

April 5, 2010

Towanda, PA

The regular monthly meeting of the Towanda Borough Council was held on Monday, April 5, 2010 at the Municipal Building. The meeting was called to order at 7:00 p.m. by Council President Mark Christini followed by a moment of silent prayer and the reciting of the Pledge of Allegiance. The roll was called and recorded as follows:

PRESENT: Clark, Christini, Klinger, Kovalcin, McLinko, Miller, Sweitzer, Roof

ABSENT: Long

CITIZENS TO BE HEARD

Pat Taylor, Second St., asked Council who does a resident contact if there is open burning violation occurring and Mr. Christini said the police department.

Mr. Taylor asked who is in charge of placing banners across roads and Mr. Fairchild said Ms. Harris is the contact person.

Robert Archer, Fourth St., told Council he was dead set against banning open burning in the Borough. He said there is an ordinance already in place and it needs to be enforced. He said it seems like every time you turn around someone is telling us what we can't do on our own property.

Paula Barr, owner of Knights Out, told Council that as part of her LCB licensing, she has to come to a council meeting once every 6 months to see if there is anything council wants done, etc. with regard to her bar business.

Chief Osman said he and Ms. Barr have been in contact and he said there have been no problems at the bar recently.

APPROVAL OF PREVIOUS MONTH'S MINUTES

Mr. Sweitzer made a motion seconded by Mr. Kovalcin to approve the minutes of the March council meeting as presented. Motion carried.

FIRE CHIEF'S REPORT

Chief Roof reported that old Engine 1 has some pump problems and they are being worked on "in house". Mr. Sweitzer asked how old it was and Chief Roof said it is a 1985 truck. Chief Roof said old Engine 4 is being used now and we are thinking of keeping it in service even after old Engine 1 is fixed and use it on township roads because they are in such bad shape.

Chief Roof said the department received a grant last year to purchase a generator and that is almost completely installed now.

Chief Roof told Council that June 5 is the date for the Emergency Services annual golf tournament with the police department.

FIRE BOARD REPORT

Mr. Klinger said there was nothing to report to Council.

POLICE CHIEF'S REPORT

Chief Osman asked Council if there were any questions regarding his written report.

Chief Osman said that the police do enforce the present burning ordinance. He said we have had two burning complaints over the weekend and those are the first in quite some time. One was a call for William St. and he said the officer checked all along William St. and he said he also

checked it out and we could not find anything. We could not see it or smell it. He said the other call was just paper products being burned.

Chief Osman said he is still actively pursuing donors for K-9 Moro. Mayor Miller noted that Moro participated in the First Friday event and was very well received.

Deb Barr, Towanda resident, asked if burn barrels were banned in multi-family units and Mr. Haight said no. Ms. Barr said according to the DEP fact sheet if it is a multi-family residence you don't have the right to have a burn barrel. She handed out copies of the fact sheet to Council. She said even though the Borough has under 5000 population and is not required to ban open burning, it might be time to look at the area of town where the density is 300 people per square mile. Mr. Fairchild said we definitely have that—it is about 3000 per square mile. Ms. Barr said that should be reason enough to ban burn barrels. She asked Council to please consider banning open burning in the Borough.

Mr. Christini thanked her for the information and said it would be checked out.

CODE ENFORCEMENT REPORT

Mr. Haight reviewed his written report with Council and noted that #1 on page 1 was removed from the project totals because it never went through.

Mr. Haight also noted that no 3rd inspections have ever had to be done.

With regard to the Steve Michel's property, Mr. Haight it is being worked on by Mr. Frawley. Mr. Haight said there is someone new involved with the Meredith Wilson Estate and we are working with that person to get the property back on the tax rolls.

Mr. Haight said the property on Ann St. was discussed at the Code Enforcement Committee meeting. Mr. Kovalcin said he and Mr. Klinger feel it is not something we want to go to court over and spend a lot of money on it. Mr. Klinger noted that there are no sidewalks on Wilmot Dr., Foster Rd., and more. Mr. Sweitzer said there was a sidewalk before on the property that is being discussed. Mr. Kovalcin said it is a no win situation for the Borough.

Mr. McLinko asked whose property is being talked about and Mr. Haight said Mr. Ed Flynn's. Mr. Christini said he took his sidewalk out a number of years ago. Mr. Christini said he would like to see a motion to the effect that no action will be taken and the item removed from the report.

