

**BOROUGH OF DUNCANNON  
COUNCIL MEETING MINUTES  
November 18, 2014**

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

**Members Absent:** Fred Lauster (informed Mr. Hammaker he would be absent due to illness)

**Others Present:** Solicitor – Susan Smith, Borough Manager – Lynn Roche, Engineer – Ron Brown, Chief Pickles from the Penn Township Police Department

**Citizens Present:** Sandy Baker, Kathy and Tim Smith, Sean O'Shell, Lisa Landis, Gary Hilbish, Harry Baker, Sean Sauro, Paul Smith, Evina Allen, Jim Kerr, LeaAnne Clugston, Lisa Shearer, William Hobbie, L. Nace, Charlie Wise, Henry Holman III

A public hearing regarding the property at 216 Church Street was held at 7:00PM. The property owner was not in attendance.

President Hammaker opened the meeting at 7:30PM on November 18, 2014 with a moment of silence followed by the Pledge of Allegiance to the American Flag.

**Minutes: Eppley/Bell:** Motion to approve October 21, 2014 minutes; as corrected – **PASSED**

*Page 1, Tim Auxt, line 3 switch work and invasive. Page 5, Codes Enforcement: add 219 Center street after A letter was sent to MagDun. Page 8 Infrastructure, add 'on Routes 11 & 15 south of the Duncannon Borough after two lanes will remain open.*

**September 16, 2014 Minutes** – The September 16, 2014 minutes had been tabled at the October 21, 2014 meeting. Council discussed approval of the tabled minutes. Mr. Bomberger asked for verification that the sewer matter at the Auxt/Audet household was closed. Formerly a newspaper article showed a council member stating that the matter was still open.

**Williams/Nace:** Motion to accept the September 16<sup>th</sup> Minutes as printed – roll call vote  
Yes Votes: Mr. Eppley, Mr. Williams, Mr. Nace. Opposed: Mr. Bomberger, Mr. Bell, Mr. Hammaker. Mayor Conrad votes in the event of a tie: Mr. Conrad votes yes. **PASSED**

President Hammaker opened the hearing for the ordinance amending Chapter 155 Peddler's and Solicitation Ordinance. Two borough citizens, Mr. O'Shell and Mr. Hobbie voiced approval of the ordinance change.

President Hammaker opened the hearing for the Ordinance Repealing Ordinance #362 as Codified at Chapter 38 – Pensions of the Code of the Borough of Duncannon. Solicitor Smith summarized the ordinance for the council and those in attendance. There was no public comment.

## **RECOGNITION OF CITIZENS**

**Sean O'Shell** – Mr. O'Shell is associated with the Duncannon Appalachian Trail Community organization. Mr. O'Shell reported that the 'Stack' area has been cleaned and is now litter free.

The Duncannon Appalachian Trail festival is planned, a permit has been obtained and is now set for June 20, 2015. The example for a sign warning of the consequences of defacing any surface or littering in the area of The Appalachian Trail and Hawk Rock has been submitted.

The DATC would like to maintain an area of trail that is on Borough Property. This particular area is in dangerous condition and they would like to widen it and make it safer using only natural elements. The maintenance would be mindful of run-off and be done in a way to prevent further damage. Solicitor Smith suggested that the DATC should submit a photo survey along with a who/what/when/where of the project to the borough.

Mr. O'Shell questioned if the road in the watershed had been repaired after timbering. That repair has not yet taken place. He also indicated that a section of the forest looks to have been clear cut.

**Evina Allen** – Asked for an update on the progress of the 'Blind Children' sign requested. She also stated that there are certain requirements for the placement. The Borough Manager said that two signs have arrived and will be put up within the week. The others have not yet been delivered but are expected in early December.

**William Hobbie** – Mr. Hobbie stated the properties at 18-28 Market are open and accessible. They are a danger to the community and to any children who may get curious. He is concerned with the possibility of a fire or arson as well. He would like to see something done with these properties. He said it is obvious that people have been entering the building on a regular basis.

**Gary Hilbish** – Mr. Hilbish inquired if any information had been received from the Department of Environmental Protection regarding the watershed and the possibility of the proposed ATV (All Terrain Vehicle) club. Mr. Hammaker said information would be shared later in the meeting.

**L. Nace** - Made a statement to Mr. Hammaker and Mr. Bomberger about a check that was found after a year and cashed.

## **CORRESPONDENCE**

**Henkels and McCoy Fees** –The fees from last year were submitted for comparison. Mr. Nace questioned the competitiveness of these rates. We have been working with this company since at least 1972.

**Bell/Eppley** – Motion to adopt the Henkels and McCoy fee schedule - Passed, Mr. Nace opposed.

**Intermunicipal Police Agreement between the Duncannon Borough and Penn Township for 2015** – No discussion at this time.

