

Summit Hill Borough Council
October 14, 2013, 7:00 p.m., Borough Hall

The regular scheduled meeting of the Summit Hill Borough Council was held at the above time and place with Councilman Bill Chapman, President Pro Tem., presiding.

Roll Call – Michael Alabovitz, Jesse Walck, Bill Chapman, William O’Gurek and Solicitor Michael Greek were all present. President Michael Kokinda, Vice President John O’Gurek and Mayor Paul McArdle were absent.

Minutes – Motion was made by Jesse Walck and second by William O’Gurek to approve the minutes from the regular Council meeting held on September 9, 2013. The motion was opened to the floor for comment, none made. Motion carried unanimously by Council. Councilman Alabovitz noted that he was not listed as being in the attendance at the September 9, 2013 meeting and he was present; Kira will make the correction.

Floor Session –

1. Joseph Kosalko residing at 249 E. Mountain Top Road, Summit Hill. Stated he wanted to talk about the Quality of Life Ordinance but saw it was on the agenda and will discuss it at that time.
2. Robert Graver residing at 5 North Spruce Street, Summit Hill. Stated he wanted to discuss the same matter as Mr. Kosalko and Zoning Issues. Bill Chapman suggested that Mr. Graver speak with the Zoning Officer and then come back to Council if the issues do not get resolved.

Mayor’s Report – Nothing to report at this time

Police Report – Chief Fittos submitted a Patrol Rifle Firearm Policy and asked Council to consider adopting this policy. Councilman Walck asked to table this for further review by Council; all agreed. **Motion was made by William O’Gurek and second by Jesse Walck to accept the Police report for September 2013.** The motion was opened to the floor for comment, none made. Motion carried unanimously by Council.

Planning and Zoning Report – Zoning Officer, William Kirklosky read his report for the month of September. He had other items to discuss with Council.

1. A resident in Polar Court, in West White Bear, is requesting an extension on their outdoor wood burning stove through May 31st instead of April 30th, as it states in the current ordinance.
2. William stated that he followed up on a complaint at a property due to garbage piled up against a garage and on a property line. He could not see anything since he did not have access to the property and the owner would not allow him access and feels this would fall under the Quality of Life Ordinance. William asked Council what the proper protocol would be for something like this. Bill Chapman told him to speak with Solicitor Michael Greek.

Motion was made by William O’Gurek and second by Jesse Walck to accept the Planning and Zoning Report for the month of September 2013. The motion was opened to the floor for comment, none made. Motion carried unanimously by Council.

Work Leader Report – Bill Chapman stated that the blacktop spreader is broken and the Borough is doing the best they can without it at this time. **Motion was made by Michael Alabovitz and second by Jesse Walck to accept the Work Leader Report for September 2013.** The motion was opened to the floor for comment, none made. Motion carried unanimously by Council.

Tax Collector Report – Borough Secretary, Kira Michalik, read the Tax Collector Report for the month of September 2013. Alice Kane, Tax Collector, submitted a total of \$5,360.85 with a commission of \$268.05. **Motion was made by William O’Gurek and second by Jesse Walck to accept the Tax Collector Report for the month of September 2013.** The motion was opened to the floor for comment, none made. Motion carried unanimously by Council.

Wage Tax Report – Borough Secretary, Kira Michalik, read the Wage Tax Report for the month of September 2013. Berkheimer submitted a Total EIT of \$18,040.63 with a Commission of \$310.41 and Postage Charges of \$86.23. Total LST submitted was \$26.80 with no commission. **Motion was made by Jesse Walck and second by Michael Alabovitz to accept the Wage Tax Report for the month of September 2013.** The motion was opened to the floor for comment, none made. Motion carried unanimously by Council.

Receipts – Borough Secretary, Kira Michalik, read the receipts for the month of September 2013. General Fund Receipts were \$70,715.32 and Sanitation Account receipts were \$4,318.08. **Motion was made by William O’Gurek second Jesse Walck to accept the receipts for the month of September 2013.** The motion was opened to the floor for comment, none made. Motion carried unanimously by Council.

