

**Somerset Borough Council**  
**7:00 P.M. – September 24, 2012**

Meeting was called to order by Council President Mrs. Ruby Miller, opening with recitation of the Pledge to the Flag.

**Present**

Council Members Ruby Miller, Judy Pyle, Fred Rosemeyer, Wanda Miller, Scott Walker. William Meyer, Mayor, Benedict G. Vinzani, Jr., Borough Manager, Michele Enos, Assistant to the Manager, George Svirsko, Director of Public Works, John J. Dirienzo, Jr., Borough Solicitor, William Meyer, Mayor, Tom Reilly, Consulting Engineer.

**Previous Minutes**

Mr. Rosemeyer moved to approve minutes of the previous Joint Council/Municipal Authority meeting of August 27, 2012 – motion seconded by Mrs. Pyle.

Unanimously Carried.

**Opening of Bids – Looped Waterline System**

Mr. Reilly reported that the Borough received nine bids for the Industrial Park Waterline. The apparent low bidder is S&E Utility Contracting, Inc., from Jeanette, Pa. for both base and alternate bid, in the amount of \$664,417.50. They did the loop on Laurel Crest Road, an adequate job. There were no local bidders on this project.

**Motion**

Mr. Walker moved, Mrs. Pyle seconded to award the bid to S&E Utility Contracting, Inc., in the amount of \$664,417.50.

Unanimously Carried.

**Water Tank Project**

Low bidder for this contract was Mid-Atlantic Storage Systems, from Ohio, at \$868,500.00. This is for a typical silo-type fused bolted steel tank, with an aluminum dome-type roof. Other bids received were for a welded seal tank and a pre-cast concrete tank, significantly higher in price.

In answer to Mrs. Ruby Miller's question, it was explained that the coating is a very durable glass, financed through PENNVEST, and does not require painting. The recommendation is to award it to Mid Atlantic Storage Systems.

**Motion**

Mr. Walker moved to award the Water Tank Project bid to Mid Atlantic Storage Systems, in the amount of \$923,000.00 – motion seconded by Ms. Wanda Miller.

Vote: Ms. W. Miller, yes; Mr. Walker, yes; Mrs. R. Miller, yes; Mr. Rosemeyer, no; Mrs. Pyle, yes.

Carried, 4-1

**General Public Comments**

A resident (Laura Miller) mentioned that they are receiving help with a stormwater problem encountered at Cherry Lane, Somerset.

**Bill Payments**

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

<u>Check Numbers:</u>	<u>Total Amount:</u>
20391 to 20542	\$279,531.48

Unanimously Carried.

**New Business**

**Sale of Surplus Equipment**

Mr. Vinzani said the 1988 bucket truck and two 1994 GMC ¾-ton pickup trucks are no longer usable and were replaced with newer ones. Older vehicles often do not bring a good price therefore we always reserve the right to reject the bids and sell them for scrap, as price per pound. The money goes back into the fund from which it came.

**Motion**

Mr. Rosemeyer moved to sell the 1988 bucket truck and two 1994 GMC pickup trucks, at best price - motion seconded by Mrs. Pyle.

Unanimously Carried.

**Speed Limit Ordinance**

Mr. Vinzani said the Solicitor submitted a proposed ordinance for Council's consideration concerning the establishment of a speed limit of 25 mph on all public streets within the Borough that are owned and maintained by the Borough. Mr. Dirienzo said "posting" is required and depending upon expense, the issue can be addressed street by street on an "as needed" basis. Once it is properly posted it becomes enforceable. The Mayor said they had discussed whether one sign could cover speed limits on all the streets as you enter the Borough – Mrs. R. Miller said they decided to post the signs in problem areas first. Mrs. Pyle said the reason for this is that too many posted at one time would become quite costly.

They discussed the benefit of stop signs, and various problem areas. Mr. Meyer said they will focus on complaints first, and eventually cover the whole Borough.

Motion

Mr. Rosemeyer moved, Mr. Walker seconded to adopt the ordinance establishing a speed limit of 25 mph on all public streets within the Borough that are not State highways – motion seconded by Mr. Walker.

Unanimously Carried.

**Conemaugh Memorial Medical Center**

Concerning the request for approval to occupy the old Eckert Drugstore building as physician offices, Mr. Vinzani said we were authorized to turn over this request to our Planning Commission for recommendation. Our Solicitor is not in a position to advise on this since his law partner is on the Conemaugh Memorial Medical Center Board. Attorney Carolann Young is our “conflict counsel”. In looking at the plan it appears that the ordinance does not need to be changed.