Mr. Klinger made a motion seconded by Mrs. Clark to remove the Flynn sidewalk item from the Code Enforcement report with no action being taken. The motion carried with Mr. Sweitzer and Mr. Christini voting nay.

Mr. Haight said some activity with regard to the fire destroyed property on Second St. has taken place. Mr. Frawley said he talked to a representative of the insurance company and they are waiting to see how the criminal litigation comes out. The insured has entered a plea to a couple of criminal infractions neither of which constitutes arson. The agent indicated he would contact the insured's attorney. Mr. Frawley said there are liens on the property and one is a mortgage that is tied to a Pennsylvania Housing Agency and he said he spoke to them and they said their legal department was reviewing the situation and that they were not available to talk to him but would be able to talk next week.

Mr. Frawley said he would speak to the insured's attorney to see if the Borough can go back into the building and see how it is holding up.

Mr. Frawley said with regard to the Wilson property on William St., he said he talked to counsel for the executor of the estate and the executor is willing to meet with representatives of the

Borough to see what can be done to the property. He said he will call and try to confirm a date when a meeting can be held.

Mr. Frawley reported to Council that he sent a letter to Mr. Michels asking him to contact me immediately because one of the creditors has indicated that they cannot speak to me without written authorization from Mr. Michels. Mr. Frawley said he felt the other major creditor would be cooperative if both creditors would cooperate. Mr. Sweitzer asked if the creditors being talked about are the ones with the 1st and 2nd liens and Mr. Frawley said they appear to be so. Mr. Sweitzer said we have been this route before and it ended up not working out because they were not the lien holders at the time. Mr. Frawley said the creditor that requires written authorization may not now own the mortgage but we have to talk to them to find out the history of the mortgage.

Mrs. Clark asked Mr. Frawley if he thought Mr. Michels would give the authorization and Mr. Frawley said he did not know.

Mr. Frawley said it was also his understanding that because of a case that came down several years ago, the Tax Claim Bureau does not want to have a tax sale on the property because they believe it would not be sold at “upset” sale and there would be a potential liability according to the case that came down before to the Tax Claim Bureau if it does not sell at the “upset” sale and they would have to own it until there is a sale. Mr. Frawley said he questions whether the County can simply refuse to sell the property. It appears the County may have an obligation to collect the taxes and make a reasonable effort to do so.

Mr. Sweitzer asked how can the County do that—pick and choose what property they want to sell for taxes and Mr. Frawley said he did not know if they could.

Mr. Christini asked if there is any action the Borough can take to try and force the County to sell it and Mr. Frawley said he had done some research on that this week and it seems the Borough can bring an action asking the County by what right do they have not to sell the property.

Mr. McLinko asked about the parking at the new bakery. He asked if some spaces were given to the business when it was Table Rock and Mr. Haight said it was given some on the other side. Mr. McLinko said it states 3 hour parking and Mr. Haight said that is right—it was reserved before but it is now 3 hours free parking. Mr. McLinko asked if that means someone going to the court house could park there and be there 3 hours and Mr. Christini said yes, just like any other business downtown. Mr. McLinko said there is room for about 3 parking spaces right behind the building by the “drive thru” window and Mr. Haight said that is where he has been parking. Mr. Fairchild said that is private property there. Mr. McLinko said he asked Mr. Haight to go down and talk to the person running the bakery and Mr. Haight said he did. Mr. Fairchild said he would go down and talk to the new tenant.

POLICE COMMITTEE REPORT

Mrs. Miller reported that the Committee discussed that the budget contained money for a full time officer for 10 months but she said we are not hiring a new officer. Because of the increased activities and people in town, the Chief is considering putting a third person on Friday and Saturday nights. She asked for Council’s approval on that. Mr. Sweitzer said the money is in the budget now so a motion is not needed.

Mrs. Miller said the Committee would like to recommend that the Police Civil Service Commission begin the process of testing police officer applicants for future hiring.

Mrs. Miller made a motion seconded by Mr. Kovalcin to authorize the Police Civil Service Commission to begin the process for compiling an approved list of police officers for hire. Motion carried.

Mrs. Miller reported that Mr. Frawley and the Chief are working on the police operating manual and the Committee will bring it to Council for approval.

CODE ENFORCEMENT COMMITTEE

Mr. Kovalcin said the Committee discussed some long range plans specifically Cash Creek drainage which will need to be addressed in the future.