Committee Reports –

Streets – Borough Secretary, Kira Michalik, said that the Mayor received a letter from Penn Dot in regards to Winter Maintenance on Route 902. Bill Chapman tabled it until all of Council is present. Kira also mentioned that the Estimated Liquid Fuels Allocation for 2014 is \$67,287.40.

Building – Nothing to report at this time

Fire and Emergency Services – Nothing to report at this time.

Recreation – Bill Chapman stated that Council received a resignation letter from Monica Marshall from the Recreation Commission and stated that Monica suggested Jaime Shelton as President. Kira informed Council that the Recreation Commission appoints members to the positions, not Council. **Motion was made by Jesse Walck and second by William O’Gurek to accept the resignation letter from Monica Marshall.** The motion was opened to the floor for comment, none made. Motion carried unanimously by Council.

Motion was made by William O’Gurek and second by Jesse Walck to accept the committee reports for the month of September 2013. The motion was opened to the floor for comment, none made. Motion carried unanimously by Council.

Communications –

Communications for the Month of September 2013

1. Letter from George and Maria Stianchie in regards to their son being recognized by Council and the Mayor for his achievement with his Eagle Scout Rank. See attached.
2. Engagement letter from Joseph F. Collura, Auditor, to obtain him to audit the 2013 records for the Borough.
3. Letter from Mrs. Radocha in regards to dead animals on the side of the road by her property. See attached letter.
4. Letter from Susan Lutz in regards to the garbage at the gazebo. See attached letter.
5. Letter from Carbon County Commissioners in regards to fees for the County 911 Center. See attached letter.
6. Letter from Carbon County Tax Collection Committee – Tentatively adopted a 2014 Budget. See attached letter and budget
7. Notice of Assessment from the Board of Assessment & Revision of Taxes

8. Notice from the Board of Assessment and Revision of Taxes – Homestead Approved
9. Notice from the Board of Assessment and Revision of Taxes – 2013 Tax Duplicate Change
10. Notice from the Board of Assessment and Revision of Taxes – Assessment Appeals Determination
11. Notice from the Board of Assessment and Revision of Taxes – Assessment Appeal Hearings
12. PennDOT LTAP Fall 2013 Technical Information Sheet
13. PA Department of Transportation Fall 2013 Quarterly Review and Information Newsletter
14. The Spotlight October 2013 Newsletter
15. PA Municipal Retirement System Comprehensive Annual Financial Report for Fiscal Year Ended December 31, 2012

- Letter from George and Maria Stianchie. **Motion was made by William O’Gurek and second by Jesse Walck to have a Proclamation drawn up to recognize Anthony Stianchie for his achievement with his Eagle Scout rank.** The motion was opened to the floor for comment, none made. Motion carried unanimously by Council
- Engagement letter from Joseph F Collura, Auditor, to obtain his services for the 2013 audit for the Borough. Council decided to table this until they can get a better clarification on his fees.
- Kira informed Council of a letter received from Mrs. Radocha, who owns property at the bottom of Bugzies, in regards to dead animals on the side of the road near her property. Council stated that this is a problem that needs to be addressed with Penn Dot.

Motion made by William O’Gurek and second by Jesse Walck to accept all communications for the month of September 2013. The motion was opened to the floor for comment, none made. Motion carried unanimously by Council.

Bills – Borough Secretary, Kira Michalik, reported total expenses for the month of September 2013. The General Fund bills were \$110,448.43 and the Sanitation Account bills were \$45,946.48. **Motion made by Jesse Walck and second by William O’Gurek to approve the bills for the month of September 2013.** The motion was opened to the floor for comment, none made. Motion carried unanimously by Council.

