

# TULLYTOWN BOROUGH COUNCIL MEETING

## APRIL 2, 2013

President Rick Adams called the meeting of the Tullytown Borough Council to order on Tuesday, April 2, 2013 at 7:00 p.m.

Mayor Cutchineal asked for a moment of silence for Jean Slager and Jay DePalo who recently passed away.

Present at the meeting:

Mayor Cutchineal  
Councilman Armstrong  
Councilman Servis  
Councilwoman Kucher  
Councilwoman Gahagan  
Councilman Pirolli  
Councilman Czyzyk  
Councilman Adams

Also present:

Michael T. Sellers, Esquire, Borough Solicitor  
William Major, William G. Major Associates, Inc., Borough Engineer  
Danielle Vacirca, Borough Treasurer  
Nancy Conner, Borough Secretary

Mr. Sellers advised the public that Council met in executive session prior to the Council meeting this evening to discuss a police personnel matter and possible legal issue which solicitor may be authorized.

### **PUBLIC COMMENT**

Elaine Franz, 320 Main Street, Tullytown, commented that it was good to see everyone and back on road to recovery. She discussed the Memorial Day parade and encouraged parents to have their children participate in the parade—the decorated bicycle—they have great prizes. She also discussed the problem with the backed up traffic at the light at the intersection of Levittown Parkway and Rt. 13.

Bill Major advised he will contact Penndot to notify them and suggested that any complaints should be relayed to Nancy Conner and she will contact Bill Major. Mr. Major advised that there was also a complaint about not having pedestrian access across Rt. 13 to the SEPTA train station. He added that he advised Penndot so they are resolving. Mr. Armstrong advised that Urban Engineers advised this might be rectified by this week.

Nina Chrzanowski, 6 Stonybrook Drive, Levittown, commented about newspaper article that George Fox is suing May Kucher regarding removal of the signs. She commented this again will cost the Borough legal fees.

James Prester, 575 Main Street, Tullytown, commented about cars going in and about to the Lake past his house speeding. He advised that he called and complained to Police Department but nothing has been done.

Mr. Prester advised that on June 22<sup>nd</sup>—relay for life at Pennsbury High School will take place, which is a fundraiser. He distributed information to Nancy Conner.

Mayor Cutchineal advised Police Department will slow the traffic down.

Hal Lefcourt, 16 Stonybrook Drive, Levittown, advised he has been watching Council on television and stated that Council has acted very professional.

Matt Markey, video technician advised that the system is broken. He said the system was running fine this past week but at this point everything is wrong with the system. He advised that all videos are safe from 2013 but the machine itself is not functional in any way. He advised he can send it out to be repaired but the company that makes this type of machine no longer makes this model. He added that we are not recording at this time. He can send it out to be repaired but they aren't cheap. He suggested we might have to purchase—this machine cost the Borough about \$8,000. Mr. Markey advised this took a power surge—even though we have a surge protector---that's what led to this problem.

Mr. Servis made a motion to authorize Mr. Markey to get prices and bring back to next month's meeting, seconded by Mr. Armstrong.

Mayor Cutchineal asked if we had insurance on that. Mr. Markey said not that he is aware of.

May Kucher advised we have been having problems with the video quite often. She advised that some Council people have met with different people in reference to updating. She advised that we learned there is equipment at Northampton where they had purchased extra equipment and are willing to sell equipment to the Borough. She suggested that we look into that which would give us the whole service at much less money than Mr. Markey is mentioning. Mrs. Kucher suggested tabling this until we get information from this gentleman.

Mr. Markey said that he will hold off contacting companies until he hears from Council.

Mr. Servis withdrew his motion and let the Committee continue with their work. Mr. Armstrong withdrew his second.

Mrs. Kucher advised that Personnel Committee will check into this and bring back to Council.

Hal Lefcourt, 16 Stonybrook Drive, Levittown, advised he used to be chairman of Cable Advisory Committee. He said he has never been asked to attend any meetings.

### **APPROVAL OF COUNCIL MINUTES**

Mr. Pirolli made a motion to approve the minutes of the March 5, 2013 Council meeting, seconded by Mr. Czyzyk. The vote of Council was as follows:

Mr. Pirolli—for  
Mr. Armstrong—abstain as he was absent due to illness  
Mr. Servis—for  
Mrs. Kucher—abstain as she was not present at that meeting  
Mr. Czyzyk--for  
Ms. Gahagan—for  
Mr. Adams—for

The vote was 5 in favor, 2 abstentions; the motion carried.