In a letter addressed to Manager Vinzani, Attorney Young said the zoning is a C-1 zone and under Borough Zoning Ordinance there are permitted uses and C-1 also incorporates uses permitted in B-1. Permitted uses in B-1 states that offices are a permitted use. The letter submitted apparently did not detect this but incorporated the provisions of C-3, where a physician’s office was also a specific permitted use in a C-3 zone. The incorporation of B-1 which permits offices in a C-1 district states that you can put an office in, and a follow-up letter mentioned a testing lab, also a forbidden use.

Attorney Young’s conclusion was that it is already a permitted use therefore there is no reason to refer it to the Planning Commission for a change in the zoning ordinance.

A motion would be required if Council wants to acknowledge receipt of the advice of counsel and withdraw the matter from the Planning Commission. Mr. Rosemeyer pointed out that Conemaugh hospital is in Johnstown and they would provide the same services provided here at Somerset Hospital.

Attorney Dirienzo explained that in order to effectively not issue a permit when they apply for it, the zoning to prohibit it would have to change since now it is permitted. Mrs. Pyle said Doctor Brennan and Doctor Smith are coming from the Township into the Borough, giving us more revenue in the Borough.

Motion

Ms. W. Miller moved to withdraw our request – motion seconded by Mrs. Pyle.

Vote: Ms. W. Miller, yes; Mr. Walker, abstains; Mrs. R. Miller, yes; Mrs. Pyle, yes; Mr. Rosemeyer, abstained (pointing out that he wishes to consider this as “no” in order to promote our Somerset area.)

Motion carried 3 yes -0 no - 2 abstain

With three “yes” and two “abstention” the Solicitor said he does not believe the votes should be construed as “protecting our own” since the ordinance has been on the books and doesn’t place any limitations as to the type of offices. Hospitals are permitted under our Ordinance only as a conditional use. He explained that a hospital can be located anywhere but the particular location in use as a hospital requires action of Council and the Planning Commission, as a conditional use.

Following further discussion concerning the benefit of having the Eckert Building occupied, supporting hospital personnel, the Solicitor said that while these concerns are reasonable none have anything to do with the zoning.

Mrs. Ruby Miller said Borough Code was recently changed and was discussed at the Somerset County Boroughs Association meeting and a meeting will be set for all Boroughs to review those changes. Mr. Rosemeyer said he will need to consult with Jerry Lyons to arrange for use of the Fire Department room. Mr. Vinzani said PSAB has these series taped through a series of webinars, and he will get this information to each Council member that may not be able to attend the meeting. There is a series of 8 webinars, one hour each.

### **Zoning Hearing Board**

Mr. Vinzani reported a resignation from a Zoning Board member. Letters of interest were advertised and he heard from David Halverson and Timothy Resh, expressing interest in serving on the Board, and recommended appointing Mr. Resh to replace Martin Kammerer, and Mr. Halverson to fill the unexpired term of Art DiLoreto – both to January 1, 2014.

### **Motion**

Mr. Walker moved, Mr. Rosemeyer seconded to appoint the two nominees to the Zoning Hearing Board as recommended.

Unanimously Carried.

### **Committee, Administration, Special Reports**

#### **Manager’s Report**

Mr. Vinzani reported on the following:

- The County Drought Task Force monitored ground water wells in the County; some showed slightly behind normal levels. Supplies still exceeded demand.
- The Governor lifted the Drought Watch in Somerset County.
- He attended the bi-monthly Joint Utility Meeting along with Mr. Svirsko on September 5<sup>th</sup> with all Somerset County utilities, to discuss joint projects.

- The PSAB is sponsoring a webinar briefing for updates on the Borough Code. This webinar is also available online for those unable to attend.
- Light-up Night is scheduled for Saturday, November 17<sup>th</sup>.
- We received approval for a Transportation Enhancement grant for \$15,000 to fund aesthetic improvements in our uptown area, purchase of additional banners, poles, and trash can containers. Mrs. Enos was credited for obtaining the grant.

### **President's Report**

Mrs. Ruby Miller said the September County Boroughs Association meeting was very successful. Next meeting is scheduled to be held at the Oakhurst Tea Room in November. Ms. Wanda Miller will be attending the PSAB Conference and she was asked to bring any materials of interest for the County to mail out to all the Boroughs. Ruby announced that the March meeting will be hosted by Somerset Borough, with a 2-hour presentation planned.

She thanked the Director of Public Works for their work on street signs, fire plugs and the Turnpike road. Mr. Vinzani added that these are roads that we agreed to take over when the Turnpike started this project, and we will be asked to take over the roads being constructed now, by ordinance. He suggested that we not accept the streets until we are fully reimbursed for our costs.

