

**BOROUGH OF DUNCANNON**  
**SPECIAL COUNCIL MEETING MINUTES**  
**March 28, 2014**

**Members Present:** President Duane Hammaker, Michael Bomberger, Frank Eppley, Gerald Bell, William Corsnitz, Roger Williams, Kraig Nace and Mayor Conrad

**Members Absent:** None

**Others Present:** Borough Manager - Lynn Roche and Solicitor – Susan Smith

**Citizens Present:** No Citizens Present.

President Hammaker opened the meeting at 6:00 pm on March 28<sup>th</sup>, 2014 with a moment of silence followed by the Pledge of Allegiance to the American Flag.

**Recognition of Citizens:** No Citizens Present.

President Hammaker said the purpose of tonight's Special Council Meeting is to discuss Personnel Matters.

**Bomberger/Bell:** motion to enter Executive Session for Personnel Matters – PASSED

**Entered Executive Session at 1802 hrs.**

**Bomberger/Bell:** motion to re-enter Regular Session – PASSED

**Entered Regular Session at 1815 hrs.**

President Hammaker said in Executive Session one Personnel Matter was discussed that related to the gift cards that were presented anonymously on March 18<sup>th</sup>, 2014 to 9 Borough Employees. Council has a Police Report stating that the gift cards with those particular numbers were purchased at the Pilot Store located at 30 Benvenue Road, Duncannon, PA 17020. The store clerk remembers Kraig Nace purchasing the gift cards that evening at the approximate time in which the card provider said they were so purchased at this site. President Hammaker asked Council how they would like to handle this matter.

**Questions**

Mr. Bomberger asked with the content of the letter does it cross the threshold with an ethical violation. Ms. Smith reminded Council that at the last Council Meeting she had indicated that the Ethics Law specifically prohibits an employee to accept gifts that are intended to potentially affect their objectivity to give them a community gain for services not provided. The Law also fines a person in violation if they were to seek such a relationship with an employee that is to attempt to influence that employee's objectivity in the performance of their duties. Ms. Smith said if it comes to light that it appears there is an intent to influence the objectivity of an employee in the performance of their duties, then this is a violation of Law. If it becomes very clear that this is the intent or is perceived as being the intent everybody has to disclose, there has to be a public disclosure and there is the potential that both sides of the equation would be cited by the Ethics Commission for an Ethics Violation.

Ms. Smith said at this point Council doesn't know if there is a violation, but what takes her out of her comfort zone with respect to the legitimacy of the gift is then to say, this isn't from three of the Council Board Members. This gives the suggestion that the remaining Council Members are the only ones that can be trusted, that the employees should do work for and are the only ones that appreciate the work. Ms. Smith said this piece of the letter suggests to her intent to influence.

Ms. Smith said she would like to remind everyone she is particularly bothered by the employees being put in a bad position. Violation of the Ethics Law is Criminal, it is not Civil it may also become a Civil Case, but it is first and foremost a Criminal Violation.

Mr. Bomberger asked President Hammaker since the previous discussion in Executive Session, if he would find out if Council has an admission.

President Hammaker asked the Table if anyone would like to elaborate or discuss the gift card incident or what they know about the gift carding or the letter, anything at all that they may know, would anyone like to discuss this now. No Response.

Mr. Bomberger said he thinks one of the things that are very important to everyone sitting at the table is there is some value structure and integrity. The problem now is the whole Board is painted with a brush that isn't too pretty.

**Bomberger/Bell:** motion to engage the State Ethics Commission to investigate the Borough Employee Gift Card matter –Previous motion withdrawn.

### **Discussion**

President Hammaker said to Mr. Bomberger that he struggles with the motion for the fact he is not sure if there is a step that needs to be taken in between. There is no confirmed knowledge that it's there. Mr. Bomberger said he is okay with this, but there is no denial either. President Hammaker said he is wondering if it is appropriate to have an investigation that can better link it, since there is no confirmation or denial. President Hammaker said or does Council give the State Ethics Commission permission and state their case and let them investigate it. Mr. Bomberger said any further investigation that Council does is on their dime. President Hammaker said this is correct.