**Sun Home Health & Hospice** – They are looking for a donation of an unspecified amount.

## REPORTS

**Mayor's Report** – Written report. Mayor Conrad thanked all who participated and helped to make the Halloween parade a success.

**Police Report** – Chief Pickles said things are going well. He recommended that residents store grills and gas bottles in a safe place for the winter and they are a common theft item in the winter months. The Buckle-up grant finished in October and Aggressive Driver grants in ongoing.

### **Secretary/Treasurer's Report -**

**Bomberger/Williams:** Motion to approve report as presented, subject to audit – **PASSED**

**Borough Manager's Report** – Written Report. Ms. Roche is looking into the ISO for our hydrants. The boards are being updated. She met with Mike Amsler from Don Jacobs and they are finishing the preliminary work needed for the selective quotes. The quote for the insurance package for the properties should be back by early December.

Mr. Nace asked about the sensors on the streetlights. Ms. Roche stated that they are old and some need replaced, some repaired and it is being determined what to order.

**Bills to Be Paid/Ratified – Bomberger/Bell:** Motion to pay and ratify the bills including credit card expenses as presented – **PASSED**

**Solicitors Report** – Solicitor Smith has fielded an inquiry of our record retention and disposition. Duncannon Borough adopted a resolution to follow the Records Retention Act Many years ago. This Act determines the number of years or time that records must be kept. This should be revisited yearly.

She also has an inquiry about litigation involving Penn Township. This is a scattershot litigation filed by an incarcerated individual.

There is new and evolving law in terms of the Right to Know law. The open records manager has been notified. This involves how an RTK should be submitted and when it becomes a Right to Know request.

She has been working on lien issues. They should be updated to cover new arrearages.

Ms. Smith is preparing documentation for the ordinance violations on various properties.

Ms. Smith prepared the ordinances and notices for possible adoption at this meeting.

She looked at paperwork involving the Market Street Sewer Project over-run and continued to work on the Barrick property compliance issue.

There has not been a final response on the PPL litigation, therefore that is still in limbo.

She has received correspondence regarding the METRO Bank matter and they are still looking into it, but they have been delayed. They will continue to pursue the matter.

Mr. Nace asked about the adjustment for the incorrect ordinance preparation for last months' meeting. An adjustment of \$22.00 was made.

**Engineer's Report** – Mr. Brown will be meeting with Eichelberger well drilling in regards to Well #1. The well casing needs to be raised 18 inches. They will be providing a quote for this work. They will also look at the pump on well 2 as it is leaking and will likely need replaced.

He will also meet with PESI to begin the renewal process for the discharge at the sewer treatment plant.

They will discuss the audit on the sewer plant to improve efficiency. They will review the operation and equipment to see where improvements may be made.

The Data will be sent to SEDA-COG by the end of the week so that they can complete the application for the grant for the water line replacement. A second phase grant of about \$750,000 is also available for water line replacement and is being pursued.

There are two items to be discussed regarding the Market Street sewer project. The first is the certificate for payment #3 in the amount of \$23,650.16. This is the retainage that was held from the contractor. That will finish payment of the original contract sum. Both Authorities have approved this payment. The second item for discussion is the Change Order. The amount of the change order is \$76,568.32. The Authority feels it is the borough's responsibility to settle the change order and they will then settle with the borough. The contractor feels there is no room for him to lower the amount of the change order. At this point the borough can decide to pay this amount or send the issue to arbitration. The ruling of arbitration is final and cannot be contested.

Mr. Nace would like to see the issue go to arbitration. Mr. Brown feels that no matter who would have received this bid, a change order would have been an issue because of the water line interference and the water level in the trench as well as the inaccurate drawings provided to the contractor. Mr. Brown informed council that The JOC does not wish to add any more cost to the project. This includes legal and arbitration costs. Mr. Brown stated that this is a sewer project, not a water project. Solicitor Smith said arbitration can cost many thousands of dollars, and if you are not successful you must pay the costs of the other party involved. Mr. Henry Holman III of the JOC said that while no one is happy with the outcome but stated that they do not wish to add the cost of arbitration. Tim Smith suggested that a time & materials clause be considered in future contracts.

Mr. Nace questioned where the funds would come from to pay the change order. Mr. Bomberger said the funds are available in the sewer fund.

**Williams/Eppley** – Motion to pay the change order for the amount of \$76,568.32 to Shiloh Paving and excavating– PASSED with a roll call vote. Yes votes: Mr. Eppley, Mr. Williams, Mr. Nace, Mr. Bomberger, Mr. Bell.

