

Borough of Somerset
Council and Municipal Authority Joint Meeting
June 27, 2011 – 7:30 p.m.

Joint Meeting

Council Meeting was called to order by Ruby Miller, Council President. Present: Benedict G. Vinzani, Jr., Borough Manager; Michele Enos, Assistant to the Borough Manager; George Svirsko, Director of Public Works; Brett Peters, Director of Finance; Randy Cox, Chief of Police; Eric Critchfield and Tom Reilly, Consulting Engineers; John J. Dirienzo, Jr., Borough Solicitor.

Municipal Authority meeting was called to order by William Kuhlman. Present: Clyde Mostoller; Hank Parke; Joe Egly; Vincent Jacob.

Council Members present: Ruby Miller, President; Frank Koval, Hank Parke, Fred Rosemeyer; Wanda Miller and Mayor William Meyer.

Meeting opened with recitation of the Pledge to the Flag.

Announcements

An Executive Session was held at 6:30 p.m. on June 27, 2011 for the purpose of discussing personnel matters.

Police Department Presentation

Officer John Berger was formally sworn in to the Somerset Police Department by the Mayor, William Meyer. He was congratulated and his family recognized. Mr. Rosemeyer moved to add him to the part-time police roster - motion seconded by Mr. Parke.

Unanimously Carried.

Joint Council/Authority Business

Jefferson Township – Request for Water Purchase

Jim Marker asked to set up a public meeting with Council and Authority for discussion on delivering water to Jefferson Township. Jefferson Township Supervisor, Bruce Barron said they received a grant for Bakersville water infrastructure and received different proposals, but the County's proposal was best.

Discussion centered on Option No. 1, purchasing water from the County, roughly 20,000 gallons. Mr. Barron asked if the Borough would agree that if they could get the permitting from the County for Option No. 1, (for which they would pay for use of our pumps, etc.)

The Solicitor Dirienzo said Option No. 1 is considered the "phantom wheelage" option, where Jefferson Township would have been a County customer, but the transmission would have been through the Borough system. The original draft document talked about starting out with Bakersville, but provided the opportunity to enlarge beyond. Regardless of whether it is Bakersville, the concept required the 3-party deal of which the County was a critical element, and we cannot make a commitment for the County.

Mr. Barron said they received a 1.2 million dollar H-20 grant that only pays 2/3 of the project. They need to get the other 1/3 from PennVest by mid-August. They wanted to talk about different ways to deliver water to Bakersville and eventually Hidden Valley. He said he had heard from DEP that since it was a three-party agreement, there was indication that water molecules delivered have to be defined where they come from, in our water supply agreement. They spoke about water liability, and if the agreement is between Jefferson and Somerset County, the County shoulders liability though it might not be our water. Mr. Barron said there are 80 people needing water and they would like to cooperate with the Borough.

Mr. Dirienzo pointed out that the Borough/Authority are currently party to an Intermunicipal Agreement with Somerset Township wherein we have agreed to charge Somerset Township the same as we charge our customers. We could not vary this price.

Mr. Mostoller suggested making sure that everyone fully understands Option 1 and 2. Option 2 would be the main line design in Bakersville being sized large enough to carry volumes. Mr. Barron said the 1.2 million dollar grant is 2/3rds – we need another six or seven thousand and to borrow at even one percent is a high debt service for 80 people to pay monthly.

Ruby Miller asked if the Municipal Authority is agreeable to go to the County on Option No. 1. Wanda Miller asked about the safety of Laurel Hill Creek water. Mr. Dirienzo said they need a long-term water commitment. It must work for everyone and will need to happen quickly and simultaneously.

Mr. Marker said he needs help to get this settled and have the Borough agree to sell Jefferson Township Water Authority water. Solicitor Dirienzo said the Borough and Authority were agreeable to this arrangement to begin with.

The issue of choking points in our system was mentioned. Mr. Dirienzo said he feels that this was not viewed as an obstacle – Mr. Vinzani said it was never introduced by us.

Discussion continued on which option is in the best interest of the Borough. Mr. Dirienzo said it might be a matter of opinion. We need to have something more than an expectancy of a few years. Mr. Marker added that Option No. 1 will not work without the County assistance. He said they want to sell water – the County's position is, they would like us to buy 100% of our water from them.

Motion

Mr. Parke moved, Mr. Jacob seconded to reaffirm the Municipal Authority's interest in Option No. 1.
Unanimously Carried.