### **TREASURER'S REPORT**

#### **MONTHLY BILLS**

Mr. Pirolli made a motion to accept the monthly bills, seconded by Ms. Gahagan. The vote of Council was as follows:

Mr. Pirolli—for  
Mr. Armstrong—for  
Mr. Servis—for  
Mrs. Kucher—for  
Mr. Czyzyk—for  
Ms. Gahagan—for  
Mr. Adams—for

The motion passed with a unanimous vote of Council in favor.

### **RECONCILIATION STATEMENT**

Mr. Servis made a motion to approve the Reconciliation Statement for March, 2013, seconded by Mr. Czyzyk. The vote of Council was as follows:

Mr. Pirolli—for  
Mr. Armstrong—for  
Mr. Servis—for  
Mrs. Kucher—for  
Mr. Czyzyk—for  
Ms. Gahagan—for  
Mr. Adams—for

The vote of Council was unanimous; the motion carried.

## **COMMUNICATIONS**

Mrs. Conner read a letter from Walt Disney School, Principal Laurie Ruffing commending the Police Department in their support of the students at Walt Disney. A copy of that letter will be filed with the minutes.

## **GENERAL BUSINESS**

### **CONSIDERATION—APPROVAL OF IMAC SYSTEMS LAND DEVELOPMENT**

Mr. Major advised his firm received a revised set of plans last week and the requested stormwater management report which indicated that the existing stormwater system on that site is not adequate. He further advised that based on that, the applicant has asked to withdraw from this evening's agenda and make the necessary revisions for next month.

Mr. Servis made a motion to table this matter, seconded by Ms. Gahagan. All of Council was in favor of the motion; the motion carried.

### **OPEN BIDS/CONSIDERATION-AWARD BID FOOD PORTION FOR BOROUGH PICNIC**

Mrs. Conner advised that even though Council did not have to legally go out to bid according to the new Borough Code, it was agreed to continue this practice.

Mrs. Conner opened and read the bids aloud as follows for the food portion of picnic:

- 1) Christina's Catering - \$10,250
- 2) Cheryl Panzitta Catering - \$10,149

Mr. Servis made a motion that as long as Cheryl Panzitta Catering met all the qualifications, to accept their bid of \$10,149. Mr. Pirolli seconded the motion.

Mr. Panzitta advised he has 3 references listed on his bid sheet.

The vote of Council was as follows:

Mr. Pirolli—for  
Mr. Armstrong—for  
Mr. Servis—for  
Mrs. Kucher—for  
Mr. Czyzyk—for  
Ms. Gahagan—for  
Mr. Adams—for

All of Council was in favor of the motion; the motion carried.

### **OPEN BIDS/CONSIDERATION—AWARD BID FUNNEL CAKES FOR BOROUGH PICNIC**

Mrs. Conner opened and read aloud the bids as follows:

- 1) Cheryl Panzitta Catering - 2,899
- 2) Fun Foods LLC - \$3,000

Mr. Servis made a motion that if Cheryl Panzitta Catering met all the qualifications, we accept their bid of \$2,899. Mr. Armstrong seconded the motion.

Ms. Gahagan asked when they provide the Certificate of Insurance. Mrs. Conner advised that it usually is closer to the event. Mr. Panzitta advised he has insurance \$2 million total liability insurance.

The vote of Council was as follows:

Mr. Pirolli—for  
Mr. Armstrong—for  
Mr. Servis—for  
Mrs. Kucher—for  
Mr. Czyzyk—for  
Ms. Gahagan—for  
Mr. Adams—for

The motion carried with a unanimous vote of Council.

#### **OPEN BIDS/CONSIDERATION-AWARD BID FIREWORKS FOR BOROUGH PICNIC**

The bids were opened and read aloud as follows:

- 1) D & M Fireworks, LLC - \$7,800
- 2) International Fireworks Mfg. Co. - \$6,900
- 3) Fireworks Extravaganza - \$8,000

Mrs. Kucher questioned the specs for fireworks. Mrs. Conner advised that Rob Unrath, chair of Park & Rec and Bob Jones, fire marshal worked to create specs to make for a longer show. She also advised that the specs indicate that the length of display should be 20-25 minutes.

Mr. Pirolli made a motion to accept the bid of International Fireworks Mfg. Co in the amount of \$6,900, seconded by Mrs. Kucher.