Mr. Holman commented that we have one more sewer project to complete. There has been good cooperation between the Borough and Penn Township and he looks forward to completion of the project.

Bomberger/Bell – Motion to pay Certificate #3 in the amount of \$23,650.16. -PASSED

### **PESI** – Written Report

Mr. Nace asked who was responsible for the written response to DEP in regards to the Notice of Violation. PESI responded within the 5 days electronically and a signed official copy was sent upon Ms. Roche's return from vacation. They were aware that the official response would arrive past the 5 day deadline.

### **Codes Enforcement** – No report

**Duncannon Fire Company** - The Fire Company submitted a report of Incidents per zone for Council. Mr. Nace questioned the \$0.00 loss within the Borough. Charlie Wise represented the Fire Company and explained that they are planning to create a committee with a representative from each municipality in the area.

### **UNFINISHED BUSINESS**

**ATV Club Proposal** – Mr. Hammaker provided research compiled regarding the protection of well areas and ground water protection and run-off. Our water contact Christine Metzger put us in contact with Ms. Katherine Port who provided an overlay map showing Zone 1 and Zone 2 well protection areas for the borough's current water. These maps show the water protection areas. These areas need to be protected to ensure that the water going into the aquifers remains protected. The Perry County Conservation District included the process for Erosion and Sedimentation plan. Todd Brajkovich sent a letter stating that a comprehensive plan would need to be approved if over 1 mile of road is planned to be used. The Chesapeake Bay commission was also concerned with Erosion and Sedimentation. The Appalachian Trail Conservancy also sent a report concerning trail trespassing. The Recreational Lands Act protects owners of recreational lands from liabilities as long as the land remains relatively undisturbed. The more improvement the more likely you run the risk of liability. Invasive species can also be carried on ATV's from one area to another creating a forestry problem.

Mr. Hammaker asked Mr. Hilbish how a small club would work. Mr. Hammaker struggles with limiting access. With a club, who would be admitted membership? Mr. Hilbish said it would be up to the borough to make that decision. Solicitor Smith said that the Borough cannot discriminate. They cannot pick and choose who would be admitted to this club. It is public land and if it is open to ATV traffic, it must be opened to all ATV traffic. Mr. Nace questioned if it could be a number of people permitted and Solicitor Smith responded that you then have an enforcement issue, how would that be regulated.

It was asked why the Boy Scouts and allowed access to the service road. Mr. Hammaker said they request a permit for the week of summer camp and they have the proper insurance to protect the borough from liability. Anyone with proper insurance may request permits.

Erosion & Sedimentation regulations for the County follow the Department of Environmental Protection regulations and they are not a simple process, they include management of storm water. That would include engineered drawings. This would be a very comprehensive plan and a borough would be responsible for the same application fees as a private citizen. The cost could be several thousand dollars just to submit the plan for review.

Mr. Eppley said this would be a regulatory nightmare. Mr. Bomberger was concerned with the E & R and liability insurance.

Mr. Hammaker said training could be considered for the fire company as that would fall under their liability insurance. The problem is with recreational use.

Mr. Williams stated that while it is a great idea and he supported it, until he has an idea of the cost he cannot approve this to be done any time in the near future.

**Bell/Bomberger** – Motion to deny use of the Watershed for ATV use – PASSED. Williams, Nace Opposed.

**Delinquency/Terminations Policy** – No action

**2009 Edition of the International Property Maintenance Code** – The committee would like all Council Members to look at it and give input. If these codes are adopted they will need to be

enforced. Mr. Nace stated that is a lot to enforce and we have property codes that have not been well enforced thus far.

**BREAK – 9:36PM – 9:50PM**

**216 Church Street –**

**Nace/Williams** – Motion to declare the property at 216 Church Street property Dangerous and Dilapidated under the ordinance – PASSED

A written decision approved by council will be sent to the last known address of the owner on record. A Carlisle address was mentioned and will be pursued.

Council discussed a contingency plan in the event that the owner does not take action on the property. Mr. Bomberger said that the owner would have no reason to act if they knew we had a demolition plan in place. Mr. Hammaker does not want to set a precedent and is only considering this demolition because of the street closure.

**Williams/Nace** - Motion that once the Dangerous and Dilapidate decision is issued and 15 days pass with no action by the owner, demolition will occur at the cost of the borough. Cost not to exceed \$8,000 to be paid from the timber account, to be paid back only in the event the lien is satisfied. Legal fees related to this property going into the past and going forward are all to be concentrated and paid from timber – PASSED with a roll call vote. Yes votes: Williams, Nace, Bell. No Votes: Eppley, Bomberger.

Mr. Nace stated a reminder to put placards on the building at the appropriate time.

