

**JOINT MEETING
COUNCIL OF THE BOROUGH OF SOMERSET
AND
MUNICIPAL AUTHORITY OF THE BOROUGH OF SOMERSET
7:00 PM July 23, 2012**

The Council of the Borough of Somerset was called to order by Ruby Miller, Council President.

Present:

Ruby Miller, Judy Pyle, Fred Rosemeyer, Wanda Miller, Scott Walker, Council Members.

The Municipal Authority of the Borough of Somerset was called to order by President William Kuhlman.

Present:

Clyde Mostoller, Vincent Jacob, and William Kuhlman, Municipal Authority Members.

Others present were: Benedict G. Vinzani, Jr., Borough Manager; Michele Enos, Assistant to the Manager; Randy Cox, Chief of Police; Brett Peters, Director of Finance; Jack Dirienzo, Jr., Borough Solicitor; Jerry Lyons, Somerset Fire Department; Tom Reilly and Eric Critchfield, Consulting Engineers, and George Svirsko, Public Works Director. (Sign-in sheet is available on file)

Community Improvement Award

Mrs. R. Miller presented a Community Improvement Award to Sandy Berkebile, Chamber of Commerce, in recognition of their contribution to the Borough of Somerset. The award was given to recognize their efforts to keep the Chamber office in excellent condition.

New Business

Joint Action, Water Allocation Permit Application

Mr. Vinzani said a summary of potential options was distributed concerning the Water Allocation Permit application, with discussion on the various options and Council and the Authority's choices.

The Solicitor said the application has been pending for 10 years, and we need to look at the circumstances that may occur if we did not get our permit and use of the facility. The permit does not affect operation of the water plant; question is if whether we want to press for the permit to withdraw water from the surface impoundment to run through the plant.

They discussed options as to whether we could be fined, or shut down. He said the permit technically has expired. We had our application to renew it before expiration but instead of taking action, we are drawing water under an “administrative permit extension”. They have taken no steps to stop us. Two possible moves are that we bring pressure upon the permit issuing agency to issue a permit and if needed, we initiate administrative litigation to force the issue.

In answer to a question of our need for the water, Mr. Dirienzo said he considered the amount of water we are pulling out of the surface impoundment compared to what we might spend getting the permit issued or what permit conditions might be with dredging expenses, which happens on a regular basis. In case of a possible penalty for pumping with an expired permit, he said no one has asked us to stop and we clearly report our activities on a regular basis.

Mr. Vinzani said the amount of water utilized from this one source is not material to our overall operations; we use this water only for several days per year. The rest is from Shaffer Run and Coxes Creek wells, which is more than we could get from the stream. Mr. Vinzani said he leans towards Option #3, based on how much we don't use as opposed to what the future holds for the stream with the external considerations. This Option is also based on the fact that in our discussions with the DEP, we believe any permit that they issue would be significantly smaller in withdrawal of “gallons per day” than at present, with restrictions on when we can use this water being more restrictive than now, realizing that we only use it several times per year.

The operating permit on the three Shaffer Run wells does not have an expiration date. In reviewing the options, Mr. Vinzani explained that the Shaffer Run wells are the supplemental supply, a good source of water, included with the other two Coxes Creek wells. He said that if we did nothing and have them issue a draft permit, it would probably contain something not favorable to us which would lead to filing an appeal.

At a meeting with the DEP in 2010 they indicated that when they issue the draft permit, there would be the dredging requirement, and their intention was to impose conditions on use of the wells. Mrs. R. Miller asked if we could request no dredging and not to bother Shaffer Run and Coxes Creek if we drop the permit application. Mr. Dirienzo said there's no obligation with regard to the dredging; the only time it becomes an obligation is if it becomes a permit condition or if the DEP would issue a separate administrative order. Mr. Vinzani said we need to be prepared for costs with decommissioning the dam if we were ordered to do so.

Motion

Mr. Jacob, Municipal Authority, moved to proceed with Option 3.

At this point Mrs. W. Miller asked if this would affect the wells. The Solicitor explained that the wells have their own permit and if the DEP decided to establish a connection they would bear the burden.

Motion was seconded by Mr. Mostoller.

Carried, 2-1 (Mostoller voting "no")

Motion

Mr. Walker, Borough Council, moved to approve Option 3, as approved by the Authority, to withdraw the water permit application - motion seconded by Mrs. W. Miller.

