

Borough of Somerset Committee of the Whole September 11th, 2017 5:00 p.m.

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

Roll Call:

Council Members present: Ruby Miller; Fred Rosemeyer; Judy Pyle; Pam Ream; Sue Opp; Steve Shaulis; and Gary Thomas. Mayor Scott Walker also present.

Also present were the following: Borough Manager, Michele Enos; Director of Finance, Brett Peters; Solicitors, James Cascio and Chad Pritts; and Consulting Engineers, Tom Reilly and Jake Bolby. Absent was Chief of Police, Randy Cox.

Announcements:

(a) *None*

Approval of Minutes of Previous Meeting:

(a) *Committee of the Whole – Minutes from the last committee meeting will be on the September 25th, 2017 agenda for consideration.*

General Public Comments:

(a) *None Registered.*

Policy Agenda:

Old Business:

(a) *None*

New Business:

(a) Request Form Submitted by Council Member Shaulis:

1. Problem with North Center Avenue and Union Street - *The way it is lined now for where traffic is to stop heading South. It is very hard to make the turn from West Union onto North Center Ave.*

Mr. Shaulis mentioned that ever since PennDOT repaved and re-lined the road at the location where you make a left turn from West Patriot onto North Center Avenue, it is extremely tight to make that turn, due to the lines being painted so far up. Mr. Shaulis stated that he feels this is going to cause a major problem with the fire trucks, and other large vehicles, that have to make the left turn at this location.

Ms. Enos stated that after she recently spoke with Mr. Shaulis about his concern, she put a call in to PennDOT. Their Lining Crew Supervisor is trying to be reached so he can come back to re-evaluate that area to see if it can be repainted.

Discussion was also brought up concerning whether the timing of the traffic light on Patriot Street, by the tracks, was off. Ms. Enos stated that she would have the timing checked on the traffic light at this intersection.

2. How do the rest of council members feel about how the "Committee of the Whole" meetings are working?

Mr. Shaulis stated that he wondered how all of Council felt about discussing Committee matters in the form of the "Committee of the Whole" meetings instead of individual Committee meetings. He stated that it seems like there was more information brought out in the individual meetings rather than in the current Committee of the Whole meetings.

Mr. Rosemeyer agreed with Mr. Shaulis. He stated he felt that in the individual Committee meetings, you had a little bit of "checks and balances" too.

Mayor Walker stated that he felt that you have to look at the legalities of it.

Mr. Shaulis read a clip from a news magazine article that talked about the potential for Sunshine Act violations by Council members who discuss or deliberate Borough business outside of a public meeting when meeting to socialize together. The article went on to say that Council Members are prohibited to do this, because it is a violation of the Sunshine Act.

Mrs. Ream asked Mr. Shaulis what could make the Committee of the Whole meetings better if he feels that the Committee of the Whole meetings are not the appropriate thing to do.

Mr. Shaulis stated that, from a legal stand point, going back to the individual Committee meetings is not the answer.

Solicitor Cascio stated that the problem he has with the individual Committee meeting, is a definition in the Sunshine Law of what constitutes an "Agency." He stated that the "Agency" has to abide by the Sunshine Law. He stated that it depends on how the committees are constituted, and what authority they have. If a 3-person individual Committee is actually recommending policy to the whole Board, then 2 of them probably violated the Sunshine Law if they're talking about Borough business together. This constitutes deliberation. Solicitor Cascio stated that when he made the recommendation to the Borough Management to consider the Committee of the Whole meetings, it was because of what he perceived last year as being a very inefficient budget process. Solicitor Cascio's suggestion was, at least for the budget process, to consider doing this as a group, because in this way, everyone is getting the information that goes through. He stated that he's more and more concerned over the years with

the fact that if outsiders want to disrupt a Council functioning smoothly, they would just continually attack the Committee Systems. This would be due to the fact that it would be very, very difficult, legally, to not have that be qualified as an "Agency." If you have a 3-person Committee, that's making recommendations to the Council, that is squarely within the definition of an "Agency," and it's just way too hard to control. In these cases, if the Committee members email, text each other or talk on the phone discussing Committee matters, that again, is deliberation. Technically, these Council members are violating the Sunshine Law. Solicitor Cascio stated that this was his concern. He also mentioned that if somebody wanted to challenge Council, these individuals could say that Council made an illegal decision.

Mrs. Ream asked Solicitor Cascio if there was something else they could be doing differently as the Committee of the Whole.

