

March 9, 2020

## POTTSTOWN BOROUGH COUNCIL

The regular meeting of the Pottstown Borough Council was called to order on Monday, March 9, 2020 at 7:00 p.m. in the Council Meeting Room, Pottstown Borough Hall, 100 East High Street, Pottstown, Pennsylvania, 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 and Michael Paules. Also present were Manager Justin Keller, Solicitor Charles Garner, Mayor Stephanie Henrick and Borough Secretary Virginia Takach. Councilor Kirkland was absent.

### APPROVAL OF MINUTES

- a. Council Meeting - Motion by Councilor Paules, seconded by Councilor Lindsay to approve the February 10, 2020 Council meeting minutes as presented. Motion carried: 6 ayes.
- b. Joint Council/School Board Meeting – Motion by Councilor Paules, seconded by Councilor Lebedynsky to approve the February 27, 2020 Joint Council/School Board meeting minutes as presented. Motion carried: 6 ayes.

### PRESENTATION – Pottstown High School Women’s Wrestling Team

Councilor Paules, in honor of Women’s History Month, introduced the four female wrestlers from the Pottstown High School wrestling team that made history for earning medals in the MyHouse PA Female State Wrestling Championships. Daishawnia Dean earned a first place medal, Julianna Figueroa earned second place, Mia Bumbarger, third place and Xiyah Robinson, fourth place. The young women will return for a presentation at the April Committee of the Whole.

### COMMENTS FROM CITIZENS PRESENT

- a. William Bransfield, 1027 Hale Street – reiterated his concerns regarding a water problem from a neighbor’s pipe on Washington Street.

President Weand noted that this would be address by the Manager and Staff.

### SUBCOMMITTEE REPORTS

- a. Finance & Administration – President Weand reported that as of January 31, 2020, the

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General Fund revenue is at 2% and the expenses at 7%. The in-house work for the 2019 audit is complete. He added that the assessment at the beginning of the 2020 budget is \$763,718,569 and the Portnoff real estate tax collection will be addressed in May. There were no new LERTA applications.

#### BOARDS AND COMMITTEE REPORTS

- a. EAC – There was no meeting.
- a. Regional Planning – Councilor Procsal reported that problem intersections were discussed, including Armand Hammer Boulevard and High Street to include better lighting, cross walks and signage.
- b. Blighted Property – Councilor Procsal noted the October minutes were in the packets.
- c. Land Bank – Deb Penrod announced a Land Bank informational session scheduled for March 23<sup>rd</sup>, 5:30 p.m. She added the FAQ's are listed on the website. The application form is forthcoming.
- d. Library – Ms. Penrod distributed Library statistics. She added that any closures of the Library are followed with the School District closures. The Library will have an informational table at the upcoming bike rodeos.

#### UNFINISHED BUSINESS

None.

#### NEW BUSINESS

- a. Plumbing, Grading, Stormwater Amendments - Motion by Councilor Procsal, seconded by Councilor Lebedynsky to adopt an Ordinance amending Chapter 5, amending plumbing requirements, Chapter 9, amending Grading and Excavating requirements and Chapter 26, amending requirements for stormwater management permits.

#### ORDINANCE NO. 2194

AN ORDINANCE OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN AMENDING PORTIONS OF CHAPTER 5, CODE ENFORCEMENT, OF THE CODE OF ORDINANCES OF THE BOROUGH OF POTTSTOWN, AS AMENDED, IN ORDER TO PERMIT OWNER-OCCUPANTS OF SINGLE-FAMILY DWELLINGS AND SEMI-DETACHED DWELLINGS TO PERFORM PLUMBING WORK ON THE SUBJECT PROPERTIES; CHAPTER 9, GRADING AND EXCAVATING, OF THE CODE OF ORDINANCES OF THE BOROUGH OF POTTSTOWN, AS AMENDED, IN ORDER TO INCREASE THE SQUARE FOOTAGE EXEMPTION FOR A GRADING PERMIT; AND CHAPTER 26, WATER, OF THE CODE OF ORDINANCES OF THE BOROUGH OF POTTSTOWN, AS AMENDED, IN ORDER TO DECREASE THE SQUARE FOOTAGE THRESHOLD FOR THE REQUIREMENT FOR A STORMWATER MANAGEMENT PERMIT.

