

TULLYTOWN BOROUGH COUNCIL MEETING AUGUST 4, 2015

REDEDICATION OF BOROUGH BUILDING – 6:30 p.m.

Vice President, May Kucher, presented the Borough plaque for the newly rededicated Borough building. Mrs. Kucher explained what renovations were done to the building.

President Rick Adams called the meeting of the Tullytown Borough Council to order on Tuesday, August 4, 2015 at 7:00 p.m.

Mayor Cutchineal asked for a moment of silence for George Redner, III, who recently passed away.

Present at the meeting:

Mayor Cutchineal
Councilman Armstrong
Councilwoman Gahagan
Councilman Pirolli
Councilwoman Kucher
Councilwoman Kettler
Councilman Czyzyk was absent due to illness
Councilman Adams

Also present:

Michael T. Sellers, Esq., Borough Solicitor
William S. Major, P.L.S., Borough Engineer
Alison Smith, Borough Coordinator
Andrew Bunda, Sergeant Police Department
Judy Collings, Borough Treasurer
Nancy Conner, Borough Secretary

Mr. Sellers advised that Council met in executive session on July 28th specifically to discuss pending litigation of Fox vs. Tullytown Borough.

PRESENTATION – KOMPAN

Mr. Matt Burns and Mr. Andrew Kimball of KOMPAN made a presentation to Council and the public on playground equipment for the Community Park.



PUBLIC COMMENT

Tina Grady, 585 Main Street, Tullytown, commented that we lost a good man—George Redner, III. She advised that they are currently accepting donations for the Redner family—either contact her or we have a “you caring” page to collect donations for his funeral fund.

Chris Shellenberger, Park & Rec Committee member, announced the registration dates for the Borough Picnic. She advised information is also on website and government channel. Mrs. Conner advised that flyers were mailed out also.

Frank Schraeder, 237 Lakeside Drive, Levittown, discussed a problem with another individual in the neighborhood who owns a house at 241 Lakeside Drive which is in foreclosure. He advised there is no electric, no water facilities, etc. Mr. Schraeder added that another couple moved in and is running a generator. He asked Council to take action.

Mr. Schraeder also advised that there is stop sign in front of his house and commented that drivers are not stopping at the sign.

Connie Miller, resident across street from 241 Lakeside Drive, Levittown, also commented about the homeowner at 241 Lakeside Drive. She advised there has been a problem of fighting and obscenities, etc. She commented that the owner lives in North Park. She advised there is no running water. Mr. Armstrong asked if there are drug dealings also asked if the lawn is being maintained. Mrs. Miller advised she doesn't know about any drug issues. She did advise that the grass is being cut.

Mayor Cutchineal advised that the Police Department can handle the stop sign issue and Code Enforcement can handle the other issues. Mr. Armstrong commented that the Health Department can also handle.

COUNCIL MINUTES

A motion was made by Mrs. Kettler to accept the minutes of the July 7, 2015 Council meeting, seconded by Pirolli. All of Council was in favor of the motion; the motion carried.

TREASURER'S REPORT

MONTHLY BILLS

A motion was made by Mrs. Kucher to approve the bills for the month, seconded by Mr. Pirolli. All of Council was in favor of the motion; the motion carried.

RECONCILIATION STATEMENT

A motion was made by Mr. Pirolli to approve the Reconciliation Statement for July, 2015, seconded by Mrs. Kettler. All of Council was in favor of the motion; the motion carried.

COMMUNICATIONS

Mrs. Conner advised that the Borough received a plaque from Pennsylvania State Association of Boroughs for membership to PSAB. She further advised that the Borough has been a member with PSAB for over 25 years that she is aware of.

GENERAL BUSINESS

AWARD BID – INLET REPAIRS—CONSIDERATION

Mr. Major advised one bid was received; namely, G.E. Poli Inc. of Huntington Valley, PA in the amount of \$34,860 accompanied by non-collusion affidavit and a bank check in the amount of \$3,500 representing the 10% bid surety in lieu of a bid bond. He added this is the same firm that did the last inlet work and they were very pleased.