Ms. Smith said the State Ethics Commission will act on complaint or a reason to know there is a violation, the State Ethics Commission also can be asked to offer an opinion based on whatever facts Council wishes to put before them. President Hammaker said if the path is taken to seek opinion Council wouldn't have to say this person did this by name, because there is no admission or denial at this point. Ms. Smith said if Council would be seeking an opinion then the facts that would be put before the State Ethics Commission would be the gift cards were distributed to the Borough Employees, the manner they were distributed with a letter that was anonymous, but had this content. President Hammaker said and that it is believed to have possibly been a Councilman. Ms. Smith said a complaint would do the same except Council would only be able to offer in terms of information the Police Report.

President Hammaker said he asked Chief Pickles what could further be done for investigation and Chief Pickles said one of the envelopes that were unopened could be taken to the State Police Lab and analyzed according to their procedures, but there is a cost associated with this.

Ms. Roche said at the March 18<sup>th</sup>, 2014 Council Meeting her, Lisa and Tom's gift cards were given to Chief Pickles and all the other Borough Employee's gift cards were given to her with the exception of Kathy Smith's and are in a secure location.

President Hammaker said this matter is serious enough that he is going to go up and down the table before this vote is taken to make sure all of Council's input and thoughts are heard.

**Mr. Bomberger** – Mr. Bomberger said he stated enough already.

**Mr. Eppley** – Mr. Eppley said he is still thinking of what the end result of this will be and is it worth pursuing or could it be picked up at a later time if more evidence comes in, because he has never been involved in something like this.

**Mr. Bell** – Mr. Bell said he would like to pass at this time.

**Mr. Williams** – Mr. Williams said this is all new to him and he is trying to decide what Council is going to gain, what it will cost to gain an answer that Council already probably knows the answer to. He doesn't know where to go, but it should be settled here and not taken outside.

**Mr. Corsnitz** – Mr. Corsnitz agrees with what Mr. Williams said that it should be handled at this table, but does not appear it is going to be. With sitting at this table for only three more days, if what Council believes to be true is true then it will just continue to fester.

**Mr. Nace** – Mr. Nace had no comment.

**Mayor Conrad** – Mayor Conrad said he feels the intent was a good hearted intent. President Hammaker asked Mayor Conrad if he read a copy of the letter. Mayor Conrad replied, "No, he does not have a copy of the letter." President Hammaker told Mayor Conrad he should read the letter before he convinces himself that the intent was good. President Hammaker said as Ms. Smith had mentioned the top half of the letter the intent was good, but the bottom half of the letter maybe not so. Mayor Conrad said he cannot see moving to a Criminal Prosecution and he thinks it should be dealt with at the table.

**Mr. Bell** – Mr. Bell said he does not like what he perceives as a wedge being driven between this Council. This to him shows much ignorance on anybody's part, because Council is striving to better the Community, bettering the Community does not allow Council to take sides, although each Member has their own opinion. Mr. Bell said he thinks something like this is very detrimental to a Council or any Governing Body. He hates to see this progress further and hopes someone will stand up and take it like a man.

**Bomberger/Corsnitz:** motion for Council to pursue whatever other means are available to the Police in the Prosecution of this case – PASSED - By Roll Call Vote.

President Hammaker said there will be a roll call vote due to Mr. Eppley did not vote on the motion and Mr. Williams opposed the motion.

### **Roll Call Vote #1 – To Have Police Continue to Investigate the Gift Cards**

**Frank Eppley – Yes**

**Roger Williams – No**

**Kraig Nace – Abstained**

**Mike Bomberger – Yes**

**Bill Corsnitz – Yes**

**Gerald Bell – Yes**

President Hammaker said Council will ask the Police to continue the investigation and find out if they can prove any more information on the provider of the gift cards. President Hammaker

requested Ms. Roche keep the gift cards locked in a secure area. President Hammaker asked Ms. Roche if she has all of the gift cards back or do the Police still have some of them. Ms. Roche said the Police still have the three gift cards she gave to Chief Pickles and she did not receive Kathy Smith's gift card back. President Hammaker said for the record this is the current positioning of the cards and Council is still seeking to give the gift cards back to the rightful owner and in the meantime trying to find out who the owner is.