Motion carried: 6 ayes.

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b. TCC Voting Delegate - Motion by Councilor Lebedynsky, seconded by Councilor Lindsay to adopt a Resolution appointing Ann E. Maletsky, Finance Director, as the Primary Voting Delegate, Marley Boone, Accounting Administrator, as the First Alternate Voting Delegate, and Justin Keller, Borough Manager, as the Second Alternate Voting Delegate to the Montgomery County Tax Collection Committee (TCC).

RESOLUTION NO. 2020 – 8

BOROUGH OF POTTSTOWN  
TCC Delegate/Alternate Appointment Resolution

Background. Act 32 § 505 (b) requires the governing bodies of school districts, townships, boroughs, and cities that impose an earned income tax to appoint one voting delegate and one or more alternate delegates to be their Tax Collection Committee (TCC) representatives. The purpose of this resolution is to appoint the required delegates. The appointed individuals have consented to appointment.

RESOLVED, by the Borough of Pottstown, Montgomery County, Pennsylvania that the following individual is/are appointed as TCC delegates for Borough of Pottstown, Montgomery County, Pennsylvania.

1. Delegate: Ann Maletsky, Finance Director
2. First Alternate Voting Delegate: Marley Boone, Accounting Administrator
3. Second Alternate Voting Delegate: Justin Keller, Borough Manager

If the primary voting delegate cannot be present for a TCC meeting, the first alternate voting delegate shall be the representative at the TCC meeting. If both the primary voting delegate and the first alternate voting delegate cannot be present for a TCC meeting, the second alternate voting delegate shall be the representative at the TCC meeting.

These appointments are effective immediately and shall continue until successors are appointed. Delegates shall be appointed each year in November or December or as soon thereafter as possible. All delegates shall serve at the pleasure of this governing body and may be removed at any time. Certification of adoption. The undersigned certifies that the above Resolution was adopted at a public meeting on this date.

ENACTED and RESOLVED this 9<sup>TH</sup> day of March 2020.

Motion carried: 6 ayes.

c. Resignation/Treasurer - Motion by Councilor Paules, seconded by Councilor Lebedynsky to accept the resignation of Janice E. Lee as the appointed Treasurer for the Borough of Pottstown, effective March 10, 2020. Motion carried 6 ayes.

d. Appointment/Treasurer - Motion by Councilor Procsal, seconded by Councilor Lebedynsky to appoint Ann E. Maletsky as Treasurer for the Borough of Pottstown, effective March 10, 2020. Motion carried: 6 ayes.

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e. COPS Grant - Motion by Councilor Lebedynsky, seconded by Councilor Procsal to authorize the submission of a grant to the U. S. Department of Justice, Office of Community Oriented Policing services (COPS) for funding of two police officers. Motion carried: 6 ayes.

f. CDBG - Motion by Councilor Lindsay, seconded by Councilor Lebedynsky to authorize the submission of a Community Development Block Grant (CDBG) application for the High Street Streetlighting Phase II project. Motion carried: 6 ayes.

g. King Street Crossing - Motion by Councilor Paules, seconded by Councilor Lindsay to authorize the Borough Manager to sign the necessary documents related to the PennDOT Highway Occupancy Permit Condition Statement (Assignment of maintenance responsibilities) for the King Street Crossing. Motion carried: 6 ayes.

h. McDonald's Rebuild - Motion by Councilor Procsal, seconded by Councilor Paules to grant preliminary/final approval for the McDonald's Rebuild Land Development Plan, 189 Shoemaker Road, subject to satisfying the following conditions within 90 days:

- i. Compliance with the Cedarville Engineering letter of February 13, 2020
- ii. Compliance with the Montgomery County Planning Commission letter of December 12, 2019
- iii. Extension of sidewalk along Shoemaker Road frontage to connect to the Route 100 pedestrian crossway
- iv. Contribution in lieu of planting 20 trees at \$500 per tree
- iv. Preparation and execution of a Developer's Agreement in a form acceptable to the Borough
- i. Payment in full of all Borough review fees

Motion carried: 6 ayes.

i. McDonald's Rebuild - Motion by Councilor Procsal, seconded by Councilor Paules to grant the following waiver requests from the Subdivision and Land Development Ordinance for the McDonald's Rebuild Plan:

- i. Section 22-202-A – requirement to allow a Preliminary/ Final Plan approval process in lieu of separate Preliminary and Final approval processes
- ii. Section 22-400.3.a – requirement to show physical features and topography on the
- iii. property within 100 feet of site
- iv. Section 22-A402 – partial waiver request to show identification features onsite along
- v. with the portion of Shoemaker Road that the subject parcel fronts in lieu of provided these features on offsite surrounding parcels within 100 feet of site
- vi. Section 22-A403.8 – partial waiver to show portion of Shoemaker Road due to limited surveying in lieu of entire width of right-of-way
- vii. Section 22-503.A – requirement to provide a total of 27 trees in lieu of required 47 trees
- viii. Section 22-504 requirement to provide 9 open space trees in lieu of the required 11
- ix. Section 22-505.1 – requirement to provide 11 street trees in lieu of required 29
- x. Section 22-510.1 – requirement to provide fencing along portion of Shoemaker Road adjacent to existing basin and provide landscaping in lieu of fencing

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- xi. Section 22-A525.3 – waiver to permit the existing public sidewalk to remain 4 feet wide in lieu of the required 4 feet, 6 inches
- xii. Section 22-528.7 – waiver to permit a 2-foot radius of curvature in lieu of minimum radius of 5 feet

Motion carried: 6 ayes.

7:30 P.M. – PUBLIC HEARING, CABLE FRANCHISE AGREEMENT

Solicitor Garner opened a public hearing at 7:30 p.m. to take public comment on the proposed Cable Franchise Agreement. He noted that the current agreement expires in March and was for 15 years. The new agreement is a 10-year term. The Borough is receiving 5%, the maximum franchise fee as described in the agreement, in addition a one-time technical assistance grant in the amount of \$65,000 for upgrades for broadcasting of the cable system. Solicitor Garner also advised that the agreement included two dedicated channels for PCTV, 22 and 28 and also provides for the implementation of FCC order 621, the ability to offset certain services provided to the Borough. He added the Council has no ability to set fees under the Cable Act.

There were no public comments from the audience.

President Weand questioned Gus Tellis confirming that the channels are agreeable and if broadcasting services are for two school districts.

Mr. Tellis confirmed that the two channels, 22 and 28 are correct. He noted that PCTV services 7 or 8 school districts and 100,000 homes. He added that he wanted to confirm that the footprint and existence of the channels remain for the duration of the agreement.

Solicitor Garner commented that there is no indication of any changes to the service area by Comcast and would be providing programming to any school districts that express an interest.

The public hearing closed at 7:35 p.m.

j. Comcast Cable Franchise - Motion by Councilor Lebedynsky, seconded by Councilor Vanni to adopt an Ordinance authorizing Execution of a Cable Franchise Agreement between the Borough and Comcast of Southeast Pennsylvania, LLC

ORDINANCE NO. 2195

AN ORDINANCE OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN AUTHORIZING EXECUTION OF A CABLE FRANCHISE CAGREEMENT BETWEEN THE BOROUGH AND COMCAST OF SOUTHEAST PENNSYLVANIA, LLC  
Manager Keller confirmed that this is not an exclusive agreement and other companies can come in if the wish to do so.