Old Business

1. Quality of Life Ordinance – Joseph Kosalko, resident of 249 East Mountain Top Road, Summit Hill. Inquired to Council as to why they feel the need to pass the Quality of Life Ordinance when we have individual ordinances that are already on the books and are not being enforced. Jesse Walck stated that we need this because of the time it takes to enforce these things and what kind of cost the taxpayers incur to have them enforced. Kosalko asked who is supposed to be enforcing the ordinances right now. Jesse stated that Code Enforcement is to enforce the ordinances. Jesse said that this ordinance will allow the borough to handle this in a timely manner. The police will be able to issue citations with this and we no longer will have to wait for weeks for someone to come and do the code enforcement. The Borough is trying to cut down on costs. Kosalko asked Solicitor Greek where this originated; Solicitor Greek stated Hazleton or Pottsville. Kosalko said that we are going to suffer for this because we can’t compare our small town of less than 3,000 people to the City of Hazleton. Mr. Kosalko said he read in the ordinance that the grass can’t be more than 10 inches high. How is the zoning officer going to enforce this if he can’t get onto the property. Michael Alabovitz said that it is based on the complaint as it has been done in the past. Kosalko gave another scenario of a person not wanting to pay someone to take tires and now they are going to store them in their yard until cleanup day because they can get rid of them for free. Now you have someone who complains about the tires and a citation is issued; it is not fair. The ordinance also states that you cannot put furniture outside for sale. Does this mean that you are eliminating yard sales? Jesse Walck said this means you can just go and put something on the curb with a For Sale sign on it. Mr. Kosalko said that this ordinance is very vague. He asked if the Borough is exempt from their ordinances. Solicitor Greek states he is not going to answer a yes or no question unless he puts it in context. Kosalko asked what happens if the

Borough breaks an ordinance. Solicitor Greek said how is the Borough going to cite the Borough. Kosalko said the Borough should have to follow the same procedure as the taxpayers. Greek said that the Borough does need to follow the same rules as everyone else. Joseph Kosalko moved on to the Snow and Ice Ordinance, which is not listed under the Quality of Life ordinance. He stated that after 24 hours you must clean your sidewalks of snow and ice. The Borough's property is Ludlow Park and he wants to see that shoveled every time there is snow or ice. If you are making residents do this then the Borough should follow the same rules. He asked if Council still wants to pass this ordinance. Jesse Walck said this makes it cheaper and quicker. Mr. Kosalko also mentioned that the ordinance claims that if a borough worker performs work on someone's property they can be charged \$60.00 per hour, per man. He stated that when Matika was the solicitor he said that you can't charge more than what an employee makes. Solicitor Greek said he doesn't have a problem charging \$60.00 per hour because when you get to the magistrate and have the hearing he makes the decision as to what the costs will be. You may not need just the borough workers but you may have to hire an outside contractor. The courts will place on the appropriate fee at that time and if the fee is too low you will not be able to recoup what you need to for the services. Mr. Kosalko mentioned the unregistered vehicles. He stated that it reads a car has to have registration and inspection but what if it's a classic car on a licensed trailer or on someone's property but it works, is the Borough going to cite them. If I have a no trespassing sign on my property, does that give the zoning officer or police the right to come onto my property. Michael Greek explained that they must have probable cause of the violation. **Motion was made by William O'Gurek and second by Jesse Walck to adopt the Quality of Life Ordinance.** The motion was opened to the floor for comment: none made. Motion carried unanimously by council.

2. **UCC Waiver** - Solicitor Greek informed Council that he made the revisions on the ordinance and sent a copy to Lehigh Engineering for further review. Once he receives it back, he will forward it on to Council for review and then it must be turned over to the state.
3. Bill Chapman commented on a phone call that was received by the Borough Secretary, Kira Michalik, from Dave Kasprazak. Bill stated that Mr. Kasprazak is saying that he is causing issues in the White Bear; Mr. Kasprazak stated that it is not true. Bill Chapman expressed that our Borough Secretary is sitting right here and that you are calling her a liar. Bill Chapman stated that he is trying to clear up septic system problems and contaminated wells. Mr. Kasprazak commented that Councilman Chapman is not supposed to be doing anything unless he goes through their attorney. Bill Chapman said that when you bring up my name you address it to me. Mr. Kasprazak stated that you will be addressed by the appropriate people when the time comes.
4. **Scott Bieber, Alternate Sewer Enforcement Officer** – Bill Chapman informed Council that Scott Bieber, the Alternate SEO, is there and he needs some clarification. He went to Mr. Kasprazak home to do dye testing and was refused. In the summer of 2012, I received a phone call from the secretary to look into the issues in the White Bear, which he agreed. Mr. Bieber handed out a Google earth map for Council to see what he is referring to. If you look at the map, the Fritz's have a septic tank in the back, marked ST for septic tank. That is a large septic tank that flows down to the property to a pit. From that pit, on the other side of the fence on their property which is owned by Mr. Gryzik, there was sewage coming out. He did a dye test, which he put dye into the septic system on Mr. Graze's property. They agreed they would stop the problem and they have stopped the problem. As of last year, they cut the line that goes from the septic tank that goes to the pit. The septic tank is now just a holding tank and all their sewage goes into that septic tank and when it fills up it gets pumped out. There is no more sewage coming down to that pit and no more sewage going to Graze's property. However, the little pipe that goes from the pit goes underground and comes out at Gryzik's property, where it is marked black water discharge has stopped. That pipe is still there and Mr. Gryzik said that there is still liquid coming out of there. It was tested this summer and contains fecal matter. Scott thinks that since the septic tank is cut off and the pit is completely dry, when it rains heavy there could be residue from the pit and it is still carrying some fecal matter. He feels it should eventually clear up.

