as they did to his sister’s chicken coop.
- e. Dan Glennon, local restaurant owner – spoke in opposition of allowing chickens and farm animals in the Borough. He noted that chickens draw skunks, foxes and coyotes.
- f. Darlene Bainbridge, Pottstown – spoke in favor of allowing responsible and regulated forms of having chickens in the Borough.

SUBCOMMITTEE REPORTS

- a. Finance & Administration – President Weand reported that at the General Fund stands at 98% in revenues and 95% in expenses. The Read Estate taxes collected are at 95%. President Weand added that the Audit began on February 15, 2021 and assessments dropped by \$93,230. He also noted that there is a new business considering the LERTA program.
- b. Economic Development – Ms. Lee-Clark advised that the majority of downtown businesses are in opposition of allowing chickens in the Borough, noting the impact on enforcement resources. She also advised that the businesses expressed a concern on seeing new homeless individuals throughout the downtown.

Ms. Lee-Clark provided an update on the former Pottstown Plating Works property. She noted that Council previously provided a conditional relief of taxes on the property, based on an acceptable business plan for the property. Ms. Lee-Clark explained the delay with DEP approval and advised that as of February 25, 2021, a final clean-up acceptance plan was approved by DEP. An application, known as the ISRP funding has been submitted. She added that Redevelopment Authority holds title to the property until clean-up is completed. She reported that Mr. Jones has spent \$180,000 and Montgomery County has spent \$83,435 on the remediation of the property.

BOARDS AND COMMITTEE REPORTS

- a. EAC – Mr. Derr noted that he would work with the former Plating Works during the remediation.
- b. Regional Planning – Councilor Procsal advised that a letter of support was submitted for the repair of the Memorial Park Bridge.
- c. Blighted Property – There was no meeting.

UNFINISHED BUSINESS

None.

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NEW BUSINESS

a. Conditional Use, Fields – Johnson, Candis - Motion by Councilor Lindsay, seconded by Councilor Vanni to grant the Conditional Use request of Candis Fields-Johnson to operate a Daycare-Childcare Facility at the property located at 206 North Charlotte Street, with conditions as stated in the Order dated March 8, 2021. Motion carried: 7 ayes.

b. Ordinance Review Committee - Animal Ordinance – Motion by Councilor Kirkland, seconded by Councilor Vanni to authorize the Ordinance Review Committee and the Solicitor to review the existing Animal Ordinance and suggest possible amendments.

Councilor Vanni commented that the Committee should take another look at this issue. She is open to people’s varying opinions but not open to bullying techniques.

Councilor Procsal advised that this has been discussed and reviewed thoroughly. He added that recommendations from the Committee have consistently been accepted by Council during his time as Chairman of this Committee and changes always come at a cost. He added that any changes to this ordinance would be to satisfy people’s hobbies and would also come as a cost to taxpayers. He suggested that another Councilor, possibly one that voted to send this back to the Committee, would be assigned as well.

Councilor Lindsay commented that the Animal Ordinance needs a review.

Councilor Kirkland agreed that the entire Ordinance needs a review. He added that Council should be looking for ways to allow residents to have chickens, not look for ways to not allow them and should have an open mind to find a solution. He also expressed a concern regarding threatening emails being sent to Councilors from other government officials.

Mayor Henrick commended the resident for coming to Council with a problem and also a solution. She also noted that she had a conversation with the local SPCA officials and they were pleased with the proposal presented.

President Weand advised that he was informed of a recent incident, wherein a resident was in violation of the ordinance having chickens and ducks and now complaining that a fox broke in and killed his ducks. The incident occurred in proximity to Franklin Elementary School, which is a concern for students in that area.

President Weand requested a roll-call vote.

Kirkland	yes	Procsal	no
Lebedynsky	no	Vanni	yes
Lindsay	yes	Weand	no
Paules	yes		

Motion carried: 4 ayes, 3 nays.

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c. Meeting Rules of Council – Motion by Councilor Kirkland, seconded by Councilor Procsal to amend the Meeting Rules of Order for Borough Council Meetings, changing Rule No. 10.