Motion carried: 6 ayes.

k. Car Wash Facility - Motion by Councilor Procsal, seconded by Councilor Lebedynsky to

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grant preliminary/final approval for the Car Wash Facility Land Development Plan, 146 Shoemaker Road , subject to satisfying the following conditions within 90 days:

- i. Compliance with the Cedarville Engineering letter of February 18, 2020
- ii. Compliance with the Montgomery County Planning Commission letter of December 11, 2019
- iii. Contribution in lieu of planting 19 trees at \$500 per tree
- iv. Preparation and execution of a Developer's Agreement in a form acceptable to the Borough
- v. Payment in full of all Borough review fees

Motion carried: 6 ayes.

1. Car Wash Facility - Motion by Councilor Procsal, seconded by Councilor Lebedynsky to grant the following waiver requests from the Subdivision and Land Development Ordinance for the Car Wash Facility Plan:

- i. Section 22-202 - requirement to allow a Preliminary/Final Plan approval process in lieu of separate Preliminary and Final approval processes
- ii. Section 22-400.3.A – requirement to not show physical features and topography on property within 100 feet of site
- iii. Section 22-A402 – requirement to identify features (off-site)
- iv. Section 22-A403.8 – Partial waiver to allow current survey to be utilized as no proposed development will occur offsite
- v. Section 22-503.A – Waiver to provide 4 trees in lieu of 23 trees
- vi. Section 22-504 – Waiver to provide 4 open space trees in lieu of 6
- vii. Section 22-505.1 – Waiver to provide 0 shade trees in lieu of 1
- viii. Section 22-508.1 – Waiver to provide 0 street trees in lieu of 16 required
- ix. Section 22-501.1 - Waiver to not provide screening between Shoemaker Road and proposed curb line adjacent to entrance to Maaco Street
- x. Section 22-A528.7 – Waiver to permit 1.5 and 3-foot curb radius in lieu of the minimum of 5 feet (partial waiver to provide 3 feet radius at drive-thru entrance and 1.5 feet radius at pay station island)
- xi. Section 22-A528.9 – Waiver to permit an accessway width of 19.95 feet in lieu of required 20 feet minimum
- xii. Section 22-A527.1.C – Waiver to permit a driveway entrance located closer than the required 100 feet

President Weand confirmed that any additional planting of trees would inhibit the flow of the business and the recommendation from the Planning Commission is to accept a fee in lieu of the required number of trees.

Mr. Keller added that these fees are used to plant street trees in other locations where needed.

Solicitor Garner also noted that screening is either a landscaping buffer or fencing.

Motion carried: 6 ayes.

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m. Hess Lot – Motion by Councilor Procsal, seconded by Councilor Lebedynsky to authorize the Borough Solicitor and the Pottstown Area Industrial Development (PAID) Solicitor to draft an agreement for conveyance to PAID for the development of the property known as the Hess Lot, 191-193 South Hanover Street. Motion carried: 6 ayes.

n. Zoning – 431 King Street - Motion by Councilor Procsal, seconded by Councilor Lebedynsky to authorize the Solicitor to send a letter of opposition to the Zoning Hearing Board regarding the zoning relief request of Matt Dellose for the property located at 431 King Street.

Solicitor Garner explained that Council can do nothing on the zoning issues, send a letter of support, send a letter in opposition or vote to send a Ward Councilor to testify at the zoning hearing.

Councilor Procsal noted that he does not foresee a financial hardship in this matter.

Motion carried: 6 ayes.

o. Zoning – 17 North Hanover Street - Possible action on the zoning relief request of Carl M. Craig, III for property located at 17 North Hanover Street.

Councilor Vanni requested that no action be taken and allow to forward to the Zoning Hearing Board.