Solicitor Cascio mentioned that the meetings are still evolving. He stated that he's not lobbying for one meeting over the other. He stated that the reason for him suggesting the Committee of the Whole meetings, was due to the fact that he could see that all of Council were not ready to vote on last year's budget until the last minute. He wanted to make sure that, in their discussing the budget for next year, everything was done in an orderly fashion. With all the information being gathered for next year's budget, well in advance, Solicitor Cascio wanted Council to have enough time to think about the information so they can make an informed decision. He stated that it seemed like budget decisions were being made inside the individual Committees. He stated that some individual Council Members had no idea what they were voting on during budget discussions when all of Council were present together.

Mrs. Ream stated that she feels the Committee of the Whole meetings provide more information than the individual Committee meetings, and she feels she gets more out of them. She mentioned that she thinks the "Whole" meetings are extremely helpful.

Solicitor Cascio also mentioned that violating the Sunshine Law could be prosecuted as a criminal offense. He doesn't want to see this happen to Council. He stated that the public are generally satisfied with how things are going, until you get into a situation where they may challenge you. Solicitor Cascio mentioned that he wants to make sure we're in complete compliance with our meetings. He stated that, in his experience, the Committee of the Whole meetings work better because of the strict rules on the Sunshine Law.

(b) Request Form Submitted by Council Member Thomas:

1. Additional pothole repairs before winter sets in.

Mr. Thomas mentioned that there are still quite a few potholes, with some being very deep. He stated that he had talked to Chuck Glessner a few times about the situation. He stated that Chuck is checking into getting the hot box from Somerset Township, in the next week or two, to try to get some of the holes filled up before winter

sets in. Mr. Thomas stated that he understands that there has been water breaks that needed attention first.

Ms. Enos stated that New Enterprise is scheduled to come in around mid-September to start paving in the Borough.

2. Where do we stand for new drug testing policy?

Mr. Thomas stated that he's concerned with there not being enough certified CDL Drivers in the Public Works Dept. He also stated his concerns about the Drug Testing Policy becoming an issue in hiring. He explained that we had 2 operators that retired, and there are not as many CDL Drivers now in the department. Mr. Thomas stated that he feels we need to look into getting more of the crew CDL Certified, especially coming into the winter season and needing operators for the plow trucks. Mr. Thomas also stated that we should also make sure the Drug Testing Policy is in place before we do the hiring of new employees.

Ms. Enos stated that we do have a current policy for CDL Drug and Alcohol testing. She stated that it's a Federal requirement that we adopted in 1995 to comply with Federal regulations. So we've had that in effect since 1995. We went through the PA State Association of Township Supervisors, which is the Townships equivalent of our PSAB, because they instituted a program way ahead of what PSAB did at that time. So the Borough went with them, and have been currently enrolled in their CDL Drug and Alcohol Program since 1995. Ms. Enos stated that the Drug and Alcohol Testing Policy that she and Solicitor Cascio are working on is for *pre-employment* testing, prior to hiring anybody for *any* position within the Borough. She mentioned that the Borough will be doing the Drug and Alcohol testing through Somerset Hospital. The PA State Association of Township Supervisors will still continue with their program as well. Ms. Enos mentioned that she and Solicitor Cascio are working on the legal wording of a "Post-Incident" Policy that we can incorporate in case there is some type of incident. This will be spelled out in the policy. Ms. Enos mentioned that she and Solicitor Cascio will be wrapping this up shortly, and writing up the "particulars" in this policy. She mentioned that a resolution from Council will be needed to formally adopt the policy. Ms. Enos stated that the Public Works Department currently have a lot of CDL licensed drivers. They are not necessarily, specifically hired for that job, but they are CDL licensed operators that we can bump to that position if we need a larger truck driver or anything that requires CDL. They are currently enrolled in the CDL Drug and Alcohol testing program. If they hold a CDL, whether they use it or not here, they are still entered into the Drug and Alcohol Policy. All of the CDL licensed employees have been included.

3. New hires for Public Works before winter.

Mr. Thomas mentioned, again, that he'd like to see more people hired before winter sets in, because the crew is short-handed.

Ms. Enos mentioned that as soon as the new policy is finished, it will be handed out to Council to review. If all of Council agree on it, it will then be put into a resolution for adoption by Council.

(c) Request Form Submitted by Manager Enos:

1. Setting up a Council Workshop to discuss the following:

a. Joint Meeting with Somerset Township – To discuss the Act 172 Tax Credit for Volunteer Firefighters.