Solicitor Garner advised that the change would allow comments to be up to five minutes, not three, if there were five or less speakers signed to speak. He also explained that at any time a Councilor can make a motion to suspend the three-minute rule and extend the time for a resident to speak. A motion and a second would be required, along with five members of Council in agreement.

Councilor Procsal noted that it may not be necessary to change the rules.

Councilor Lindsay agreed and suggested that a motion to suspend the rules could be made.

Councilor Vanni added that there is no need to waste time if other options are already in the rules.

Councilor Paules questioned as to how a speaker would know they can get additional time to speak.

President Weand requested a roll-call vote.

Kirkland	yes	Procsal	no
Lebedynsky	no	Vanni	no
Lindsay	no	Weand	no
Paules	yes		

Motion denied: 5 nays, 2 ayes.

d. Fee Amendment Resolution – Motion by Councilor Lebedynsky, seconded by Councilor Lindsay to adopt a Resolution amending fees associated with Right to Know requests and fees associated with services of the Pottstown Police Department.

RESOLUTION NO. 2021-5

A RESOLUTION AMENDING THE FEE SCHEDULE OF THE BOROUGH OF POTTSTOWN RELATED TO FEES ASSOCIATED WITH RIGHT TO KNOW REQUESTS AND FEES ASSOCIATED WITH SERVICES OF THE POTTSTOWN POLICE DEPARTMENT.

WHEREAS, the Burgess and Town Council of the Borough of Pottstown has adopted a comprehensive Fee Resolution on July 10, 1995; and

WHEREAS, the Borough periodically reviews the Fee Schedule to determine if additions and/or amendments to the Fee Schedule are necessary and proper; and

Whereas, based upon recommendation of the Pottstown Borough Right to Know Officer and the Pottstown Police Department, the Borough of Pottstown desires to revise and amend its Fee Schedule to amend certain fees and to establish other fees.

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

SECTION 1. Police and special police service fees are hereby amended to establish the following police administration fee:

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Use of Cellebrite Physical Analyzer - \$100.00 per each electronic device downloaded
SECTION 2. The following fees associated with Right to Know Requests are hereby amended as follows:

Copying Cost per page - \$0.25 for up to 1,000 pages

Copying Cost per page - \$0.20 for pages above 1,000

CD/DVD – up to actual cost, not to exceed \$1.00 per disc

SECTION 3. All future modifications of these fees and other fees established by the comprehensive Fee Schedule should be made by Resolution from time to time, duly adopted by the Burgess and Town Council of the Borough of Pottstown. All other fees as set forth in the Borough Fee Schedule are reaffirmed.

SECTION 4. This Resolution shall become effective immediately upon enactment.

ENACTED and RESOLVED this 8th day of March 2021.

Motion carried; 6 ayes, 1 nay. Councilor Paules cast the negative vote.

e. Destruction Resolution - Motion by Councilor Lebedynsky, seconded by Councilor Lindsay to adopt a Resolution authorizing the Destruction of Certain Municipal Records by the Borough Administration, Parks and Recreation, Finance and Police Departments, pursuant to the Municipal Records Manual as amended March 28, 2019.

RESOLUTION NO. 2021-6

A RESOLUTION OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN, AUTHORIZING THE DESTRUCTION OF CERTAIN MUNICIPAL RECORDS BY THE BOROUGH ADMINISTRATION, PARKS AND RECREATION, FINANCE AND POLICE DEPARTMENTS, PURSUANT TO THE MUNICIPAL RECORDS MANUAL AS AMENDED MARCH 28, 2019.