Mr. Fairchild noted that there are four natural drainage ways through the Borough—Kingsbury Ave. that drains part of North Towanda Township which has been taken care of. Mix Run has also been taken care of with the Plank Road project. The next one is Cash Creek which starts at the Penelec Substation off from Convent Ave and drains Charles St., Mechanic St., part of Plank Road and goes under Fourth St., Third St., Second St. and under the museum parking lot, the 400 Main St. block and crosses under Rt. 6 across from the 400 block. This system was probably built in the 1800's and will have to be dealt with. The last one is College Run which drains Gorman's Pond and that area. That system goes onto the SCl property and under College Ave and Third St. and under Second St. Main St. to Gorman's Pond will need to be done at some point. These would be major infrastructure projects.

Mr. Fairchild said the first thing that will need to be done is a cost analysis which would involve some engineering.

Mr. Sweitzer said when we have a plan then we can go after grant money.

Mr. Kovalcin said the Committee also discussed the burn barrel issue and the Committee is recommending that the ordinance remain as is and not ban open burning. He said he heard for 12 people who wanted it allowed and only two who did not. Mr. Sweitzer said we need to enforce our current ordinance. Mr. Kovalcin said residents have to call the police when they have a burn barrel issue. Mr. Klinger said he has heard from more people who want to keep it than want to abolish it.

Mr. Frawley said he would check with DEP about the laws that affect open burning and get back to Council next month.

The issue was tabled until next month.

Mr. Kovalcin said the Committee also discussed the idea of the Borough purchasing its own paver in the future. Mr. Sweitzer asked how much would on cost and Mr. Fairchild said about \$50,000. Mrs. Clark said maybe we could find a used one.

Mr. Sweitzer asked if the Borough has a rotation of equipment list and Mr. McLinko said he asked for one a few years ago and got a partial list. Mr. Fairchild said there is not.

Mr. McLinko asked how is the clean up of Riverfront Park charged and Mr. Christini told Mr. McLinko he should stop at the Municipal Building and ask those questions.

Mr. Christini asked the Committee to get some figures together regarding the possible purchase of a paver.

BOROUGH MANAGER'S REPORT

Mr. Fairchild reported on the following items:

- Act 30 made Boroughs responsible for providing Killed In Service benefits to survivors of police officers killed in the line of duty. This has been funded by an insurance policy specifically for this purpose which was paid for from the police pension fund—about

\$1700 a year. Last year the state passed Act 51 which makes the state responsible for providing this coverage. The police pension ordinance needs to be amended to reflect this change. This has also been recommended by the fund's actuary.

Mr. Sweitzer made a motion seconded by Mrs. Miller to authorize the Solicitor to prepare the amendment to the ordinance and advertise it for possible passage at next month's meeting. Motion carried.

- SCI/YMCA Project – still waiting for grant contract amendment from the state. Being told it will be coming and as soon as we get this assurance we can notify Grimm Construction to proceed with the project.

Mr. McLinko asked if \$50,000 in taxpayer money is going to be used for the labor and equipment and Mr. Fairchild said yes.

- Attached list of Borough property including streets. Note that 33.878 acres which is the Bridge St. landfill which is currently under a gas lease with Chesapeake. The Eastside Riverfront Park has also been leased. Almost 96.2 acres left. Looked into the possibility of leasing all this and there is some interest. If Council is interested in this, it will need to bid the project. No drilling will be allowed.

Mr. Sweitzer made a motion seconded by Mr. Klinger to authorize the Borough Manager to move forward with the leasing of all the Borough's property. Motion carried.

- Act 129 of 2008 (Energy Efficiency Act) – Has to do with Penelec requesting PUC approval to meet the Act 129 mandate of reducing its electricity cost by 10%. One way Penelec is going to do this is to change out all of its street lights from mercury vapor to sodium vapor. All of Towanda's street lights have been done but Penelec will finance this project for all its street lights by imposing an increase in its tariff. Was approved by the PUC. Our bill will increase about 11% or \$4000 a year.
- Heavy truck traffic on Borough streets. Last month the Public Works Committee met with a gas drilling company doing work west of the Borough and talked about a preferred route and a road use maintenance agreement. The preferred route would have been Bridge St. which is a state route. This was not agreeable with PennDOT. They sited its part of Bridge St. going through a densely populated residential area. The Borough streets that these heavy trucks seem to be using are Plank Rd., N. Fourth, Lombard and Ward Ave and State St. are narrower and more densely populated than Bridge St. These trucks do not belong in Towanda Borough so a road use maintenance agreement is not the solution.