Ms. Enos stated that Somerset Township contacted her, again, asking if Council would be able to meet on Wednesday September 20th at 5:30 here at the Borough building with them to discuss the Act 172 Tax Credit for Volunteer Firefighters. This date was agreed upon by Council, and Ms. Enos stated that she would contact Somerset Township.

b. Executive Session – To discuss the sequence of events regarding police personnel issues.

Ms. Enos asked all of Council if they would prefer to have the Executive Session at the end of tonight's meeting to discuss police personnel matters. All preferred that Executive Session be held after the regular Committee of the Whole meeting tonight.

2. Updates for the following projects:

a. Drug & Alcohol Policy – Discussion.

Ms. Enos stated that this was already discussed under Mr. Thomas' question #2, "Where do we stand for new drug testing policy?"

b. Buy Local Policy – Discussion.

Ms. Enos stated that the way the "Buy Local" policy is currently structured, is that the Borough buys from local businesses regardless of price. From auto parts, to any other thing that we would need to obtain, we buy it here within the Borough. The way that the policy is worded is, "regardless, you buy local." She stated that there are a lot of good things about doing this. Obviously, we're supporting businesses in our Borough. The opposite side to that is a lot of businesses know that we buy local, and as a result, we have experienced a lot of mark-ups because of this. Ms. Enos stated that Mr. Thomas mentioned this "Buy Local" policy to her, and wanted to bring this to the table. She stated that the direction we received, was to put together some preferred wording in our current policy, to make it a little more flexible for the Borough. Ms. Enos mentioned that she and Solicitor Cascio talked about putting something in the policy that would say to the effect that, "if all things being equal, we buy in the Borough." This

means, for example, if we can get a part for \$35.00 in the Township, we can go to a business in the Borough and see if they would match that price. And “if all things are being equal”, we will buy from the business in the Borough. Ms. Enos mentioned that she and Solicitor Cascio wanted to consult with Council about their feelings on this before they put this into a policy form. She stated that they know that we need to help out our local businesses too, but we are also the representatives of our residents. You want to give them the best price too, because you’re using their monies. The lower costs that we do pay, the more that benefits the Borough, as well.

Mr. Rosemeyer stated that when you look at the financial reports, it looks like we’re buying from a variety of different businesses in the Borough and the County.

Mr. Thomas stated that it’s not always the best price, though, at these different businesses. He stated that he feels we should “shop around” at different businesses for better prices in the Township or the County, because we have paid higher mark-up prices within the Borough businesses. He stated that, in the end, it’s going to save the Borough money. Mr. Thomas stated that we need to come up with something to protect the Borough.

Solicitor Cascio explained that he and Michele have discussed the policy and the way that it works. He stated that the managers in all of the Borough Departments are encouraged to purchase locally, but not to the point where you’re benefiting the business at the expense of the rate payers and the tax payers. He stated that the Managers shouldn’t be held captive to the “buy local” policy. He stated that he and Ms. Enos need to work on the wording in the policy to say that the business is going to have to demonstrate that they are actively working with local vendors to buy from them, if they have the item needed, and are willing to be competitive.

Ms. Enos stated that we’re “confined” with the “Buy Local” policy now in keeping costs down. She stated to Council that if everybody seemed to be in favor to the change in the language of the policy, then we’ll circulate that change.

(d) Donation Requests: Somerset Volunteer Fire Department – Golf Tournament Fundraiser.

Ms. Enos explained that we received a request for a donation from the Somerset Volunteer Fire Department last year for the Golf Tournament Fundraiser. She stated that we donated \$100.00 to this event. So it’s on Council’s agenda for consideration this year.

Motion

Mrs. Ream moved, Mrs. Opp seconded to donate \$100.00 to Somerset Volunteer Fire Department for their Gold Tournament Fundraiser. Mr. Shaulis abstained from voting.

Motion Carried 6 (yes) 0 (no) 1 (abstention)

(e) Year to Date Financial Report – Provided through the month of August 2017.

Mr. Peters mentioned that he has the Year to Date Financial Reports through August 2017. He mentioned that we are 66.67% of the way through the year arithmetically. The following Fund's Revenues and Expenditures are based through the month of August 2017:

General Fund: Revenues – 78.46% Expenses – 59.39%

Water Revenue Fund: Revenues – 106.54% Expenses – 93.82%

Sewer System Operating Fund: Revenues – 64.23% Expenses – 53.13%

Mr. Peters stated that if Council had any questions about this report, when they look at it with more detail, he would be glad to answer any questions that they may have.