WHEREAS, by virtue of Resolution No. 2009-24, adopted July 13, 2009, incorporation and modifying Resolution No. 2004-36, the Borough of Pottstown declared its intent to follow the schedules and procedures for disposition of records as set forth in the Municipal Records Manual approved December 16, 2008 and as amended March 28, 2019; and

WHEREAS, in accordance with the Act 428 of 1968, each individual act of disposition shall be approved by Resolution of the governing body; and

WHEREAS, the Borough of Pottstown, through its Administration Department, Parks and Recreation Department, Finance Department and Police Department have accumulated certain records that no longer need to be retained pursuant to Borough guidelines and the requirements of the Municipal Records Manual; and

WHEREAS, the Burgess and Town Council of the Borough of Pottstown does further authorize the Borough Manager or those designated by the Borough Manager, to destroy the original copies of certain public records in accordance with the aforesaid requirements, formally declaring that said records that are to be disposed of, have no administrative, legal, or historical significances beyond the terms of retention as set forth in the Municipal Records Manual. Video recordings shall be retained for a period of one year. Recordings of public meetings can be disposed of once the official Meeting Minutes are approved. The approved written minutes of each Council Meeting is the official permanent record.

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NOW, THEREFORE, BE IT and IT IS HEREBY RESOLVED by the Burgess and Town Council of the Borough of Pottstown, and it is hereby ENACTED and RESOLVED by the authority of same as follows:

SECTION 1. The Burgess and Town Council of the Borough of Pottstown hereby approves the following requests to allow for the destruction of municipal records as fully described in Exhibit "A" which is attached hereto and incorporated herein.

SECTION 2. The Borough Departments above described may utilize a third-party contractor for the document shredding and destruction to remove said records under a controlled environment as and when approved by the Borough Manager. At the conclusion of the process, the document shredding and destruction company shall provide to the Borough a Certificate of Destruction.

SECTION 3. All future requests to destroy municipal records pursuant to State Law and Borough policy shall be approved by Resolution enacted by the Borough Council.

ENACTED and RESOLVED and this 8th day of March 2021.

Motion carried: 7 ayes.

f. Waiver of Fees - Motion by Councilor Lebedynsky, seconded by Councilor Vanni to adopt a Resolution amending the Waiver of Application fees associated with the use of Borough Parks, Borough Streets and other public facilities as permitted

RESOLUTION NO. 2021-7

A RESOLUTION OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN AMENDING RESOLUTION 2016-32 TO BOTH AMEND AND CLARIFY WHEN THE WAIVER OF APPLICATION FEES ASSOCIATED WITH THE USE OF BOROUGH PARKS, BOROUGH STREETS AND OTHER PUBLIC FACILITIES IS PERMITTED.

WHEREAS, the Comprehensive Fee Schedule provides for fees associated with the use of Borough facilities, including Borough parks, Borough open space, Borough streets, and other property owned by the Borough of Pottstown (hereinafter referred to as "Permit and Use Fees"); and

WHEREAS, by and through Resolution No. 2016-32, Borough Council prohibited the Borough Manager from waiving permit and use fees; and

WHEREAS, Borough Council now desires to amend and clarify its policy regarding the waiver of permit and use fees through this Resolution.

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

SECTION 1. With the exception of events and activities described below, any and all requests for waiver or reduction of Permit and Use Fees associated with Borough facilities, as described above, are hereby denied.

SECTION 2. The Borough Manager is prohibited from waiving any Permit and Use application Fees.

SECTION 3. Permit and Use Fees associated with any Pottstown Area Rapid Transit ("PART") facilities shall not be waived by Borough Council unless such fee waiver is approved by the Federal Transit Administration (FTA).

SECTION 4. The Permit and Use Fee associated with the annual Memorial Day Parade and any Permit and Use Fees associated with an event sponsored solely and exclusively by a Pottstown Borough Department are hereby waived.

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SECTION 5. Borough Council may amend this policy and procedure only through future adopted Resolution of Borough Council.

SECTION 6. This Resolution shall become effective immediately upon enactment.

ENACTED and RESOLVED this 8th day of March 2021.