The vote of Council was as follows:

Mr. Pirolli—for  
Mr. Armstrong—for  
Mr. Servis—for  
Mrs. Kucher—for  
Mr. Czyzyk—for  
Ms. Gahagan—for  
Mr. Adams—for

The motion carried with a unanimous vote of Council.

**PUBLIC HEARING – PROPOSED ORDINANCE REGARDING PD GUIDELINES TO WARRANTLESS ARRESTS**

Mr. Sellers explained the proposed ordinance and advised that it has been duly advertised. Mr. Sellers advised this was discussed last month and indicted the four (4) summary offenses under Title 18 to which these guidelines apply are:

Section 5503 – Disorderly Conduct

Section 5505 – Public Drunkenness

Section 5507 – Obstructing Highways and Other Public Passages

Section 6308 – Purchase, Consumption, Possession or Transportation of Liquor or Malt or other Brewed Beverages.

The public hearing was opened for comment.

There was no comment from the public.

Mr. Armstrong questioned Section 6308. Mr. Sellers explained that section refers to open containers in a vehicle prohibited. He added it encompasses a number of liquor law violations in that section. He added that it gives more protection for the Borough and its police officers when they act in accordance with these guidelines.

There was no further comment; therefore the floor was closed for public hearing.

Mr. Pirolli made a motion adopt Ordinance #351, regarding Police Department guidelines to warrantless arrests, seconded by Mr. Armstrong All of Council was in favor of the motion; the motion carried.

**ONE APPOINTMENT TO SHADE TREE COMMISSION**

Mrs. Conner advised that last month she indicated that Carol McCleary was interested in being appointed to the Shade Tree Commission and Council did so by motion and vote. Mrs. Conner added that she misunderstood Carol McCleary and learned that Ms. McCleary is not interested in being appointed. She added that term will expire December 31, 2017.

Mrs. Conner indicated that interested volunteers are Pat Carroll and Ed Armstrong. Mr. Armstrong advised his name should not be on list.

Mr. Pirolli made a motion to appoint Pat Carroll, seconded by Mrs. Kucher.

Mr. Servis asked if we should accept Carol McCleary's resignation. Mrs. Conner advised that Ms. McCleary never accepted the position—it was more of a misunderstanding on her part.

Mr. Pirolli withdrew his motion, Mr. Armstrong withdrew second.

Mr. Servis made motion to de-appoint Carol McCleary and declare that position vacant, seconded by Ms. Gahagan. All of Council was in favor of the motion; the motion carried.

Mr. Pirolli then made a motion to appoint Pat Carroll to the Shade Tree Commission for a term to expire December 31, 2017, seconded by Mr. Czyzyk. All of Council was in favor of the motion; the motion carried.

#### **TWO APPOINTMENTS TO ENVIRONMENTAL ADVISORY COUNCIL**

Mr. Czyzyk made a motion to appoint Chris Shellenberger to that vacancy, seconded by Mrs. Kucher. All of Council was in favor of the motion; the motion carried.

Mrs. Conner advised we have no other interested volunteers for the second vacancy.

#### **ONE APPOINTMENT TO CIVIL SERVICE COMMISSION – ALTERNATE POSITION**

Mr. Czyzyk nominated Chris Shellenberger for a 6-year term, seconded by Mr. Pirolli. All of Council was in favor of the motion; the motion carried.

#### **CONSIDERATION—APPROVAL CLARKE MOSQUITO CONTRACT FOR 2013 YEAR**

Mrs. Conner explained the contract and the cost of \$2,325. She indicated that additional treatments if needed would be \$1,540. She advised that last year we needed the additional treatments due to the increase of mosquitoes.

Mr. Servis made a motion to approve the contract for Clarke Mosquito in the amount of \$2,325, seconded by Mr. Pirolli.

The vote of Council was as follows:

Mr. Pirolli—for  
Mr. Armstrong—for  
Mr. Servis—for  
Mrs. Kucher—for  
Mr. Czyzyk—for  
Ms. Gahagan—for  
Mr. Adams—for

#### **STATUS OF GALZERANO APPEAL (CREMATORY)**

Mr. Sellers explained that the order of March 12, 2013 of Judge Cepparulo was a denial in the land use appeal of Mr. Galzerano and upheld the finding of the Zoning Hearing Board.

Mr. Sellers advised that Mr. Galzerano has the right to take this matter on appeal but he has not, as of today, received notice of such appeal.