(f) Manager's Report – Reports distributed to Council for all departments for the Month of August 2017.

Ms. Enos handed out the reports from all the departments to members of Council. She stated that if Council had any questions regarding any updates on projects taking place, or any departmental reports, she would be glad to answer any questions.

(g) President's Report – Given by Mrs. Miller.

Mrs. Miller stated that Chief Cox wrote the Lion's Club about eliminating "White Cane" day, because it's illegal to stand out in traffic and collect donations from individuals in vehicles.

Mrs. Pyle stated that Penn State students, and other organizations, do the same to collect money for their causes.

Mayor Walker stated that, historically, we have looked the other way. He stated that, technically, it's a violation of the law. He mentioned that someone has complained on multiple occasions about The Lion's Club being out on the street.

Mrs. Pyle stated, "Are we going to shut down Penn State, and tell them *they* can't do this either?" Mrs. Pyle brought out that Penn State students participate in this arrangement in every town across Pennsylvania every year to collect donations.

Mayor Walker stated that we'll follow the policy "hard and fast", and will not allow organizations to participate in this, if that is what Council wishes.

Solicitor Cascio stated that we may need to have a hiatus to study what legal rights we have on the books concerning this issue. He stated that it probably follows under the "Peddling" Ordinance. The regulations we have involving this is "ancient."

Mayor Walker mentioned that we're not arresting Girl Scouts selling cookies door to door or kids selling candy bars. Also in the past, other organizations have collected donations on the streets, such as the Cancer Society, the Lion's Club, and the Kiwanis Club.

Mrs. Miller stated that Council has to decide whether they are going to allow people to stand in the middle of the highway to collect money.

Ms. Enos agreed with Solicitor Cascio that we have to review what is in the books, and look what the laws are, to see what we're permitted to do and not permitted to do. She stated that she and Solicitor Cascio will do all the research, and get all the information from the old records, for Council regarding this.

Mrs. Miller asked Ms. Enos about Senator Stefano, and when he is having his blight meeting. Ms. Enos stated that she hasn't heard. He just had one and he's going to be having another panel. He's going to ask us to go too. The last one was at the Penn State-Fayette campus.

Mrs. Miller asked Ms. Enos if she was going to check on the Route 31 West Sign with the all the Service Club logos to go back up.

Attorney Pritts stated that essentially what it does is it empowers the Redevelopment Authority to have authority to either receive property as a donation, and also from the Tax Assessment Office. They have the ability to acquire property and then sale it. Also, if they have property that is due and owing, after selling it, they get "X" % of the delinquent tax owed. So they essentially have the ability to take property, and then try to sale it. Mr. Pritts stated that, then if there's owed tax, they'll be reimbursed back by that entity once it's sold. Or, the Municipality also has the ability to receive property as a donation in lieu of having to go to tax sale. It gives them that authority as well. And with any delinquent taxes, you would have agreements between the other Municipalities. Mr. Pritts stated that once the conveyance is given from "A" to the Authority, then there's basically an agreement "to stay" what's owed, until it's subsequently sold.

Solicitor Cascio stated that once the property goes up for tax sale in September, there will be bids on it. It becomes Repository Property. He explained that The Tax Claim Bureau specifically allows the Redevelopment Authority to acquire that property. It can then be sold to pay off the taxes, which creates another opportunity. So as far as the Statute is concerned, it's additional avenues to get blighted properties removed. Solicitor Cascio stated that you can also sale off under Municipal Liens. He stated that one of the things the Borough could do with blighted properties that have a large Municipal Lien on it, is put the lien on whatever cleanup your doing, then you could eventually execute on your lien. In lieu of executing, you can give it to the

Redevelopment Authority, who in turn can fix it up, sale it, then pay off the bills, including the lien. It's another way for the Repository to clean itself up.

(h) Somerset Inc. Report - Given by Judy Pyle.

Mrs. Pyle stated that she wanted to make a comment about the individuals who came to the last meeting to stress their concerns to Council about the flooding problem they are having at their rental property on Cherry Lane. She stated she went to look at their property. Mrs. Pyle stated that she didn't want to sound disrespectful, but the individuals bought the property knowing that it's in a flood zone.