A motion was made by Mrs. Kettler to award the bid to G. E. Poli Inc. for the repair of the 7 inlets in the amount of \$34,860, seconded by Ms. Gahagan. All of Council was in favor of the motion; the motion carried.

AUTHORIZE ADVERTISEMENT OF PROPERTY IMPROVEMENT ALLOCATION ORDINANCE

Mr. Sellers discussed the proposed ordinance. A motion was made by Mr. Pirolli to authorize the advertisement of proposed ordinance for appropriation of a payment to owners of improved property and to set the amount for that purpose as \$6,000 that has been budgeted. Ms. Gahagan seconded the motion. All of Council was in favor of the motion; the motion carried.

ONE APPOINTMENT TO PLANNING COMMISSION

Mrs. Conner explained that Marcy Lowell, member of the Planning Commission, resigned as she moved out of the Borough. Mrs. Conner advised that this vacant term will expire December, 2016. She further advised that Linda Slemmer and Rich Altmiller are both interested in being appointed to this position. Mrs. Conner advised that Linda Slemmer contacted her first regarding this appointment.

A motion was made by Mrs. Kucher to appoint Linda Slemmer to the Planning Commission, seconded by Mrs. Kettler. All of Council was in favor of the motion; the motion carried.

ONE APPOINTMENT TO PARK & RECREATION COMMITTEE

Mrs. Conner advised that Mike Hammar contacted her and expressed interest in being appointed to the Park & Recreation Committee. Mrs. Conner added that the term on Park & Recreation Committee is 5-year term.

A motion was made by Mrs. Kucher to appoint Mike Hammar to the Park & Recreation Committee for a 5-year term. Mr. Pirolli seconded the motion. All of Council was in favor of the motion; the motion carried.

COMMUNITY PARK

1) CONSIDERATION—PARK CONFIGURATION

Mr. Pirolli made a motion to accept the park configuration, seconded by Ms. Gahagan. All in Council was in favor of the motion except Mr. Armstrong who has concerns with security of the children in the placement of the tot lot as it is near the loading docks. The vote was 5 in favor, 1 against; the motion carried.

Mrs. Smith commented that is why they moved the tot lot. She added it was originally on the right hand side and moved to the left hand side for that reason. Mr. Armstrong commented that he thought it would be closer to Kenwood residents for children who want to play themselves and for residents of MacIntosh Regency that might want to take their grandchildren. Mrs. Smith advised the Bocce Courts are set up near the MacIntosh Regency.

Mrs. Smith added that this Park is being constructed with two grants that the Borough received so minimal Borough funding is needed.

2) CONSIDERATION—EQUIPMENT CONFIGURATION

Mr. Armstrong made motion to approve the equipment configuration, seconded by Ms. Gahagan. Mrs. Smith commented that Tina Grady requested a swing for wheelchairs and they are still investigating that. All of Council was in favor of the motion; the motion carried.

BOROUGH PARK PAVILIONS

1) CONSIDERATION—DESIGN

Mrs. Smith commented that our volunteer building committee to construct the pavilions consists of Matt Pirolli, Rick Adams, Chief Dan Doyle, George Maples and Rich Hart. She added that they met to consider the sitings of the pavilions and to plan out how we would address it. She added that we have a number of volunteers and they will take on the construction of the structure and the electrical. She advised that they decided that they will stick with going out to bid for the design of the foundations and the pouring of the foundations with target dates of the first pavilion to be constructed in October and the second in the spring.

Mrs. Smith indicated she received a quote for \$5,600 from Gilmore & Associates for the design. Mrs. Kucher made a motion to award \$5,600 to Gilmore & Associates for the design. Mrs. Kucher withdrew her motion. Mrs. Kucher commented that this seems like a lot of money. Ms. Gahagan suggested that our Borough Engineer handle this.

After discussion, Mr. Armstrong made motion to have William Major Associates design the pavilions not to exceed \$5,000, seconded by Mrs. Kucher. All of Council was in favor of the motion; the motion carried.