Motion (Borough Council vote)

Mr. Parke moved, Mr. Koval seconded to go with Option No. 1.

Vote: Mrs. Wanda Miller, yes; Mr. Koval, yes; Mr. Parke, yes; Mr. Rosemeyer, yes; Mrs. Ruby Miller, yes.
Unanimously Carried.

Discussion ensued concerning housekeeping points and whether a joint meeting is needed. We still owe on the plant. The subsidiary water allocation permit would come from the County, not from the Borough. The Borough will not take water out of Laurel Hill for Option No. 1. Mr. Kuhlman said we will need support/cooperation in getting this permitted. There are many different points as far as taking this water out, which we have been doing for 60 years. We cut back by getting 900,000 gpd from the Que, helping to alleviate concerns there.

Municipal Authority Agenda

Minutes of Previous Meeting

Mr. Egly moved to accept the April 18, 2011 minutes of the Municipal Authority meeting – motion seconded by Mr. Jacob.
Unanimously Carried.

Payment of Bills/Requisitions

Mr. Critchfield explained that construction is basically closed for the Hickory Hill Sewer Project, but there was site restoration work to be completed on Felgar Road.

Mr. Jacob moved to pay the following requisitions, motion seconded by Mr. Egly:

Water Capital Improvements Fund Requisition No. 164, in the amount of \$125.00, to EADs Group.
Sewer Surplus Fund Requisition No. 188, in the amount of \$1,878.00 to Maust Excavating.
Unanimously Carried.

New Business

Mr. Critchfield asked if there were any questions on the Status of Projects Report. He attended a utility meeting on the Turnpike Interchange Improvement Project. It is being held up because of environmental permitting and permit right-of-way acquisition issues. The schedule is to complete the right-of-way acquisition in October or November then bid their project, letting the contract in February of 2012. Most of the rights-of-way that the Borough needs in order to do the waterline work are tied up into the Turnpike acquisition. He said he will draft a letter suggesting having a contractor selected, with all agreements, bonds, etc. to expedite this as quickly as possible, in order to avoid possible weather issues. We have the Material Reimbursement Agreement.

Mr. Parke moved to have our Engineer begin working with the Borough Manager to put the project out to bid – motion seconded by Mr. Jacob.

Unanimously Carried.

Mr. Mostoller asked about water haul trucks going through town. He said in certain cases there is no need for these trucks to travel through the center of Somerset – we could be selling water from a location that would eliminate this. Mr. Vinzani said they identified the companies and sent letters to them.

Mr. Parke moved to adjourn, seconded by Mr. Jacob.

Unanimously Carried

Borough Council Meeting

Council meeting was called to order by Ruby Miller, President.

Approval of Previous Meeting Minutes

Mr. Rosemeyer moved to approve minutes of the April 25, 2011 Council Workshop – motion seconded by Mr. Parke.
Unanimously Carried.

Mr. Parke moved to approve the April 25, 2011 Council meeting minutes – motion seconded by Mr. Rosemeyer.
Unanimously Carried.

Bid Opening

Mr. Vinzani read the bid tabulations for Paving and Asphalt/Crushed Stone and recommended awarding to the lowest bidders as submitted.

2-A Stone	Delivered, Garrett Limestone	\$ 9.70
	FOB, New Enterprise	\$ 7.00
2-A Modified	Delivered, New Enterprise	\$10.25
	FOB, New Enterprise	\$ 6.75
2 RC	Delivered, Garrett Limestone	\$ 9.00
	FOB, Garrett Limestone	\$ 6.50
2-B	Delivered, Garrett Limestone	\$13.45
	FOB, New Enterprise	\$10.25
Dust	Delivered, Garrett Limestone	\$10.10
	FOB, New Enterprise	\$ 7.50
#4 Stone	Delivered, Garret Limestone	\$13.45
	FOB, New Enterprise	\$10.25
1-B Stone	Delivered, Garrett Limestone	\$15.95
	FOB, Garrett Limestone	\$13.45
9.5 MMR	FOB, New Enterprise	\$69.50
25 MMR	FOB, New Enterprise	\$58.75
Stockpile Patch	FOB, New Enterprise	\$90.00
Anti-Skid	Delivered, Garrett Limestone	\$15.95
	FOB, Garrett Limestone	\$13.45

Mr. Parke moved to accept the bids as read, motion seconded by Mr. Rosemeyer.