Today met with representative of Chesapeake who seem to understand our concern? Have also contacted other companies doing work west of the Borough. Have asked them to tell the subcontractors not to come through Towanda Borough. Mr. Fairchild said he would like to recommend prohibiting these trucks in the Borough except for local deliveries, school buses, emergency vehicles, etc. with a 10 ton weight restriction.

Mr. Fairchild noted that the Merrill Parkway was built to handle this kind of traffic. He said he would make an exception for that.

Mr. Frawley said Mr. Fairchild has spoken to him about this and also gave me a copy of a sample ordinance from Moosic, Pa. He said he took a look at them and also looked at others on line. He said he would discuss this further with Mr. Fairchild.

Mr. Sweitzer made a motion seconded by Mr. Roof to authorize the Solicitor to prepare and advertise an ordinance restricting weight limit on Borough streets with the exception of state routes and the Merrill Parkway with possible approval at the May Council meeting.

Mr. Fairchild asked Council if it would consider a special meeting to possibly adopt this ordinance as soon as possible. Council agreed.

Motion carried.

BOROUGH SOLICITOR'S REPORT

Mr. Frawley reported that he has finished the draft of the "hot pursuit" policy and have given it to the Chief and we will review it and meet with the Police Committee to review it with them.

The Lycoming Supply case is scheduled for arbitration on April 28. Mediation is supposed to be before that and he said the rules of mediation require that someone be present to commit the party they represent to a mediation agreement. He said he told them Council was his client and they said it would be alright for someone to represent Council. He asked Council to appoint someone.

Mr. Sweitzer made a motion seconded by Mrs. Miller to appoint Mr. Fairchild to represent the Borough in the mediation procedure with regard to Lycoming Supply Inc. Motion carried.

Mr. Sweitzer said he would like to see someone other than ourselves to review the hot pursuit policy and Mr. Fairchild suggests checking with DCED and the Borough's Association.

Mr. Frawley said with regard to one of the properties the Borough owns and leases with Chesapeake, when Chesapeake did the research it found there was an outstanding 2/3 interest in the oil and gas rights beside the Borough. Council decided to possibly bring a quiet action title action in hopes to establish the Borough as the sole owner. Asked an attorney to do it but it has not been done. Asked Attorney Fred Smith about it and he had serious doubts the Borough would succeed. Finance/Administration Committee feels it is best not to pursue it.

Mr. Christini asked Mr. Frawley to give the information about the former Pedro property to Mr. Fairchild.

BOROUGH SECRETARY'S REPORT

Ms. Harris asked Council to consider adopting Resolution 2010-6 approving the County's Hazard Mitigation Plan. She noted that this is something that is done every couple of years.

Mr. Sweitzer made a motion seconded by Mrs. Miller to adopt Resolution 2010-6 as presented. The Council was polled and the vote recorded as follows:

AYES: McLinko, Roof, Clark, Klinger, Kovalcin, Sweitzer, Miller, Christini

NAYE: None

Resolution 2010-6 carried.

Ms. Harris asked Council members to notify her if they wished to attend the Progress Authority annual dinner meeting on April 15 at the Country Club.

FINANCE

Mrs. Miller made a motion seconded by Mrs. Clark to pay the bills for the Towanda Borough General fund and special Borough funds as presented. Motion carried.

ADMINISTRATIVE

Mr. Christini noted that he and Mr. Fairchild and Mr. Haight are going to meet and review the permit fees which have not been updated since the early 80's.

PLANNING COMMISSION REPORT

Mrs. Clark reported that the Commission approved a request from Mr. & Mrs. Finlan to change the beauty shop into an apartment. The Zoning Hearing Board will hear the request on April 13.

RECREATION BOARD

Mayor Miller said the Board is discussing the sportsmen show and have sent vendor applications out. The show will be September 11th at Riverfront Park.

Mr. Sweitzer asked Mrs. Clark if she could report to Council about the YMCA since she is a board member and she said she would.

Mrs. Clark reported that there has been an increase in membership and the After School Program has been very successful.

Mr. Christini asked Ms. Harris to include minutes from TMA and the Progress Authority in the packets.

ADJOURNMENT

Mr. Sweitzer made a motion seconded by Mrs. Miller to adjourn the meeting. Motion carried. Meeting adjourned at 8:50 p.m.

Borough Secretary