Motion carried: 7 ayes.

g. Traditional Town Neighborhood - Motion by Councilor Kirkland, seconded by Councilor Lebedynsky to authorize the Solicitor to prepare a draft ordinance creating a Transitional Zoning District in the Traditional Town Neighborhood Zoning District. Motion carried: 7 ayes.

h. Outdoor Dining Extension – Motion by Councilor Lebedynsky, seconded by Councilor Lindsay to adopt a Resolution extending the guidelines and policy for outdoor sales of food and merchandise of existing businesses in certain portions of the Borough during the Coronavirus Pandemic, for a period of six (6) months, expiring September 8, 2021

RESOLUTION NO. 2021-8

A RESOLUTION OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN, MONTGOMERY COUNTY, PENNSYLVANIA, EXTENDING AND ESTABLISHING GUIDELINES AND POLICY FOR OUTDOOR SALES OF FOOD AND MERCHANDISE OF EXISTING BUSINESSES IN CERTAIN PORTIONS OF THE BOROUGH DURING THE CORONAVIRUS PANDEMIC

WHEREAS, Governor Wolf issued a Proclamation of Disaster Emergency on March 6, 2020, authorizing political subdivisions to act as necessary within the powers conferred by the Proclamation of Disaster Emergency to meet the exigencies of the emergency; AND

WHEREAS, on May 1, 2020, the Governor's Office presented a plan entitled Process to Reopen Pennsylvania which will ease social gathering restrictions in phases based upon public health indicators while requiring ongoing compliance with Centers for Disease Control and Pennsylvania Department of Health guidance for social distancing and workplace safety; AND

WHEREAS, federal and state health and regulatory agencies have called for the implementation of safety measures, such as Increased workplace ventilation, increased physical distance between employees and customers, and alteration of hours based on building size and number of employees; AND

WHEREAS, the safety measures are advanced and made more effective by the temporary allowance of outdoor dining and commercial activity provided such dining and commercial activity occur consistent with all other state and federal statutes, regulations, and orders.

NOW THEREFORE, BE IT AND IT IS HEREBY RESOLVED, that the Pottstown Borough Council, hereby extends and establishes guidelines and a policy for outdoor sale of merchandise and outdoor dining of existing businesses within certain areas of the Borough for a period of six (6) months or one hundred and eighty (180) days in areas on properties where it might otherwise be prohibited provided that the following conditions are satisfied:

1. The merchant seeking to use outdoor space to conduct commercial activity and dining shall be responsible for compliance with all state and federal statutes, regulations, and orders, as well permission from the landlord or owner of the property. The terms of this resolution and the guidelines to conduct outdoor commercial activity and dining expressly do not excuse merchants

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from complying with federal and state orders, including but not limited to those relating to COVID 19 mitigation nor pre-existing statutes and regulations such as Pennsylvania Department of Health requirements relating to outdoor dining.

2. The merchant seeking to use outdoor space to conduct commercial activity shall nevertheless provide sufficient parking to meet the needs of its customers.
3. If a merchant uses part of a sidewalk, the merchant shall allow sufficient space for pedestrians and handicapped individuals to traverse the sidewalk.
4. If a merchant uses spaces in a parking lot or uses parking spaces on the public street, the merchant shall provide safe separation between its customers and vehicles with the use of physical barriers and forward a sketch plan and details on the type of barriers for review by the Department of Licensing and Inspections, the Police Department and the Fire Department, and shall not occupy any handicapped parking area or Bus Stop.
5. The merchant seeking to use outdoor space to conduct commercial activity shall abide by any and all nuisance regulations as set forth in the Pottstown Borough Code of Ordinances, as amended.
6. The provisions of this Resolution shall apply to all merchants in the Borough with the exception of merchants using public parking spaces located on a public street which shall only be utilized for food service and drink service uses and shall be limited to the street frontage of the addresses of 0 to 340 High Street and contiguous properties in accordance with PLCB service area extension guidelines.
7. Merchants regulated by the PLCB are permitted to extend their service areas in the Borough in locations permitted above provided that the applicants make successful applications to the PLCB. This resolution shall serve as the required documentation from the local jurisdiction for permission of these establishments to operate in the extended service area.
8. Permit requirements for outdoor dining shall be waived for the duration of this authorization.
9. This Resolution and its authorization to conduct commercial activity in outdoor areas shall expire upon further resolution of Borough Council or upon six (6) months or one hundred and eighty (180) days of its effective date, whichever first shall occur.