Unanimously Carried.

Paving

We received one bid from New Enterprise:

Item #1	Superpave Wearing Course	(609 tons, in place)	\$85.65
Item #2	Superpave Scratch & Leveling	(139 tons, in place)	\$85.65
Item #3	Superpave Wearing Course	(404 tons, in place)	\$89.60
Item #4	Superpave Scratch & Leveling	(111 tons, in place)	\$89.60
Item #5	Superpave Wearing Course	(334 tons, in place)	\$90.30

Mrs. Wanda Miller moved to approve the paving bid as read – motion seconded by Mr. Rosemeyer.
Unanimously Carried.

General Public Comments

Vince Jacob commended Maust Excavating on their work with the Hickory Hill Sewer Project. Neighbors also wished to express their thanks to Maust Excavating and Tom Jury.

Michael Walford expressed concern about having more police protection at Village Way. He said there has been robberies and drug activity in the area and is not happy with the way the Police Department were handling his complaints.

Gary Thomas, Somerset Fire Department – reported the HazMat changeover is working well. Twenty new HazMat technicians are trained, with approximately 50 members on the team. Our Fire Department was invited to the State Firemens Convention as Grand Marshall of the Parade. He also reported that the door needs to be fixed at the Public Works Building where they store their equipment.

Mrs. Ruby Miller reported on the recent fire at Hidden Valley. Our engine was first on the scene and all help was appreciated. Concerning the issues regarding the back doors, we will be signing a P.O. this week. Mr. Thomas described the problem and work recommended.

Administrative Business

Payment of Bills

Mr. Rosemeyer moved to pay the following bills, motion seconded by Mr. Parke:

Check Nos. : 17668 to 17827 Total: \$723,123.38

Unanimously Carried.

Old Business

Peddler's Ordinance

Mr. Vinzani reported on a press conference where stickers were initiated for placement on doors to notify peddlers. There were many requests for these, and good comments were heard. Mr. Cox pointed out a sheet that is presented with a facsimile of the peddler's permit which they are asked to sign, acknowledging that they understand its purpose.

Chief Gas & Oil Co.

We have received no response from them concerning our request for them to pay the cost of the study to conduct seismic testing on Borough property.

New Business

Somerset County Redevelopment Authority Cooperation Agreement

Mr. Vinzani said this appoints the Redevelopment Authority as being responsible for receiving and administering grant funds on our behalf under the "anchor building revolving loan fund" which provides gap financing to small/medium sized vacant or under-utilized properties.

Mrs. Wanda Miller moved, Mr. Parke seconded to approve the Somerset County Redevelopment Authority Cooperation Agreement for funding under the anchor building revolving loan fund for gap financing for the Penn Furniture Building.

Unanimously Carried.

Memorial Day Parade

Mr. Rosemeyer moved to add the Memorial Day Event to the Borough's insurance policy for years 2012 and 2013 providing that the event remains relatively the same each year – motion seconded by Mr. Parke.

Unanimously Carried.

Alan Woy Subdivision

Mr. Parke moved to accept the recommendation of our Planning Commission to approve the subdivision request of Mr. Alan Woy to change a lot line – motion seconded by Mrs. W. Miller.

Unanimously Carried.

Ritco, Inc.

Rick Svonavec is requesting to plant corn on property in Jefferson Township. Mr. Dirienzo recommended tabling this request until next month for further information such as amount of land needed, market value and how much is tillable.

Donation Policy

Questions were raised on whether the donation policy should be in writing plus the need to know the receiver before taxpayer money is given out. Mrs. Wanda Miller said she feels financial statements should be kept private.

Mr. Parke moved, Mr. Rosemeyer seconded to adopt the Donation Policy as written and presented.

Vote: Mrs. W Miller, no; Mr. Koval, no; Mr. Parke, yes; Mr. Rosemeyer, yes; Mrs. R. Miller, yes.

Motion Carried – (3-2)

Planning Commission

Mr. Rosemeyer moved, Mr. Parke seconded to appoint Dan Pensiero to the Planning Commission Board to fill the unexpired term of James Knepper, Jr. The term will expire January 1, 2013.

Unanimously Carried.

Committee, Administration, Special Reports

Manager's Report

Mr. Vinzani reported on the Project Citizen Program conducted at the Junior High School that he and the Mayor attended. Students were invited to identify community problems and present solutions. There are local government regulations to be considered regarding blight. Using tax money for this purpose may be the least acceptable solution.