### **Public Works & Equipment Committee**

Mr. Walker reported on the following Public Works Projects:

- Installing a new storm sewer system along Davis Avenue;
- Installing additional blacktop curbing along Maplehurst Avenue;
- Redirecting storm water from residents' yards;
- Started dredging Coxes Creek along the Gilmour Bypass in preparation of the annual Army Corps of Engineers inspection;
- Patching of potholes along Alder Avenue, Smith Street, Beech Street and Walnut Street;
- Installed the water tap for the new carwash along Pleasant Avenue and Fairview Streets;
- Waterline restoration work on East Main Street;
- Painting the fire hydrants;
- Painting and re-shingling the old scale building ;
- Patched potholes at corner of the parking lot behind the Eagles building;
- Continue checking on the sanitary sewer line in regard to the jail issue.

## **Finance Committee**

Mr. Vinzani reported the following, at approximately 67% of the year:

General Fund – 85% of our revenue is in; 63% expended.

Water Revenue Fund – 67% of our revenue in – 84% expended (because of the Turnpike Waterline job, for which we will be reimbursed).

Sewer System Operating Fund – 63% of revenue in, 66% expended.

Concerning the Department Head's response to the budget, Ruby Miller said the first draft is completed. The Director of Finance is working on a paving fund to be used strictly for paving. There are no union contracts coming due next year.

## **Somerset, Inc.**

Mrs. Pyle said a discussion was held at the Somerset Inc. meeting concerning date changes to accommodate some of the members' work hours. There was no information regarding the Brinker Building.

## **Solicitor's Report**

Mr. Dirienzo reported on the bid approval for the waterline system and water tank projects. One required 22 easements. We obtained 21, by agreement, but not the 22nd one. He advised adopting a resolution authorizing a taking of eminent domain code; the owner of the property is deceased, with no estate opened. He said he scheduled a meeting with the sole heir, from Rockwood, but she did not appear.

There is a mortgage foreclosure going on with a local bank, also there is approximately \$15,000 in back taxes owed to the tax claim bureau. This will require a filing of two declarations-of-taking; one against the daughter, as the sole heir, and the other against the bank. We need to do this because they are in the process of foreclosure and we will be giving notice to the taxing bodies.

The property is unoccupied at the intersection of South Lynn Avenue and Plank Road. We need a temporary easement in an area 20 by 30 feet alongside the road, for a boring pit. We contacted Mr. Critchfield to see if we could engineer around we but cannot. Since it is outside of Somerset Borough corporate limits, the eminent domain code requires the consent of the municipality in which it is located. We had prepared a Resolution and made arrangements for it to be presented at the Somerset Township meeting on September 13<sup>th</sup>. They approved it and provided us with a copy, authorizing us to exercise eminent domain powers.

He said the resolution he prepared for Council's consideration exercises this right and authorization. He prepared the Declaration of Taking and will be filing it in the Prothontary's office and recording it in the Recorder of Deeds office, along with the 21 rights-of-way that we received.

In explaining the term "eminent domain" the Solicitor said the constitution gives municipalities and other organizations the power and authority to convert private property to the public use. It is to be exercised sparingly but the law gives us the authority to take only what we need and pay just compensation. In this case compensation is likely to be very little since it is a temporary taking for a short period of time, and small piece of property. He advised Council to adopt this resolution.

#### Motion

Ms. Wanda Miller moved, Mrs. Judy Pyle seconded to adopt the Resolution of Eminent Domain of the 20 by 30-foot property at the intersection of South Lynn Avenue and Plank Road.

Unanimously Carried.

#### Mayor's Report

Mr. Meyer presented an update on the police part-time list. He said we have a backup plan for Christopher Kozlowski to replace Jessica Urban, since she is unable to come to training, etc. We interviewed officer Kozlowski over a year ago and he is still interested, passed his psychological and physical exams, and is starting his field training.

#### Motion

Mr. Rosemeyer moved, Mr. Walker seconded to add Christopher Kozlowski to the Part-time Police Officers list.

Unanimously Carried.

Ms. Wanda Miller asked about the issue of blighted properties. Mr. Vinzani said properties condemned for human habitation cannot be occupied until they meet codes. Unless they are a threat to the public there is nothing that we can do. Mrs. Pyle said they are trying to cajole people into selling these properties and there are some buyers. They discussed various properties. Demolition costs are funded through a CDBG grant at no cost, but the owner and buyer must be in agreement.

A group of Boy Scouts were present; Mr. Vinzani presented them with a brief review of the three branches of government and how it compares with Somerset Borough government.

A question was asked if a certification-of-vacancy regarding the Sergeant's position was declared by Council. Mr. Vinzani said the ordinance was passed, creating up to three positions, but is not certain that Council has declared any vacancies. The Mayor said they wanted only two; the Solicitor explained that the testing regiment is in place and there has not been any certification-of-openings to the Civil Service Commission – this would need to be done through a formal vote. The Manager said he and the Chief will make inquiries.

**Adjournment**

Ms. Wanda Miller moved to adjourn, motion seconded by Mrs. Pyle.

Unanimously Carried.

7:58 p.m.

---

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