Further discussion ensued. Mrs. Pyle pointed out that there is no guarantee of how the DEP will respond – Mrs. R. Miller expressed concern they may come back with a stipulation on the Shaffer Run and Coxes Creeks wells.

They requested the Solicitor's opinion and recommendation. Mr. Dirienzo said this would avoid giving them a chance to put conditions on their permit that might affect the other wells. We have separate permits for these wells and as the Permitting Agency, they have regulatory authority and before any changes to the permits there must be a legal cause.

The various permits were reviewed – they expressed concern about continuing to withdraw water from Laurel Hill Creek, spending money on permits, dredging with restrictions. Since many issues are undefined at this time such as

what we would have to do if the permit is withdrawn, what to do to the dam, would we have to dredge, any downside to not taking formal action.

Motion

Mr. Rosemeyer, Borough Council, moved to have the Borough's vote be delayed to their next meeting to allow for a meeting with the DEP for further clarification – motion seconded by Mrs. Pyle.

Unanimously Carried.

Motion

Mr. Jacob, Municipal Authority, moved to postpone action of this item until a meeting with the DEP can be held for further clarification – motion seconded by Mr. Mostoller.

Unanimously Carried.

Municipal Authority Meeting

Mr. Jacob moved to approve the minutes of the Joint Meeting of March 26, 2012 – seconded by Mr. Mostoller.

Unanimously Carried.

Payment of Bills/Requisitions

Mr. Jacob moved, Mr. Mostoller seconded to pay the following:

Water Capital Improvements Fund No. 167

<u>Item No.</u>	<u>Payee</u>	<u>Amount</u>	<u>Purpose</u>
677	Friedline, Pison & Co.	\$2,900.00	Assist 2010 Annual Report/ Independent Auditor's Report
678	The EADS Group, Inc.	\$ 125.00	Retainer, 1 st Quarter 2012 Inv. # 45826
679	The EADS Group, Inc.	\$ 125.00	Retainer, 2 nd Quarter 2012 Inv. # 46260

Unanimously Carried.

Mr. Jacob moved, Mr. Mostoller seconded to pay the following:

Sewer Surplus Fund No. 191

596	Friedline, Pison & Co.	\$2,900.00	Assist 2010 Annual Report/ Independent Auditor's Report
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Unanimously Carried.

Adjournment

Mr. Jacob moved, Mr. Mostoller seconded to adjourn.

Unanimously Carried, 7:50 p.m.

Borough Council Meeting

Approval of Previous Meeting Minutes

Mr. Walker moved, Mr. Rosemeyer seconded to approve the Council meeting of June 25, 2012 – and to include the addition of having authorized Mr. Rosemeyer to speak with the County Commissioners regarding the county jail sanitary sewer discharge incident.

Unanimously Carried.

General Public Comments

Jerry Lyons, Fire Department, reported a structure fire on West Catherine Street last week which was kept under control, saving a significant amount of surrounding property. The concrete floor repair project has been started, estimated to be completed in two weeks. National Night Out is scheduled for Tuesday, August 7th. The Fire Department will provide seating. Council expressed their thanks to the Fire Department for their cooperation and handling of the many recent calls.

Resident Gail Wagner presented neighbors' requests for assistance in addressing a problem with too many cats causing problems on South Kimberly, East Sanner and East Garrett Streets. They are being fed by a resident.

Chief Cox pointed out that the only State law concerning cats is with owners' vaccination requirements, with nothing regarding stray cats. The Humane Society would have authority if they were being subjected to cruelty. Suggestions were offered to Ms. Wagner: consult with "Needy Paws" and "Amy's animal Friends", or write a letter to the person feeding the cats. The Solicitor confirmed that we do not have the authority to do anything if she ignores a letter. The Humane Officer would have more power than Council.

Bill Payment

Mr. Walker moved to pay the following bills/requisitions – motion seconded by Mr. Rosemeyer:

Check Numbers: 20024 to 20188 Total Amount: \$402,801.62

Vote: Mrs. W. Miller, yes; Mr. Walker, yes; Mrs. Pyle, yes; Mr. Rosemeyer, yes; Mrs. R. Miller, yes.

Unanimously Carried.

Old Business

Mr. Rosemeyer reported on his meeting with the County Commissioners concerning the jail sewage issue. The Borough will photograph and dye test tomorrow and meet with the attorneys on Wednesday along with Mr. Vinzani, to address the findings. Photos confirm that the trash is coming from the jail. They noted that our insurance has paid for this four times.