Mrs. Kucher asked what is the time frame that Mr. Galzerano has to make this appeal. Mr. Sellers explained that he is past this time at this point and he would have to notify Doylestown.

Holly Kettler-Zone, 580 Main Street, Tullytown, asked how long he has to file appeal. Mr. Sellers indicated 30 days from the 15<sup>th</sup> of March—also technical requirement that he has to notify the court prior to that. Mr. Sellers commented that he thinks we can expect an appeal notice to come through. Mrs. Kettler-Zone asked if she could obtain a copy of the ruling. Mr. Sellers advised she can request that.

Hal Lefcourt, 16 Stonybrook Drive, Levittown, also discussed the order of Judge Cepparulo.

#### **CONSIDERATION—APPROVAL FINAL PAYMENT FIRE COMPANY ROOF**

Mr. Sellers advised the work has been completed, and inspected and they are in compliance therefore permits were issued. He stated that the final payment of \$17,478.85 can be authorized for the Borough.

Mr. Pirolli made a motion to approve the final payment for the Fire Company roof in the amount of \$17,478.85, seconded by Ms. Gahagan.

The vote of Council was as follows:

Mr. Pirolli—for  
Mr. Armstrong—for  
Mr. Servis—for  
Mrs. Kucher—for  
Mr. Czyzyk—for  
Ms. Gahagan—for  
Mr. Adams—for

The vote of Council was unanimous; the motion carried.

#### **COMMITTEE REPORTS**

Mr. Pirolli commented there were 2 contracts negotiated, namely; electric company and uniforms contract. He advised they were signed by the former manager and we had no idea as former Council members. He feels this should be looked into—it involves a lot of money.

Mr. Pirolli said this should be sent to the District Attorney's office. He added that he wasn't a new manager, he was around for a while and it never came back to Council for any input.

Mrs. Kucher explained that the former manager entered into a contract for uniforms for our road crew that locks us in for 5 years which exceeded the amount of money that he had the authority over. She added that when we negotiated the collective bargaining contract, Council was unaware of this contract that the former manager entered into. Mrs. Kucher stated that in the non-uniform collective bargaining agreement, they were allowed money for shirts, boots, etc. She indicated the cost of the uniforms contracted were approximately \$25,000. She said the manager didn't have authority to do that. Mrs. Kucher commented that he did the same with the electric company—entered into contract without Council's knowledge.



Mr. Servis asked if this was a contractual issue and asked Mr. Sellers if he was privy to the contract. Mrs. Kucher commented that the Cintas contract was just newly entered into. Mr. Sellers clarified that the Cintas contract existed and the non-uniformed contract was negotiated which provides for a stipend to the employees on an annual basis without a uniform service being paid by the Borough so essentially the Borough is paying twice for uniforms.

Ms. Gahagan commented that there was a resolution regarding the Borough Manager's duties and that wasn't included in the list of duties. Mr. Sellers stated that the manager by ordinance was authorized to do certain things but he added that only Council can enter into contracts and spend money except for incidental expenses, etc. to keep operations moving.

Mr. Pirolli made a motion to have Mr. Sellers look into the Cintas contract that previous manager has entered into on behalf of the Borough. Mr. Servis seconded the motion.

Mrs. Kucher asked that when we learn that the Borough manager should not have done this—what does the Borough gain? Mr. Servis commented that we might be able to get out of the contract.

Mr. Sellers stated that when a manager or chief administrator deals with an outside vendor or contractor like this, as a rule they have a "parent" authority which means they appear to act with the authority of Borough Council so the vendor doesn't need proof so the Borough would be responsible.

Mr. Servis asked if the firm is giving us this service right now. Mr. Sellers advised yes they are. Mr. Sellers added there is a penalty clause in that contract as well which says a certain percentage of what's remaining on the contract of monthly payments is automatically due if we decide to stop the service.

Mr. Armstrong asked if Council has authorized Mr. Sellers to do a meet and discuss with the Union to see if perhaps rather than the stipend that was agreed upon that we could use the uniform service. Mr. Sellers advised no one has asked him to meet with Union at this time. Mr. Armstrong commented that would make sense to him.

Holly Kettler-Zone, 580 Main Street, Tullytown, asked if this contract has an automatic renewal. She advised some uniform companies work that way.