There is still a pipe there that is discharging onto the Gryzik property, which is not his concern as long as there is no sewage in it. Councilman Chapman asked if the pipe could be removed. Scott said it is now between Mr. Gryzik and the Fritz's. He claims he doesn't have the authority to make anyone cut a sewer pipe or any other pipe. Scott stated that the other problem was on the other side of the Fritz's property, which is owned by Mr. Gryzik. He pointed out the line drawn on the map marked gray water discharge behind the garage, that pipe was dug open by Mr. Gryzik. The red line that he drew showing water coming down the Fritz property that is an old dry pipe with nothing going into the pipe. That pipe connects down into the other pipe that comes down along to the paper alley. Earlier in spring, there was what appeared to be discharge coming out but it was very occasional. Most of the time he didn't see anything, in fact the whole year he didn't see anything coming out and it seems pretty dry. Last year the borough engineer had a test done on the material coming out and it was tested positive for detergents, which would be wash water. He was there again today and did not see anything coming out and it was bone dry. He stated that he was instructed by Mr. Chapman several months ago, with Council's authority, to do dye testing to try and find out what the source of the detergents were that came through the line. Bill Chapman said that this was all discussed with Carl. Mr. Beiber said he went to Dave's house last week and knocked on the door and of course he refused him entry, which is his right to refuse. Scott stated that if Council really wants him to do the dye test that he would like something in writing that is very clear stating that he is authorized by Council to go out, knock on doors and ask for entry to do the dye testing to try and find the source to the detergent that showed up last year. Chapman said that he would like to talk to Carl too, since he has been the one who is involved with it. Mr. Beiber claimed that as far as he is concerned, the Fritz problem is solved and does not see any problem there, of course they have the option to build a sewage system or drain field and they could do so. Right now they are just living off the septic tank. For Council's information, the other problem is the malfunctioning cesspool, which is the worst problem. Chapman asked if the cesspool is the one on Mechling property; Scott said yes. Chapman stated that there is some paperwork that has been started to correct this issue. Carl is handling the Mechling issues and Scott is taking care of the Gryzik-Fritz problem. Scott said he has to be prepared if he is asked to go on someone's property and they refuse permission a court order will have to be obtained. Dave Kasprzak asked about the test for the soapy water; Scott Beiber replied he didn't do the test. Mr. Kasprzak asked who took it to the lab. Scott replied that there was a meeting and everyone was there and would imagine that the engineer took the water to the lab. Mr. Kasprzak asked if he knows that the test was outlawed in 2011 and removed from the market because it was inaccurate. Kasprzak said that Scott was the person who recommended the Pottsville testing lab. Scott stressed that he did not; Chapman stated it was Carl.

5. John Aleksiejczyk, Monroe Mechling's son, informed Council that the problem on their property is being dealt with. Chapman said that he spoke with the Solicitor about the progress.
6. Wayne Gryzik, West White Bear, would like to discuss the Google earth map. He wanted to point out that what use to be there is no longer there. The alley that is marked on the map is now grass and weeds; it is evident on the picture. He said that Scott is correct in saying that the water running down into the field is minimal and has stopped significantly.