ENACTED and RESOLVED, this 8th day of March 2021

Councilor Kirkland suggested that this be extended outside of the downtown.

Manager Keller commented that it is open to all food-service entities Borough-wide, wherein tables can be placed in parking lots and sidewalks. He added that tables in the street are limited to the downtown for safety reasons.

Motion carried: 7 ayes.

i. Human Relations - Motion by Councilor Procsal, seconded by Councilor Vanni to reappoint Marcia Levingood to the Human Relations Commission for a four (4) - year term to expire March 13, 2025. Motion carried: 7 ayes.

j. Human Relations - Motion by Councilor Paules, seconded by Councilor Lindsay to appoint Richard Bouher to the Human Relations Commission for a four (4) – year term to expire March 21, 2025. Motion carried: 7 ayes.

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k. Planning Commission - Motion by Councilor Procsal, seconded by Councilor Lebedynsky to appoint Richard Bouher to the Pottstown Planning Commission for a four (4) year term to expire February 1, 2025. Motion carried: 7 ayes.

l. Patriotic 5K - Motion by Councilor Paules, seconded by Councilor Lebedynsky to grant the request of the Parks and Recreation Department to hold its Patriotic 5K on July 4, 2021, resulting in the use of various streets from 8:00 a.m. to 10:00 a.m. and to grant the waiver of road closure fees, subject to approval of the Police and Fire Departments and the applicant submitting at least two weeks prior to the event for review and approval by the Manager, a safety plan demonstrating compliance with all applicable COVID-19 and CDC regulations, which, if approved, shall be enforced by the applicant. Motion carried: 7 ayes.

m. Tiburon Fox Trot 5K - Motion by Councilor Procsal, seconded by Councilor Lindsay to grant request of Tiburon Endurance Sports to reschedule its May 15, 2021 Fox Trot 5K to October 9, 2021, resulting in the closing of the Circle of Progress and Glasgow Street from 10:00 a.m. to 11:00 a.m., and to utilize Borough owned property for event parking, subject to approval of the Police and Fire Departments and the applicant submitting at least two weeks prior to the event for review and approval by the Manager, a safety plan demonstrating compliance with all applicable COVID-19 and CDC regulations, which, if approved, shall be enforced by the applicant. Motion carried; 7 ayes.

n. Pottstown FARM - Motion by Councilor Kirkland, seconded by Councilor Lindsay to grant the request of the Pottstown FARM to allow alcohol in Smith Family Plaza during its October 30, 2021 event, subject to review and approval of the Police and Fire Departments and compliance with the Liquor Control Board regulations and the applicant submitting at least two weeks prior to the event for review and approval by the Manager, a safety plan demonstrating compliance with all applicable COVID-19 and CDC regulations, which, if approved, shall be enforced by the applicant.

Councilor Vanni commended the FARM for adhering to the COVID and CDC guidelines.

Motion carried: 7 ayes.

REPORT OF BILLS - Motion by Councilor Paules, seconded by Councilor Vanni to pay the outstanding bills in the amount of \$3,012,437.27. Motion carried: 7 ayes.

ANNOUNCEMENTS

Councilor Procsal noted that it is International Women's Day.

Councilor Vanni suggested that the downtown businesses clean up the parking spaces and repair the broken windows.

Councilor Lindsay announced up-coming fund-raising events to benefit the Edgewood Cemetery.

Councilor Paules stated that after viewing last week's Committee of the Whole meeting, he is ashamed to say he is on Pottstown Borough Council. He noted that he appreciated all the comments and Pottstown is five-square miles, not five blocks of High Street.

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Mayor Henrick commented that she would like all to put as much effort into fair-funding for the schools as was done for chickens. She requested that Trisha Armon, Master Steel Worker, be placed on next month's agenda to present to Council.

President Weand adjourned the meeting at 8:10 p.m.

Submitted by,

Justin M. Keller
Borough Manager