

Borough of Somerset Council Meeting January 28th, 2019 at 7:00 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 was Junior Council Member Jonathan Wagner.

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

Announcements:

(a) None

Approval of Minutes of Previous Meetings:

(a) December 10th, 2018 – Committee of the Whole Meeting Minutes

Motion

Mrs. Ream moved, Mr. Thomas seconded to approve the December 10th, 2018 Committee of the Whole Meeting Minutes.

Motion Unanimously Carried

(b) December 17th, 2018 – Borough Council Meeting Minutes

Motion

Mr. Shaulis moved, Mrs. Ream seconded to approve December 17th, 2018 Borough Council Meeting Minutes.

Motion Unanimously Carried

(b) Departmental Reports - Approval of Departmental Reports for 2018

Motion

Mrs. Ream moved, Mr. Thomas seconded to approve the Departmental Reports for 2018.

Motion Unanimously Carried

Award of Bids:

(a) None

General Public Comments:

(a) *None*

Administrative Business:

(a) *Communications (none)*

(b) *Payment of Bills:*

Motion

Mrs. Opp moved, Mrs. Ream seconded, to approve the payment of bills numbered 32361 – 32588 totaling \$761,836.79.

Motion Unanimously Carried

Policy Agenda:

Old Business:

(a) *None*

New Business:

(a) Ordinance – *Consider adopting the Ordinance to establish the Act 172 Tax Credit for Volunteer Fire Fighters.*

Ms. Enos mentioned that this topic was discussed at the recent Committee of the Whole Meeting, and the final draft was circulated to Council. She stated that, as required, it had been duly advertised on January 17th, 2019.

Motion

Mrs. Pyle moved, Mr. Rosemeyer seconded, to adopt the Ordinance to establish the Act 172 Tax Credit for Volunteer Fire Fighters.

Motion Unanimously Carried

ORDINANCE NO. 1378

AN ORDINANCE OF THE BOROUGH OF SOMERSET, SOMERSET COUNTY, PENNSYLVANIA, IMPLEMENTING THE VOLUNTEER SERVICE CREDIT PROGRAM, AND ESTABLISHING A CREDIT FOR BOROUGH EARNED INCOME TAX AND BOROUGH REAL ESTATE TAXES FOR ACTIVE VOLUNTEER FIRST RESPONDERS WITH SOMERSET VOLUNTEER FIRE DEPARTMENT AND NON-PROFIT EMERGENCY MEDICAL SERVICE AGENCIES, AND ESTABLISHING RULES AND PROCEDURES TO CLAIM SUCH CREDIT.

WHEREAS, the Commonwealth of Pennsylvania has adopted Act 172 of 2016 (the “Act”) providing tax credits for Volunteer First Responders; and

WHEREAS, the Borough of Somerset recognizes the value to the community provided by all Volunteer First Responders, particularly the volunteer efforts of members of the Somerset Volunteer Fire Department; and

WHEREAS, the Council of the Borough of Somerset wishes to implement the Act to provide an incentive to current volunteers and encourage more residents to join in with volunteer fire, rescue and emergency organizations.

NOW THEREFORE, be it Ordained and Enacted, this 28th day of January 2019, that the provisions of Act 172 of 2016 are adopted to provide tax credits to Volunteer First Responders, as herein described:

Section 1. Definitions

Except as specifically stated in this section, terms defined in the Act used in this Ordinance shall have the meaning as in the Act.

“Volunteer First Responder” shall mean an uncompensated first responder in fire, rescue, fire police, emergency medical services or emergency management within the Borough who performs services without compensation and is otherwise qualified to receive the benefits provided in this Ordinance.

Where two or more eligible Volunteer First Responders reside in the same household, each shall be eligible for the full benefit as described herein in the same manner and amount to which they would be eligible if they did not co-habit with another eligible Volunteer First Responder.

Section 2. Qualified Participants

Volunteer First Responders eligible for the tax credit provided by this ordinance shall be limited to only those persons who meet the criteria established by this ordinance. The criteria may be changed prospectively by Resolution of the Council of the Borough of Somerset. The criteria are based upon the categories of emergency calls, training, meetings, work details and fund raising set forth in Section 79A21 of the Act. Only Volunteer First Responders who can establish Somerset Borough as their primary residence for the entire calendar year will be eligible for the tax credits provided by Act 172. The tax credit does not apply to any other taxes or taxes assessed in other municipalities.

Volunteer First Responders shall not be credited with hours or services for which they receive payment or compensation. Reimbursement of out-of-pocket expenses shall not be considered payment or compensation of an otherwise qualified Volunteer First Responder.

Section 3. Required Level of Activity and Certification

A qualified Volunteer First Responder shall provide the certification specified in Act 172 proving that the Volunteer First Responder has met the requirements in support of the organization for the prior year. A Volunteer First Responder who has qualified for the tax credit who is injured on active duty to the organization to the extent the injury prohibits participation by the Volunteer First Responder shall remain qualified and eligible for certification for applicable credits for the lesser of the period during which the Volunteer First Responder is prevented by injury to participate, or five (5) years from the date the Volunteer First Responder is first injured.