New Business

Mr. Jacob explained that he mailed the Real Estate Tax check on April 26 to Althea Brown and the Post Office lost it. He said he then paid the face amount, after checking with his bank statement.

Mr. Rosemeyer moved, Mr. Walker seconded to refund the paid Real Estate Tax amount to Vince Jacob. This is the difference between the “face” and the “discount” amounts paid by Mr. Jacob.

Unanimously Carried.

PennVest Loan Re: Water System Improvements

Mr. Dirienzo explained that since this involves litigation it will be discussed in Executive Session.

Updated Flood Plain Ordinance

Mr. Vinzani reported that he did not receive any contact from the DEP or FEMA. This ordinance meets their specifications, as a draft ordinance. Each municipality in the County needs to adopt a new Flood Plain Ordinance by September 19th. Templates have been issued to each municipality

The Ordinance must be effective prior to our September meeting – if we receive the Ordinance back from FEMA meeting administrative approval, he said he would like Council’s authorization to advertise it.

Mr. Dirienzo explained that we do not want to advertise the complete ordinance because of the size. Advertising law allows for him to advertise a summary, provided that we maintain a full text here, with a copy to the newspaper. At this time we do not know what the approved text will be. Mr. Vinzani said we

submitted the final draft two weeks ago and was informed that it is being reviewed. He said he would like to consider adoption at our August meeting, effective September 19th.

Motion

Mr. Walker moved, Mrs. Pyle seconded to authorize having the Solicitor advertise the necessary portions of the Flood Plain Ordinance to comply with the new FEMA regulations, for adoption at our August meeting.

Unanimously Carried.

West Union Street Speed Limit Request

Mr. Vinzani said we were notified of a speeding problem on the 400 block of West Union Street. Mr. Cox explained the problem of traffic driving up the middle of a wide street in order to avoid cars parked along the side. The Vehicle Code requires posting no less than every half mile but the courts will look at someone turning onto the street from Vincent, and now knowing that it was a 25-mph area. Posting from the 100 through the 500 block would be looking at 10 signs, at approximately \$50.00, per pole/sign combination.

He said the Vehicle Code also mandates that when one enters a reduced speed zone they have a 500-foot grace before they can be stopped or cited, while if posted only where the problem is they will run through this area therefore can't be stopped.

He suggested an extension to Pleasant Avenue since coming across from East Union Street onto West Union Street you have a contiguous zone, since Pleasant is also 25-mph. If we only post the problem area, the 500-foot grace would prevent being able to do anything. He advised posting it from the 200 to the 500 block at a minimum. State Routes are posted from 25, 35 and 45 mph, depending on the street. Franklin, Colby and Hickory Hill were posted because of complaints regarding speed. Another option would be to go with Section 3361 known as 'too fast for conditions' but there are variables. This would be a matter between the officer and the judge.

Motion

Mr. Rosemeyer moved to give approval to the Solicitor to write the Ordinance.

At this point the Manager pointed out the financial implications since we are in the middle of the budget year. An ordinance adopted Borough-wide would require having every street posted and the budget would either be exceeded or we would not be able to enforce the limits on certain streets if they were not posted.

Further discussion ensued, with questions on installing signs “as needed;” “financial responsibility”, or as a possible budgetary item for next year.

The Chief referred to the Vehicle Code section that states that the proper signage and ordinance would be necessary in order to issue a ticket. He suggested posting through a budgetary issue.

Mr. Vinzani said it has been a Public Works function under his jurisdiction as to what signs get replaced on a normal basis as needed, but it is becoming more of an enforcement issue out of his line item budget and at some point it might be appropriate for it to be a Police Department line item, with Public Works installing them. Chief Cox pointed out that a number of signs have become so faded that they could not be fairly enforced.

Mr. Rosemeyer withdrew his original motion.

Mr. Dirienzo suggested a motion to authorize preparation of an ordinance creating a 25-mph speed limit on all local highways within the Borough of Somerset.

Mr. Rosemeyer then moved to authorize preparation of an ordinance authorizing a 25-mph speed limit on all local Borough highways. Mr. Walker asked about Borough roadways at 35-mph – Mr. Cox explained that these are all on State highways and school zones. Motion seconded by Mr. Walker.

Unanimously Carried.