2) CONSIDERATION—PURCHASE FORKS FOR BACK HOE

Mrs. Smith advised she received a proposal to purchase forks for backhoe from Northern Equipment. Mr. Pirolli made a motion to approve the expense of \$670 to Northern Equipment for the purchase of forks for back hoe, seconded by Mr. Armstrong. All of Council was in favor of the motion; the motion carried.

3) CONSIDERATION—WAIVE LAND DEVELOPMENT

A motion was made by Mr. Armstrong to waive the Land Development for the construction of the pavilions in the park, seconded by Ms. Gahagan. All of Council was in favor of the motion; the motion carried.

4) CONSIDERATION—WAIVE PERMIT FEES

A motion was made by Mr. Pirolli to waive the land development permit fees and any other fees associated with the Borough park pavilions, seconded by Mr. Armstrong. All of Council was in favor of the motion; the motion carried.

5) AUTHORIZE ADVERTISEMENT FOR BIDS FOR FOUNDATION CONSTRUCTION

Mrs. Smith stated that once the design is completed, we would go out to bid. Mr. Pirolli made a motion to authorize advertisement for bids for foundation construction, seconded by Mrs. Kettler. All of Council was in favor of the motion; the motion carried.

6) AUTHORIZE ADVERTISEMENT FOR BIDS FOR STRUCTURAL KITS

Mr. Pirolli made a motion to authorize the advertisement for bids for structural kits, seconded by Mrs. Kettler. All of Council was in favor of the motion; the motion carried.

SURVEY FOR BOROUGH BUILDING FOR FEMA REGULATIONS—APPROVAL OF EXPENSE

Mrs. Smith advised that FEMA has published proposed maps for our area. She added that in those proposed maps, which will become effective April, 2016, the entire borough building and the park property moves into the flood plain which will result in expensive building insurance. Mrs. Smith added that we have the survey of building and grounds so we can get actual elevation of the building and can compare it to what they are showing as the elevation of the flood. She stated that they have seen the survey of another property in this area which shows the actual elevation of the building is higher than what FEMA had projected therefore, it will be able to move out of the floodplain.

Mrs. Kettler asked if we are notifying residents who are newly designated in the floodplain. Mrs. Smith advised we are just putting together the list and the letter will be going out next week. Mrs. Kettler commented that she knows we are offering assistance with this information and possibly some engineering firms that they may want to contact to get the survey done so they can protest it.

Mrs. Smith advised that there are approximately 60 properties affected, both residential and industrial.

Mr. Chase, 633 Main Street, Tullytown, if you are already in the flood plain, will this map have any bearing on your property. Mrs. Smith advised that there is a map that just came out this April that is now official and a number of properties that are in that map move out. She added that whoever is in the floodplain—it stays the same—there are a few properties that are moving out. Mrs. Smith advised that this is an opportunity for any house listed as being in the floodplain now or in the future maps to get a survey and be part of the conversation with FEMA about amending the maps before the next published.

A motion was made by Mrs. Kucher to authorize the expense of \$1,200 to Princeton Engineering to do survey of elevations for the Borough building for FEMA regulations, seconded by Mrs. Kettler. All of Council was in favor of the motion; the motion carried.

**DONATION OF OBSOLETE PERSONAL PROPERTY TO SALVATION ARMY—
DISCUSSION/CONSIDERATION**

Mrs. Smith advised that there is some furniture that is functional but in bad shape so we want to donate to Salvation Army.

Mr. Pirolli made a motion to adopt Resolution #333, authorizing the disposal of personal property, seconded by Mrs. Kettler. All of Council was in favor of the motion; the motion carried.

AUTHORIZE ADVERTISEMENT OF AMENDMENT TO NO PARKING ORDINANCE

Mr. Sellers advised this was on the agenda but he needs more time and asked for this matter to be tabled. Mrs. Kettler made a motion to table the matter of the no parking ordinance until the next meeting, seconded by Ms. Gahagan. All of Council was in favor of the motion; the motion carried.

COMMITTEE REPORTS

There were no Committee Reports

BOROUGH REPORTS

MAYOR'S REPORT

Mayor Cutchineal advised that the Tullytown PBA will be sponsoring a Concert in the Park this Saturday, August 8th at 6:00 p.m. featuring the 7even Band.