The Somerset Volunteer Fire Department and Somerset Borough Non-Profit Emergency Medical Service Agencies shall maintain a list of activities and time spent by each qualified Volunteer First Responder who is a member of their organization.

Certifications shall be due by the end of the **January** of each year, for the prior year and shall be submitted on a form acceptable to the Borough. The Chief and President of the Volunteer Fire Company and the Supervisor and Chairman of the Non-Profit Emergency Medical Service Agencies, under penalty of law for false statements to governmental authorities, shall sign and certify each list. The Council of the Borough of Somerset shall vote to accept or reject the persons named on the list at its next regularly scheduled meeting following receipt of a list. The certification deadline may be changed by Resolution of the Council of the Borough of Somerset.

Individual Volunteer First Responders seeking the tax credit must submit an

application confirming under penalty of law for false statements, that the hours of service recorded in the fire company or emergency medical service agency log during the year preceding were performed and provide a receipt for Borough Real Estate taxes paid for the current year and/or Earned Income Taxes paid to the Borough for the prior year. Applications must be submitted **on or before June 1st** of any year. Applications received after June 1st will be deemed untimely and denied.

Section 4. Amount of Tax Credit

- a) **Earned Income Tax Credit:** Every qualified Volunteer First Responder who has provided proper written certification by June 1st shall receive a reimbursement against earned income tax paid to the Borough in an amount not exceeding **\$200.00** provided that if an individual's tax liability is less than \$200.00, then the credit shall be equal to that lesser amount due.

- b) **Real Estate Tax Credit:** Every qualified Volunteer First Responder who has provided proper document certification by June 1st shall receive reimbursement of Borough real property tax paid against property in the Borough which the qualified Volunteer First Responder owns and occupies as a primary residence. The credit is **20% of the Borough realty tax actually paid up to a maximum of \$200.00.**

- c) **Modification:** The Council of the Borough of Somerset may modify the amount of the "**Earned Income Tax Credit**" and/or "**Real Estate Tax Credit**" by adoption of a resolution to take effect on January 1 of the following calendar year.

Section 5. Rules and Forms

The Council of the Borough of Somerset may adopt such rules and regulations and prescribe such forms to implement this ordinance, by motion at a public meeting, as the Borough Council shall find to be helpful and convenient in effectuating the purposes of this ordinance and Act 172 of 2016.

Section 6. Severability

If any part of this ordinance is adjudicated invalid by a court of competent jurisdiction, it is the intention of the governing body that the remainder of the ordinance be construed in such a manner to give full effect to the remaining provisions.

Section 7. Penalty for False Statement

The penalty for false statements in connection with claiming a tax credit under this ordinance shall be as set forth in Act 172 of 2016.

Section 8. Appeal of Adverse Decision

Any person aggrieved by a denial of a tax credit provided for in this ordinance may request a hearing under the Local Public Agency Law, 2 Pa.C.S.A. § 551 et seq. The hearing may be held by the Council of the Borough of Somerset, or any person designated by Borough Council to act as hearing officer. A request for such a hearing shall be made **within 30 days** following the designation of persons entitled to tax credits by the Council of the Borough of Somerset at its regularly scheduled public meeting.

Section 9. Effective Date

This ordinance shall take effect on **January 28, 2019**, and apply to Earned Income Taxes incurred and paid in 2018 and apply to real estate taxes assessed, due and paid in 2019.

Adopted this 28th day of January 2019

(b) Resolution No. 2019-1 – Consider authorizing the disposal of Borough records in accordance with the Commonwealth’s Record Retention Act.

Ms. Enos stated that this is a combination of several years involving the Police Department Records, and Water and Sewer Department Records. She mentioned that this is something we do annually.

Motion

Mrs. Opp moved, Mr. Rosemeyer seconded, to authorize the disposal of Borough records in accordance with the Commonwealth’s Record Retention Act.

Motion Unanimously Carried

RESOLUTION NO. 2019-01

WHEREAS, The Borough of Somerset adopted Resolution No. 87-02 on April 27, 1987 providing for the destruction of certain papers in accordance with the Retention and Disposition Schedule for Records of Pennsylvania Municipalities and;

WHEREAS, The Somerset Borough Administration wishes to dispose of some of its records in accordance with this Resolution;

NOW THEREFORE, BE IT RESOLVED, that the following items be authorized for purging:

POLICE DEPARTMENT:

- *2011 Accident Reports*
- *2016 Abandoned Vehicle Forms*
- *2017 Abuse Petitions*
- *2008 Trespass Records*
- *2014 Letters In / Out*
- *2014 Warning / Repair Forms*
- *2014 Borough Permits*
- *2012 Vehicle Calibrations*
- *2015 Seized License Plates*
- *2015 Drivers Records*
- *2016 Due Diligence Forms*
- *2017 Paid / Voided Parking Tickets*
- *2015 TDR's (Transport / Detention / Release Record)*
- *2014 Closed Traffic and Non-Traffic Citations*
- *2015 Residential Parking Permit Applications*
- *2017 Victim Services Forms*
- *2015 Magistrate Reports*

WATER / SEWER DEPARTMENT:

- *2011 Water / Sewer Bills*
- *2011 Penalty Run & Account Detail Sheets*
- *2011 Daily Cash Receipts Journal*

- *2011 Adjustments*
- *2011 Log Books*
- *2011 Payment Schedules*

Adopted this 28th day of January, 2019

(c) *Engineering Agreement* – *Consider entering into an agreement with the EADS Group, Inc. for engineering services for the Sewer Treatment Plant Projects approved in the 2019 Budget.*

Ms. Enos stated that this is for projects that were approved for the 2019 Sewer System Capital Budget. This incorporates the \$25,000.00 for Engineering Services that was already established as part of the cost that was approved.