President's Report

Mr. Rosemeyer reported on the PSAB. A search committee is being established to replace the Executive Director. Next meeting will be held in September.

Public Works/Equipment Committee

The purchase of two new trucks was approved. We received quotes for trees at the Public Works Building.

Public Safety Committee

Mr. Rosemeyer reported on the County Hazmat team. All equipment will now be stored at the airport. Pete Barnhart is the new Chief and there are also three deputy chiefs, northern, central and southern areas. Rick Lohr is the administrative person.

The Public Safety Committee met with the Chief. Mr. Cox pointed out that some items are not police matters. He described incidents that occurred while he was on vacation, and complimented Officer Borosky who handled these in his absence. He recommended recognizing Officer Santa for his service to the Borough.

Mr. Rosemeyer moved to remove Officer Santa from the part-time police roster, commending him for his 8 years of service - motion seconded by Mrs. Wanda Miller.

Unanimously Carried.

Finance Committee

Mr. Peters presented the updated Budget Report for General, Water and Sewer Funds, with all in line so far.

Shade Tree Committee

Mr. Parke said they plan to replace more shade trees in the uptown area with grant funds but will wait until Fall.

Somerset Inc. Representative

Mr. Parke stated that Somerset Inc. received a grant to look at several buildings and any renovations needed, plus what the best uses might be.

Solicitor's Report

New equipment is needed in order to comply with OSHA requirements for confined space air testing. Industrial Scientific Corporation proposes a leasing of equipment instead of sale, a 4-year deal for around \$400 dollars per month. They will check on the warranty.

Mr. Dirienzo said this type of warranty has to do with the equipment and whether it is suited for the intended purposes. After some debate another agreement was sent with the following language: *“company does not warrant that the equipment will meet customer’s requirement and whether the equipment will be error-free. The company warrants the equipment for those gas detection purposes for which it was designated pursuant to the equipment specifications. If the equipment fails to conform to its specifications, company shall correct any defect at its expense”*.

He cautioned that this may be the same kind of provision in every available manufacturer making this kind of equipment. OSHA requires us to have this equipment and what we have now is not satisfactory. Mr. Vinzani said Council approved the lease several months ago and we are now fine-tuning it.

He said this is probably all OSHA approved but there are different OSHA specifications. Under the Uniform Commercial Code it is called a “warranty of fitness for a particular purpose”. The same contract states *“to the Fullest Extent permitted by applicable law, the limited warranty set forth above, and customer, hereby waives all implied guarantees and warranties including without limitation, any warranty of title, non-infringement, merchant ability or fitness for a particular purpose”*. He said we must be certain of what we would be getting if we sign this deal. As the Agreement is now interpreted, we are the ones who decide that this is the equipment we need.

Mr. Thomas, Fire Department – stated they own Industrial Scientific equipment. He described their experience with it and advised looking at it as to whether you’re using the self contained breathing apparatus or a filtration system on the side. He recommended this equipment. Training is available for everyone.

The Solicitor asked about interpreting: *“the company does not warrant that the equipment will meet customer’s requirements”* statement, and how we should know that this is what we need. They discussed gas meters, type, replacements needed, etc. There are maintenance responsibilities but the question is whether this is what we need, to meet our requirements.

Mr. Thomas said that while there are other companies, Industrial Scientific is a reliable company, and other companies may have the same wording in their contracts. At the suggestion of contacting MSA for a copy of their warranty, the Solicitor said the law states there is a “warranty of fitness” for a particular purpose unless it is disclaimed.

Discussion followed, concerning importance of protecting our workers, whether to contact MSA, checking the warranty, and seeing that they stand behind the notion that they looked at what we have and what we need.

Mavor’s Report

Mr. Meyer said there was no quorum for last month’s meeting. He pointed out that members are required to be present at one meeting per month, and encouraged members to make a special effort to attend scheduled meetings.

He commended Marcy Miller on the phenomenal job of renovating a property on East Union Street. Mr. Vinzani will invite her to our next meeting.

The ACM 5-K Walk/Run for scholarship money is scheduled for August 20, 2011, 9:00 a.m.

Adjournment

Mr. Koval moved to adjourn, motion seconded by Mrs. Wanda Miller.

Unanimously Carried.
9:35 p.m.

Benedict G. Vinzani, Jr., Ph.D.
Borough Manager/Secretary