**Absence –**

**Nace/Eppley** – Motion send a letter to Mr. Lauster requesting correspondence of his anticipated return for the borough records – PASSED

630 High Street – Mr. Nace said the property is open and accessible and he asks that the Codes Enforcement Officer investigate the property and report back to Council

**COMMITTEE REPORTS**

**ADMINISTRATION, FINANCE & IT –**

**Bomberger/Bell** – Motion to pay the Fire Company the second half installment for 2014 of \$11,500- PASSED

**Bomberger/Bell** - Motion to pay the Fire police the budgeted \$500 for 2014 – PASSED

Mr. Nace asked if there were any estimates for the online payment of utility bills.

**FLEET, FACILITIES & UTILITIES** – No report

**PARKS & RECREATION** - Mr. Williams said a permit is needed for New Year's Eve

**Nace/ Bell** – Motion to approve an Event Permit for New Year's Eve, Closing Market Street from Maple Street to Walnut Street from 8:00PM on December 31, 2014 until 2:00AM on January 1, 2015 – PASSED

The Recreation board is working with Cornerstone and they plan to use a confetti cannon again this year but they have built time into the permit to allow for proper clean-up. They are looking for a vendor to lower the sled as the fire company may not be available in the case of an emergency.

Mr. Nace asked if a permit was requested for Winterfest. The EMS has not received any information on the event. Ms. Roche stated that letters were sent in September. Mr. Nace asked where Winterfest was budgeted. Mr. Bomberger stated that it is on line 154.22 of the budget. \$500.00 in and \$500.00 out.

**PERSONNEL** – No report

**PUBLIC SAFETY & STREETS** – Signs have been ordered for 138 Market Street. A driveway was paved at a property on Center Street, it did not cover our right-of-way. A check of the drainage will be done.

Mr. Nace gave a summary of the ambulance responses during the time the Ambulance was housed in the borough.

**Eppley/Bell** – Motion to authorize the preparation of a resolution to place a temporary handicapped parking space in the vicinity of 818 High Street, exact location to be forwarded to the solicitor by Mr. Eppley - PASSED

**INFRASTRUCTURE ASSESSMENT** – The committee did meet. The Chamber of Commerce information has been received. Mr. Nace and Ms. Roche will be attending a meeting of the Harrisburg Area Transportation Study at Penn Township.

**SPECIAL SESQUICENTENNIAL COMMITTEE** – A meeting was held with a great turn-out. An events schedule is almost ready for publication.

**Williams/Bell** – Motion to authorize \$11,350.00 of budgeted costs for Sesquicentennial celebration expenses - PASSED

### **NEW BUSINESS**

**Ordinance #399 – Pensions -**

**Bomberger/Williams** – Motion to adopt Ordinance #399, Repealing Ordinance #362 as codified at chapter 38 Pensions of the Code of the Borough of Duncannon and enacting a new ordinance to be codified at chapter 38 Pensions – PASSED

**Ordinance #400 – Peddling and Soliciting –**

**Bell/Nace** – Motion to adopt Ordinance #400, amending the code of the Borough of Duncannon, Chapter 155 Peddling and Soliciting – PASSED

**Humane Society Agreement** – The Humane Society Agreement for 2015 has some major changes and each council member should review it before the December meeting.

**Winterfest** – Winterfest is a Borough Event, not a Recreation board Event.

**Bell/Williams** – Motion to approve a permit for Winterfest to take place on Sunday, December 7, 2014 from 5:00-8:00 in the Square – PASSED

**Letter** – Mr. Bomberger went on record to state that he was appalled that Mr. Nace would make a motion to request a written statement from Mr. Lauster concerning his health problems and when his return to council may be expected. Mr. Bomberger stated that Mr. Nace missed two years of meeting when he was the Mayor of Duncannon. Mr. Nace stated that he was excluded and that he was not required to attend.

**Tentative Budget** – Mr. Bomberger proposed a tentative budget for 2015. The tentative budget needs to be approved for publication and public comment. Any Council member with suggested changes should direct an e-mail to Mr. Bomberger and the Borough Manager.

**Bell/Eppley** – Motion to approve the 2015 tentative budget for advertisement – PASSED

### **CLARKS FERRY TAVERN**

Mr. Hammaker stated that the committee is seeking Historical Designation and that when that occurs it will give them more opportunities to seek funds. 24 window sashes of the proper historical time period have been donated to the Tavern. The archaeological digs have been suspended for the winter months but will resume in the spring.

### **Adjournment** –

**Williams/Bell**: Motion to adjourn at 11:10PM, November 18, 2014 - PASSED

Respectfully Submitted,  
Kathy Bauer  
Duncannon Borough Secretary