Motion

Mrs. Opp moved, Mr. Thomas seconded to enter into an agreement with the EADS Group, Inc. for engineering services for the Sewer Treatment Plant Capital Projects that were approved in the 2019 Budget.

Motion Unanimously Carried

(d) *2019 International Dump Truck* – *Consider authorizing the purchase of a 2019 International Dump Truck through the Commonwealth’s Cooperative Purchasing Program in the amount of \$131,382.00. (Public Works Department)*

Ms. Enos mentioned that the price of this dump truck came in at approximately \$18,000.00 less than what we originally budgeted for and approved during the budget process. This is replacing a truck that has been out of service for 5 years, and was 20 years old.

Motion

Mr. Shaulis moved, Mrs. Opp seconded to authorize the purchase of a 2019 International Dump Truck through the Commonwealth’s Cooperative Purchasing Program in the amount of \$131,382.00. (Public Works Department)

Motion Unanimously Carried

(e) CAT Mini Excavator – Consider authorizing the purchase of a CAT Mini Excavator through the Commonwealth’s Cooperative Purchasing Program in the amount of \$49,088.00. (Water Distribution Department)

Ms. Enos stated that the price of this mini excavator was approved during the budgeting process. She stated that this is through Cleveland Brothers.

Motion

Mr. Rosemeyer moved, Mrs. Opp seconded, to authorize the purchase of a CAT Mini Excavator through the Commonwealth’s Cooperative Purchasing Program in the amount of \$49,088.00. (Water Distribution Department)

Motion Carried (6 yes - 1 no)
(Mr. Thomas voting “No”)

(f) Zoning Hearing Board Solicitor – Consider the appointment of Alexander C. Boose, Esquire to represent our Zoning Hearing Board.

Ms. Enos mentioned that there was someone previously considered for this position, but she declined. Solicitor Cascio spoke to Attorney Boose, and he is willing to represent our Zoning Hearing Board.

Motion

Mrs. Ream moved, Mrs. Opp seconded, to appoint Alexander C. Boose, Esquire to represent our Zoning Hearing Board.

Motion Unanimously Carried

Mrs. Miller thanked everyone that helped take down the holiday decorations in town. She also brought out that Mr. Rosemeyer was mentioned in the PSAB book.

Chief Cox mentioned that the new Police Cruiser had come in. He mentioned that they had a price savings of \$2,000.00 - \$2,500.00 by picking up a 2019 “leftover.”

Mr. Rosemeyer thanked Chief Cox on behalf of Laurel Arts. They appreciate the Officers involved responding to an incident there. Chief Cox mentioned that Officers Pyle and Fulton were the Officers on the scene.

Solicitor Cascio wanted to inform Borough Council of a request that was received. He brought out that we are going to follow a procedure that the Law permits relating to Zoning Determinations.

This specific request is for the First Energy/Penelec building in the Industrial Park. They are requesting permission to install a wireless communications antenna pole that is

183 feet in height. The request is made for a Zoning Determination, and not a Permit, because by Law, a PA public utility is exempt from local zoning regulations.

But rather than just grant it through Borough Council, at our request, they are making a Request for a Zoning Determination under the PA Municipalities Planning Code, which states that they are exempt.

Solicitor Cascio explained that instead of advertising a meeting, and having it voted on by Borough Council at the meeting, the Borough will advertise the Zoning Determination under the PA Municipalities Planning Code.

Solicitor Cascio explained that after advertising, if an individual does not agree that it is exempt by virtue of the primacy of the PA Public Utility Code, then they can raise an objection, and it can be determined in the appropriate manner. This allows the competing State laws to be properly applied.

Mrs. Pyle mentioned that the date for the "Courthouse Gala" was changed to May 25, 2019. Also, the price for access to the roof was changed to \$150.00.

Mrs. Pyle mentioned that the numbers for "Fire & Ice" were not in yet, but they felt it was successful.

She also brought out that the Historical Signs are still on hold, due to a broken machine at Vo-Tech School. She stated that the first batch of signs are out and were given to the businesses requesting them.

Executive Session – *To discuss potential litigation.*

Motion

Mrs. Opp moved, seconded by Mr. Shaulis to go into Executive Session to discuss potential litigation.

Motion Unanimously Carried
7:17 p.m.

Back in Regular Session

7:38 p.m.

ADJOURNMENT:

Mrs. Pyle moved to adjourn, seconded by Mr. Thomas.

Motion Unanimously Carried
7:39 p.m.

Michele A. Enos, Borough Manager/Secretary