Mayor also advised that on August 13th, the Police Department will be sponsoring another heroin epidemic presentation by Matt Weintraub from the District Attorney's office at 6:00 p.m.

Mr. Armstrong asked if our police officers or Chief are looking at changing retirement from 25 years to 20 years. Mayor Cutchineal said he wasn't aware of that. Mr. Armstrong commented that he was speaking with retired police and they are concerned with bankrupting the existing pension system. Mrs. Kettler commented that people suing our Police Department can bankrupt a community also.

COORDINATOR'S REPORT

Mrs. Smith presented the coordinator's report, a copy of which is attached to minutes. After Mrs. Smith discussed the First Responder's Memorial, Rick Johnson, 347 Main Street, Tullytown mentioned that they want to set up appointment for a few members to see the size of the steel. Mr. Johnson also commented that a member of the Fire Company who had a piece of block from the World Trade Center will donate to us to put into the design.

Mrs. Smith presented the remainder of the Coordinator's Report.

Regarding Mrs. Smith's report on RV's parked on property owners in the flood plain plan, Mr. Armstrong asked if these vehicles are legal on the streets. Mrs. Kucher commented that she thought the only vehicles permitted on the streets are passenger vehicles—not trucks, etc. Chris Shellenberger, 229 Kenwood Drive South, asked what is rule for RV's; she advised there are some in the Levittown SC. Mrs. Kucher thought that was brought up before. She added that we should contact the Chief. Ms. Gahagan thought that when you cross from St. Mikes, she saw a sign that says "no unauthorized vehicles allowed". Mrs. Kucher asked Sergeant Bunda to look into that.

SOLICITOR'S REPORT

Mr. Sellers discussed the issue of licensing agreement with PECO regarding the Papal visit in September. He added that the Levittown Train Station is a designated point for people to park and take the train into Center City. Mr. Sellers advised that the Chief is working on various options of where to put the cars. He added that one of the options is the greenbelt property of PECO and to have this accessible over that weekend. Mr. Sellers advised that requires an agreement between PECO and the Borough of Tullytown for that purpose.

Mr. Pirolli made a motion to authorize the Council President to execute a license agreement with PECO for parking for the weekend of the Papal visit in a form acceptable to the Borough solicitor. Mrs. Kettler seconded the motion.

Mrs. Kucher asked if the Borough will have to spend money to do this. Mr. Sellers commented that beyond staff time, the only other possibility is an insurance requirement; however, for such a short amount of time he would think would be nominal. He added that after the agreement is in final form, we will get a quote from our insurance broker. Mr. Sellers commented that if we learn that the insurance is expensive, this will come before Council for approval. Mrs. Kucher felt this is a burden on the Borough. Mr. Armstrong asked

if we have contacted Father Dilorio. Ms. Gahagan advised that many of the churches in Bucks County have reached out to their parishioners. She added there will be a lot of people from out of town staying in Bucks County so they will need to use the trains—it's not all going to be in Philadelphia.

Chief Doyle advised that this is a public safety standpoint—we have to plan for an event with a lot of unknowns and due to those unknown factors, certain things have to kick in. Chief Doyle commented that he would much rather have people parking on the greenbelt than our streets blocking driveways and fire hydrants, corners for emergency vehicle access on the side streets. Chief advised he has been working diligently since this was presented to the Borough. He asked if Council would approve this.

Mrs. Kettler commented that she feels we are obligated as citizens for the public safety and she feels strongly about that. She added that we should plan for the worst and hope for the best. Mrs. Kettler added that she feels this is not a religious event per se—this is pursued by the Mayor of Philadelphia and other public officials as well as the Archdiocese of Philadelphia.

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

Chief Doyle advised that the Middletown Township Chief has enacted, through their Board of Supervisors, a Declaration of Emergency for that weekend. Chief stated this is not to portray doom and gloom but it is strictly to enable him to bring resources that we don't have access here from the State and County levels into our Municipality. Chief Doyle requested that Council consider enacting a Declaration of Emergency for that weekend.

Mr. Armstrong made a motion to enact a Declaration of Emergency for the weekend starting September 25th ending September 28th. Ms. Gahagan seconded the motion. All of Council was in favor of the motion; the motion carried.