Mrs. Pyle stated that the one particular property they own there sits in a hole. She stated if she was going to buy that property, she would know right away that she would have to bring someone in, jack that whole foundation up, put the house up about 5 or 6 feet and the problem would be solved.

Solicitor Cascio stated, prior to the Borough putting a water barrier up on this Cherry Lane property, they had the owners sign a paper stating that the Borough is not telling them that the barrier would help their flooding issue.

Solicitor Cascio stated that the Borough is spending money on this property, and trying to get a permit. He mentioned that the DEP does not want to issue a permit. He stated that in trying to solve their issue, it's costing tax payers money.

Ms. Enos stated that Mr. Bolby provided some additional information on this property that she will circulate to Council. She stated that the cost benefit analysis to do any further work to their property is going to be outrageous. Ms. Enos stated that it will probably provide very little, to no benefit, to the issues that they are having.

(i) Somerset Volunteer Fire Dept. Report – Given by Steve Shaulis.

Mr. Shaulis mentioned that, to date, they had 326 calls. He stated that a few weeks ago, the Fire Department was called to a meth lab fire on East Main Street. He stated that 6 sets of gear were contaminated that had to be destroyed from that fire. He stated that they did get the replacement gear, and the Fire Department will be submitting a claim.

Mr. Shaulis mentioned that the Fire Department Golf Scramble is coming up on September 22nd.

Mr. Shaulis also mentioned that the Fire Department approved on the Cash Calendars for 2018. The calendars should be coming out sometime in October.

The Fire Department, also, had their picnic at the Somerset Community Park Pavilion on August 13th, which was really a great time.

The Fire Department had a Rescue Tool Training Class here on Saturday, and while in class, they burnt up one of the power units for the rescue tools. So they are down to one power unit to run all of their rescue tools. Mr. Shaulis mentioned that if we run into

a multiple traffic call, or something like that, they will have to call for another company. He stated that we used to have 3 power units, now we are down to 1.

Mr. Shaulis mentioned that when we had the first initial water break, he talked to Ms. Enos and Chuck Glessner about water issues, and where we stand on the reservoirs, in case we had a major fire in town. Ms. Enos relayed to Mr. Shaulis that we were just right above the critical level. So Mr. Shaulis worked with the Fire Department and set up a plan during the water break for the first alarm, that would have consisted of us and 5 tankers to shuttle water to avoid using the Borough's water supply. Mr. Shaulis stated that they found an available water source that's a part of Coxes Creek, right behind Old Town Bakery. He stated that we are going to have to remember this if we have future water issues, again, in the Borough.

Mrs. Ream stated that she felt Joel Landis should be recognized for the part he played in the meth lab situation. He was very informative. She stated that the hospital had to call in a Decontamination Team and set up Decontamination Tanks for the individuals that were contaminated by the meth lab. She stated that Mr. Landis was very helpful in making sure everything was done. Mrs. Ream commented that she thought everything went really well.

Ms. Enos mentioned that Mr. Landis "has been great" with the Borough on the EPA issue, as well. He's been keeping the Borough informed along the way. She stated that this has been moving along, too, with chemical removal.

(j) Engineer's Report – Given by Jake Bolby.

Mr. Bolby stated that they are working to close out the Hickory Hill Tank Project. All the construction down there is just "punch-list" items.

The Sewage Plant for the Trickling Filters is done. He mentioned that he has the final payment application.

They are still waiting to see when DEP will schedule their Operation's Permit to turn the Hickory Hill Tank on-line. Mr. Bolby stated that they have to have the permit before any valve gets turned to send it back into the system.

He mentioned that they have been assisting with helping out on the Capital Budget and projects. He stated that the Sludge Pumps were supposed to be here last week, but there were some more modifications that they did to the mounting brackets back at the shop. So they are expecting them this week.

Ms. Enos stated that she talked to the contractor today about the roof for the Coxes Creek Water Treatment Plant. She stated that she is getting with Larry to coordinate the start time. She stated that he has the Notice to Proceed, so he will be doing that immediately.

Executive Session – *To discuss the sequence of events regarding police personnel issues.*

Motion

Mr. Shaulis moved, motion seconded by Mrs. Ream to go into Executive Session to discuss the sequence of events regarding police personnel issues.

Motion Unanimously Carried.

Adjournment

Motion

Mrs. Ream moved to adjourn, motion seconded by M. Rosemeyer.

Motion Unanimously Carried.
7:03 p.m.

Michele A. Enos, Borough Secretary