President Weand added that Council needs to take no action on this matter.

p. Clean up Day - Motion by Councilor Procsal, seconded by Councilor Lindsay to grant request of Habitat for Humanity, for its April 18, 2020 Clean-up Day, resulting in the closing of a portion of the 400 block of Chestnut Street between North Franklin and North Washington Streets, from 6:30 a.m. – 4:00 p.m., subject to review of the Police and Fire Departments. Motion carried: 6 ayes.

q. Clean up Day - Motion by Councilor Procsal, seconded by Councilor Lindsay to grant request of Habitat for Humanity to waive the \$150 fee for the Community Clean-Up Day scheduled for April 18, 2020.

Councilor Procsal commented that this was waived last year at his request and the fee paid in 2018. He added that Council’s decision to not waive fees should be upheld. He added that the Borough will assist with in-kind services.

President Weand reiterated that Council made a decision several years ago to not waive fees unless it is a Borough sponsored event, such as the Halloween Parade and the Memorial Day parade He request a roll-call vote on this item.

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

Motion denied: 4 nays, 2 ayes.

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r. Bark for Life Beer Garden – Motion by Councilor Lebedynsky, seconded by Councilor Procsal to grant request of American Cancer Society and Bark for Life of Pottstown to hold a beer garden from 1:00 p.m. – 5:00 p.m. at the April 25, 2020 event in Memorial Park, subject to review and approval of the Police and Fire Departments and compliance with the Liquor Control Board regulations. Motion carried: 6 ayes.

s. Trails on Tap - Motion by Councilor Procsal, seconded by Councilor Lindsay to grant request of Schuylkill River Greenways to allow alcohol to be served at the Trails on Tap events from May 13, 2020 to May 17, 2020 in Riverfront Park, subject to approval of the Police and Fire Departments and compliance with the Liquor Control Board regulations.

Councilor Vanni noted that the request for alcohol may include beer and several mixed drinks as was provided last year.

Motion carried: 6 ayes.

t. Pottstown Rumble Beer Garden - Motion by Councilor Lebedynsky, seconded by Councilor Vanni to grant the request of the Pottstown Rumble to include a beer garden and tasting event for the June 26, 27 & 28, 2020, Volleyball Tournament, from 12:00 p.m. to 12:00 a.m., to be held in Memorial Park, subject to approval of the Police and Fire Departments and compliance with the Liquor Control Board regulations. Motion carried: 6 ayes.

u. GoFourth Festival - Motion by Councilor Lindsay, seconded by Councilor Lebedynsky to grant the request of the GoFourth Festival to hold a Biergarten in Memorial Park on July 4, 2020, from 11:30 a.m. -10:00 p.m., subject to approval of the Police and Fire Departments and compliance with the Liquor Control Board regulations. Motion carried: 6 ayes.

v. Halloween Parade - Motion by Councilor Procsal, seconded by Councilor Lindsay to grant request of the Parks & Recreation Department and the Rotary Club to conduct the annual Halloween Parade on October 20, 2020 (rain date October 22) resulting in the closure of High Street from Madison Street to York Street from 5:30 p.m. – 8:30 p.m., subject to approval of the Police and Fire Departments, and waiving the \$100 road closure fee.

President Weand confirmed that this is a Parks and Recreation Department sponsored event and would be an internal transfer.

Motion carried: 6 ayes.

REPORT OF BILLS – Motion by Councilor Lebedynsky seconded by Councilor Lindsay, to pay the bills in the amount of \$2,126,044.30 Motion carried: 6 ayes.

#### ANNOUNCEMENTS

Councilor Procsal commented that the new playground equipment is great.



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Councilor Paules reminded all of the upcoming Citizens' Leadership Academy. He also praised the Councilors' Boot Camp he attended with Councilor Vanni, Ann Maletsky and Janice Lee. He added that Janice could have taught the class.

Councilor Vanni also thanked Ann Maletsky and Janice Lee for taking them to the class.

PRESIDENT'S APPOINTMENT

President Weand appointed Councilor Trenita Lindsay to fill the vacant seat on the Finance Committee.

ADJOURNMENT

President Weand adjourned the meeting at 7:55 p.m.

Submitted by,

Justin M. Keller  
Borough Manager