New Business

1. Kira Michalik, Borough Secretary, stated she received several phone calls regarding the bus stop shelter located on Ludlow and Elm Streets. Parents are complaining that there is no glass in the bus shelter and when it is raining and windy the kids are getting wet. From past experiences, every time the Borough repairs the shelter it is vandalized and the glass gets broken. The parents are asking if there is something the Borough can do so that the kids have a place to go. Michael Alabovitz commented that he has an idea and he will discuss it with the Borough workers.

2. Demolition Safety – Michael Alabovitz addressed the issue that the Borough does not have anything in place at this point regarding the rules on demolition safety. He stated that several people have complained to him about the demolition at St. Stan's church that the workers were standing on the second floor while they were knocking the building down. OSHA was here and addressed the issues about St. Stan's being very unsafe and they would put a stop to it if there were findings. Another issue is that there is no verification as to whether the sewer lines were capped. Before someone takes a hammer to any building, this should be done immediately. What will happen is we will have all the rain water going in there and washing out the dirt which will result in it all going into the sewer system. Michael Alabovitz will talk to the engineers about drawing something up.
3. Handicap Applications - Robert Murlo, 456 West White Street, is a renewal and Lauren and Kathryn Chickilly, 46 East White Street, new applicant. Kira stated that they were both reviewed and approved by Chief Fittos and Greg Kosciolk. **Motion was made by Michael Alabovitz and second by Jesse Walck to renew the handicap application for Robert Murlo and approve the new application for Lauren and Kathryn Chickilly.** The motion was opened to the floor for comment, none made. Motion carried unanimously by council.
4. Garbage Exemptions – William O'Gurek said that there is a list of 7 people for the 4th Quarter exemptions. He stated that there are at least 2 that have outstanding balances and would like to see the balances paid before they go on the exemption list. **Motion was made by Jesse Walck and second by William O'Gurek to approve the garbage exemptions with the understanding that the property owners with outstanding balances are paid in full before being exempt.** Motion was opened to the floor for comment, none made. Motion carried unanimously by council.
5. Solicitor Greek said that John Swercizak, a student at Marian, is here to observe and will need to get his picture taken; he is a resident of Summit Hill.
6. Karen Highland, 414 West White Street, addressed Council regarding her property. She said she purchased the property in 2007. The property came with a detached garage, which they are trying to say now that it shouldn't have been included with the sale but she said it is on her deed. She has been living here for six years and she can't park her car in the garage. Every time she goes near the driveway she is threatened by her neighbors. She is being called a thief, which she can't understand because she paid for it. It is in her mortgage, taxes and homeowners insurance. The garage is being rented out to someone else. Joe Fittos said there is another attorney involved that is renting it out to someone else. Every time she parks in the driveway she is threatened to be towed. The police are called and they tell her to move it because they have keys. She stated that she has keys and a deed. It is under litigation and has cost her \$69,000, which is more than the purchase of the home. She said she is being sued by Attorney Velitsky for his error and she is finding out that no one can sue a lawyer. Representative Doyle Heffley recommended that she come and talk to Council to see if there is anything they can do to help. She said that she cannot get an attorney because it involves suing another attorney. She said that she has gone to three attorneys that were more than happy to take her money but have done nothing for her. Solicitor Greek asked if she was being cited for this; Chief Fittos said no citations have been given because it is a civil matter. Bill Chapman stated that Council feels very bad for her but this is a civil matter with a property dispute which they have no authority over.
7. Bill Kirklosky, Zoning Officer, stated that he received a letter from Hope of Christ Presbyterian Church asking to have the \$40.00 permit fee waived. He is asking if this is something Council would be willing to consider. Mike Alabovitz said they waived fees in the past for nonprofit organizations however, if there are inspection fees; they are still responsible to pay them. **Motion was made by Jesse Walck and second by William O'Gurek to waive the \$40.00 zoning permit fee for the Hope of Christ Presbyterian Church.** The motion was opened to the floor for comment, none made. Motion carried unanimously by Council.

Motion was made by Jesse Walck and second by William O'Gurek to adjourn at 7:55 p.m. until the next regular scheduled meeting of the Summit Hill Borough on November 11, 2013. The motion was opened to the floor for comment, none made. Motion carried unanimously by Council.



Michael Kokinda
Council President

Kira Michalik
Secretary/Treasurer