F.T.C.A. Real Estate Assessment Appeal

Mr. Vinzani explained that the Solicitor forwarded a letter from Attorney Rullo concerning the Assessment Appeal of the Coleman Company. Mr. Dirienzo said he will address this in Executive Session.

Committee, Administration, Special Reports

Manager's Report

Mr. Vinzani reported the following:

- He attended the Annual Somerset Hospital meeting where their future plans were outlined.
- He attended a Joint Utility Meeting with other utilities in the County, along with Mr. Svirsko.
- Our monthly Safety Committee meeting was held and the Bi-annual Flagger Training was conducted, with 15 persons becoming certified in flagger training according to PennDOT standards.
- Our Finance Committee met July 19th.
- The County Drought Task Force meeting was held. Each water system is holding up and we are 1.33 inches above normal precipitation at this time of year, though it varies according to the particular water system.

President's Report

Mrs. Miller thanked the firemen for their excellent performance at the Catherine Street fire.

Public Works was commended for their control of high grass, writing the letters, cleaning of stream banks and painting the old scales. Mr. Vinzani said the dead tree in front of the Army/Navy store is believed to be subject to a disease and replacement is planned. They are considering a new type of tree, with more than one replaced. This is being evaluated with our tree consultant.

Public Works & Equipment Committee

Mr. Walker reported the following:

- We used our bucket truck to install signs for Somerfest at Laurel Arts..
- Curb and Parking Stall Painting are taking place uptown.
- Several water line breaks are being repaired.
- The Public Works Department borrowed equipment from the Township which have saved us expenses by doing our hot patch repairing on approximately nine streets .
- Mowing of stream banks occurred by Days Inn and from Dott Avenue to Stadium Drive and from South Columbia, to Edgewood Avenue. Prison labor was utilized to assist our crews, saving us money.
- Waterline repairs, replacement of catch basins and painting of the retaining wall at our parking lot across from Mel's. This covers most of our list.

Public Safety Committee

Mr. Rosemeyer said they discussed the animal control issue; speeding on Union Street; and employment of another police officer with the Borough Police Department. Specialized training is being conducted at the Allegany County Police Academy, consisting of leadership, police management and ethics. Two officers, Appel and Borosky, are being considered.

He presented a check from the Fraternal Order of Eagles to help pay for one officer to attend. Also the Somerset Exchange Club voted to contribute \$100 towards this training.

Chief Cox thanked the Eagles and stated that when an officer completes training he will attend one of our meetings to share what was accomplished.

Mrs. R. Miller asked about the Stoystown Project. The Committee, Police Chief and Mayor are asking for the appointment of one new police officer.

Motion

Mr. Rosemeyer moved to support the hiring of one new part-time police officer, – motion seconded by Mr. Walker.

Unanimously Carried.

(Chief Cox stated that this officer will be a patrol officer doing normal patrol duties to fill the vacancy created by allowing an existing officer with extensive drug background experience to concentrate in the drug area.)

Finance Committee

Mr. Rosemeyer provided the following report, as of 6/2012:

General Fund Revenues: 68.04%; Expenses: 45.12%

Water Fund Revenues: 51.64%; Expenses: 62.94%

Sewer Fund Revenues: 46.75%; Expenses: 49.41%

Mr. Vinzani said the Water Fund expense is disproportionate to our budget because of our unreimbursed expenses from the Turnpike; when we receive these our expenses will be more in line with our Budget.

Somerset, Inc.

Mrs. Pyle reported on their meeting. A brochure is being distributed with the Chamber of Commerce, with their plans for the remainder of the year. They are

working on Trinity Park, removing old shrubbery and have extensive plans for beautification. Mrs. R. Miller asked about rain barrels – Mr. Vinzani said the Soil Conservation District and the Borough applied for a grant and were successful in receiving monies to purchase rain barrels for Borough residents. They are specific to certain areas that are subject to excessive storm water. This decision is made by the Conservation District and those in the target area are eligible to receive one at no cost.

Executive Session

Mr. Walker moved to enter into Executive Session for potential litigation, motion seconded by Mr. Rosemeyer.

Unanimously Carried, 8:58 p.m.

(Wanda Miller leaves during the executive session and is not present for the adjournment)

Adjournment

Mr. Walker moved to adjourn, motion seconded by Mr. Rosemeyer.

Unanimously Carried, 9:41 p.m.

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