The vote on the motion was as follows:

Mr. Pirolli—for

Mr. Armstrong—against

Mr. Servis—for

Mrs. Kucher—for

Mr. Czyzyk—for

Ms. Gahagan—for

Mr. Adams—for

The vote was 6 in favor, 1 against. The motion carried.

Mrs. Kucher commented that we should make a decision regarding this electric company contract.

Ms. Gahagan made motion to have solicitor look into the matter of the manager entering into contract with an electric supplier, seconded by Mrs. Kucher. Mr. Servis asked for explanation. Mrs. Kucher explained that Mr. Raddi never came before Council to contract with an electric supplier.

The vote of Council was as follows:

Mr. Pirolli—for

Mr. Armstrong—against

Mr. Servis—for

Mrs. Kucher—for

Mr. Czyzyk—for

Ms. Gahagan—for

Mr. Adams—for

The vote was 6 in favor, 1 against; the motion carries.

## **BOROUGH REPORTS**

### **MAYOR'S REPORT**

Mayor Cutchineal announced John Lovett will be the 2013 Grand Marshal for this year for the Memorial Day Parade. He commented that John has been a Tullytown constable for over 20 years, is an armed forces veteran, 7<sup>th</sup> degree black belt in Karate and longtime Main Street resident. Mayor added that he is a retired corrections officer in Bucks County Prison and he is a descendant of the founders of Tullytown Borough.

### **COMMITTEE REPORTS (continued)**

Mrs. Kucher suggested that we ask our solicitor to look into our options about access to the park behind the Wal-Mart. She commented this piece of property is going to waste.

Mrs. Kucher made a motion for our solicitor to look into our options regarding access to the park behind Wal-Mart. Mr. Armstrong seconded the motion.

The vote of Council was 6 in favor, 1 against (Mr. Servis). The motion carried.

Mr. Pirolli made a motion for Mr. Sellers to represent Mrs. Kucher in the civil action suit, seconded by Ms. Gahagan. Mr. Sellers explained this matter is a private civil action filed in district court by Mr. Fox against Mrs. Kucher seeking damages.

Mr. Sellers further explained that when an employee, appointed official or elected official of the Borough is the individual defendant in a suit and the subject matter of that suit in any way

touches upon the performance of the office or duties that triggers, under state law, there is a duty to defend by the Borough.

Mr. Pirolli asked if Mr. Sellers will be able to find out who the owners of this website are. Mr. Sellers commented that he has not been authorized as yet to represent the Council person.

The vote of Council was as follows:

Mr. Pirolli—for

Mr. Armstrong—against

Mr. Servis—against

Mrs. Kucher—abstain

Mr. Czyzyk—against

Ms. Gahagan—for

Mr. Adams—for

The vote was 3 in favor, 3 against, 1 abstention

Mayor Cutchineal voted in favor to break the tie vote; the motion carried.

#### **ENGINEER'S REPORT**

Mr. Major read his engineer's report; a copy of which is filed with the minutes.

Mr. Major asked that Council authorize him to inspect all the inlets in the "old" portion of Tullytown. Mrs. Kucher advised that the Street Department worked hard on that project and saved the Borough a lot of money.

Mr. Pirolli made a motion to authorize the engineer to do a comprehensive inspection of all the inlets in the "old" portion of Tullytown to assess their condition and develop a course of action for any repairs that are necessary, seconded by Mr. Armstrong. All of Council was in favor of the motion; the motion carried.

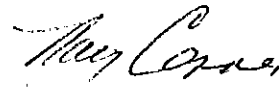
Regarding the HVAC renovations, a presentation was made at the meeting. Also present to discuss was Mr. George Schaeffer, architect and Mr. Richard Seeler. Mrs. Kucher said these plans are not what was originally discussed. She added this is much more extensive and expensive. Mr. Schaeffer advised this is still a preliminary plan. Mr. Major commented he is just looking for direction so they may continue with HVAC system. Mr. Adams suggested that Mr. Major contact the employees for their input and Council can think about this in the interim.

#### **MISCELLANEOUS COUNCIL BUSINESS**

Ms. Gahagan advised she received email from Bucks County Courier Times advising that they will be sending out questionnaires for voters' guide. She indicated that they want her personal email and she felt it would be best to use the Borough email. She asked Mrs. Conner to put the Borough emails on the website.

There being no further business, a motion was made by Mr. Czyzyk to adjourn the meeting, seconded by Ms. Gahagan. The meeting was adjourned at 8:47 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Nancy Conner".

Nancy Conner  
Borough Secretary