Mr. Bomberger requested the amount of the gift cards. Ms. Roche read each Borough Employee's gift card amount.

Lynn Roche - \$50.00

Lisa Shearer - \$50.00

Tom deChamplain – Envelope unopened and given to Police.

Paul Liddick - \$25.00

Michael Bell - \$25.00

David Keen - \$25.00

Clarissa Pyle - \$50.00

Michael Criley - \$50.00

Kathy Smith – Did not turn her gift card in.

### **Discussion**

Mr. Eppley said if the Police are putting too much time into this investigation and the Borough is being charged back into their hours will this come out of the Borough's patrol hours or how will it be handled. He said if this is going to go into a long investigation he will drop out and say no, not to do it, because he is not in favor of it if it will drag on. Mr. Corsnitz asked why this would be different from anything else that the Police would investigate in the Borough. Mr. Eppley said he would like a list of hours the Police will spend on the investigation and if it looks like it's just hour after hour after hour he has a problem with it. Mr. Bomberger asked Mr. Eppley if he thinks there are other public safety issues that are more important than finding out if there is a rat at the table. Mr. Eppley said he thinks the public safety on the streets is more important than this case. Mr. Bomberger said he would respectfully disagree with this assessment, because he doesn't know how Council can perceive doing any government business when they can't trust the people they are sitting next to. Mr. Eppley said at this point Council can continue on, because they don't know, it's a Council as it is right now there is suspicion and that's it and he doesn't have any problem going forward. Mr. Eppley said his problem is with a Police Investigation they can go on and on and on and time rolls up and money rolls into it. President Hammaker asked Mr. Eppley if he would like to set a dollar limit on it. Mr. Eppley said he would like the Police to give Council an estimate on it. Lengthy discussion held.

President Hammaker said he will ask the Police Department how many hours and what the cost will be to continue the gift card investigation and call Mr. Eppley with the answer.

Mr. Bomberger said Council will need to re-convene, because this is not what the motion was and if there is going to be a stop put on the investigation. President Hammaker said if the Police Department cannot do the investigation in what Mr. Eppley feels is a reasonable amount of time, the motion would still carry without his vote. President Hammaker said, in an effort to be up front and honest and transparent with everyone he doesn't mind taking a phone vote, but the motion would still carry without Mr. Eppley's vote.

President Hammaker said the next issue is another Personnel Matter regarding a letter received. President Hammaker asked if Council's wishes are to handle this matter in Executive Session or not.

Mayor Conrad asked what the Personnel Matter is about. President Hammaker said two letters were received from a Borough Employee. Lengthy discussion held about entering Executive Session or not.

**Williams/Nace:** motion to enter Executive Session for Personnel Matters – PASSED – By Roll Call Vote.

**Roll Call Vote #2 – To Enter Executive Session for Personnel Matters**

**Frank Eppley – Yes**  
**Roger Williams – Yes**  
**Kraig Nace – Yes**  
**Mike Bomberger – No**  
**Bill Corsnitz – Yes**  
**Gerald Bell – No**

**Entered Executive Session at 1847 hrs.**

**Entered Regular Session at 2047 hrs.**

President Hammaker said in Executive Session Personnel Matters were discussed and the Personnel Committee has been charged with addressing the issues with Borough Employees.

President Hammaker said as a matter of Public Record Council will include a copy of the Police Incident Report #20140320M0265 as part of the Public Record.

**Corsnitz/Williams:** motion to adjourn at 2051 hrs. – PASSED

Respectfully Submitted,  
Lisa Shearer  
Duncannon Borough Secretary