Chief Doyle commented that there will also be some expenses incurred that weekend which he will try to keep to a minimum where he can.

Mr. Sellers discussed the case of Fox vs. Tullytown and Mrs. Kucher and Mrs. Smith. Mr. Sellers explained that allegations of Mr. Fox were that temporary signs placed next to the highway had been wrongfully taken down. Mr. Sellers advised that this case was scheduled for trial this week. He added that the U.S. Supreme Court, in a case by the name of Reed vs. Gibson in June, 2015 had a case out of the state of Arizona, in which they ruled unconstitutional a sign ordinance which is very much like the sign ordinance we have in Tullytown Borough. Mr. Sellers explained because of that, Tullytown Borough's ordinance can no longer be considered valid and has to be rewritten—the same is true for other municipalities in other states. Mr. Sellers added that this also affects the ability for the

Borough to go forward and defend the Fox vs. Tullytown case. The legal opinion is that our ordinance is no longer valid for that purpose.

Mr. Sellers advised that Borough Council will take a vote this evening to agree to settle this law suit. Mr. Sellers advised that the terms of that settlement call for the Borough to make a payment to Mr. Fox for \$510 for alleged damage. He added that the Borough's insurance carrier has decided to make a separate payment of its own of attorney's fees to Mr. Fox's lawyer in the amount of \$9,390.

Mrs. Kettler made a motion to authorize the Borough to enter into a settlement agreement and release ending the federal case of Fox vs. Tullytown Borough which expressly includes the payment of \$510 to Mr. George Fox. Mr. Pirolli seconded the motion.

Mr. Pirolli asked Mrs. Collings what this law suit cost the Borough. Mrs. Collings advised \$10,253 for Mr. Sellers' invoice for Fox vs. Tullytown Borough. She added the total to date for all the ongoing law suits is \$28,431.

Mr. Armstrong asked Mr. Sellers if he should abstain on this vote as he was not included in the executive sessions. Mr. Sellers advised that Mr. Armstrong can vote on this as the issue is to spend money and he was not an actual party to the case so he does not have a pecuniary interest.

The vote of Council was as follows:

Mr. Armstrong—for
Ms. Gahagan—for
Mr. Pirolli—for
Mrs. Kucher—for
Mrs. Kettler—for
Mr. Adams—for

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

Mr. Armstrong asked Mr. Sellers what constitutes a quorum of our 3-person Civil Service Commission. Mr. Sellers advised that he will review and get back to Mr. Armstrong.

ENGINEER'S REPORT

Mr. Major distributed the engineer's report to Council, a copy of which is attached to the minutes. Mr. Major advised that the design engineers for Septa are preparing their submission of the approved final plans for signatures so they can provide for issuance of the required building permits.

MISCELLANEOUS COUNCIL BUSINESS

Mrs. Kucher advised that for the 9-11 services, the Committee needs to get approval of Council for some expenses.

Mrs. Kucher made a motion to enter into contract with Men of Harmony for the 9-11 service in the amount of \$200, seconded by Mr. Armstrong. All of Council was in favor of the motion; the motion carried.

Mrs. Kucher made a motion to approve the expense of the Hotsy Totsy Girls in the amount of \$400 for the 9-11 service, seconded by Mr. Pirolli. All of Council was in favor of the motion; the motion carried.

Mrs. Kucher made a motion to enter into contract with Chordus Mundi for \$400 for the 9-11 service, seconded by Mr. Pirolli. All of Council was in favor of the motion; the motion carried.

Mrs. Kucher made a motion to approve miscellaneous expenses for the Park & Recreation Committee for 9-11 service for gifts, bottled water, etc. in the amount of \$500, seconded by Ms. Gahagan. All of Council was in favor of the motion; the motion carried.

ADJOURNMENT

There being no further business, a motion was made by Mr. Pirolli to adjourn the meeting, seconded by Ms. Gahagan. All of Council was in favor of the motion; the motion carried.

The meeting was adjourned at 8:32 p.m.

Respectfully submitted,



Nancy Conner
Borough Secretary