

BOROUGH OF GREENCASTLE
SPECIAL COUNCIL MEETING MINUTES
June 23, 2020
842 S. Washington Street

MEMBERS PRESENT: Mayor Ben Thomas Jr., Council President Steven Miller, Councilmembers: Larry Faight, H. Duane Kinzer, Matthew Smith, and Wade Burkholder. Councilmembers Joel Amsley and Jeremy Layman participated virtually. Also present were Borough Manager Lorraine Hohl and Finance/HR Manager Emilee Little.

President Miller called the meeting to order at 6:00 p.m.

An invocation was given by Councilmember Duane Kinzer.

President Miller led the Council, staff, and audience in reciting the pledge of allegiance.

President Miller noted that the meeting was being recorded by staff.

On a Burkholder/Smith motion the Council voted unanimously to approve the proposed agenda for the June 23, 2020 special Council meeting.

Opportunity to be Heard

President Miller invited Borough citizens to address Council with specific issues of concern, reminding them of the 2 minute public comment policy.

Jan Shafer of 142 Carowinds Drive requested to be updated on fees collected and expenses paid.

John Henson of 680 Osbourne Avenue questioned why the public comment time has been shorten.

Kendra Phiel of 30 Baumgardner Drive questioned why the Borough would continue to spend money that was collected for Stormwater after receiving the waiver. Phiel stated these expenses should be paid out of tax revenue.

Brian Harbaugh, co-owner of JCH Associates, thanked Lorraine for her due diligence to secure a waiver. Harbaugh stated it is now the Council's responsibility to obtain an exemption.

Albert Miller of 171 Apple Drive stated this is a 5 year waiver and we need to regroup. Miller stated he disagrees with the science, engineering, and mandates relating to MS4 and that businesses and citizens need to be refunded.

Sunshine Law Violation

President Miller stated that Council is doing everything possible to ensure all business is conducted with full transparency. On June 22, 2020, Duane Kinzer sent an email to a quorum of Council including himself, Lorraine Hohl, Steve Miller, Wade Burkholder, and Larry Faight. In his email Kinzer debated matters with a quorum of Council while not in public; therefore, violating the Sunshine Law.

At President Miller's request, Duane Kinzer read his email into the record as follows:

Lorraine:

I do believe that referencing anything in item 4 C will be a laughing matter. Eden, as perhaps you, while working under him, saw a cash cow in this storm water management to provide relief for our deficit budget. The people who paid in to this MS 4 , now knowing that we have won our waiver are expecting their money back. These people, like my own company, have paid into these ridiculous computed fees which were beyond justification. That's why we won! We have been had by our engineering and legal guidance. Be careful as our current borough manager, of not taking a stand for your employer, the taxpayers who are paying your salary.

I feel we should put this puppy to bed, then consider raising taxes, if necessary, to manage any current cash shortages.

I was never for the Library project. Now is the time to consider unloading it. If you are trying to save funds for this, again please think again. The storm water management for our town is on Century's property next to the library, better called a retention basin. This also is stalled in committee.

I am concern for law suits for illegal use of MS 4 monies, like charging \$3,500.00 per month for employee expenses beyond May 12, 2020.

On a Faight/Smith motion, Council voted unanimously to sanction Mr. H. Duane Kinzer's conduct in that he violated PA Sunshine Law by making policy related debate comments pertaining to MS4 in an email on June 22, 2020 where a quorum of Council was copied. President Miller stated that additionally, Duane Kinzer is hereby informed that his comments in email directed to Ms. Lorraine Hohl are unacceptable and are taken as a threat to a public official by stating, "Be careful as our current Borough Manager, of not taking a stand for your employer, the taxpayers who are paying your salary." Any further instances of such nature or other egregious behaviors will merit consideration of a public censure by Borough Council.

President Miller stated that Councilmen Kinzer's comments to Borough Manager Hohl are reprehensible and create a toxic work environment that will not be tolerated. Miller stated Council will be considering a policy change on how Council conducts itself with Borough staff.

Councilmen Kinzer requested an executive session prior to the July Council meeting to discuss a personnel matter and the Conrad case. Kinzer stated, "With all my years on Council I have never seen such idiotic performance."

John Henson of 680 Osbourne Avenue stated, "We had an ambitious boy in charge as the Borough manager who wanted to make a name for himself." Henson stated public was given a bunch of numbers that are not understandable.

Charlie Eckstine of 64 Williamson Avenue questioned the meaning of a public censure and stated he didn't interpret Councilmen Kinzer's email as a threat. Eckstine stated, "There have been many, many meetings that were certainly illegal and I can't see how what he did justifies public embarrassment."

President Miller replied that a Councilmember cannot be removed unless it is done by the Governor or a court, but municipalities have the authority to censure actions. Miller stated a censure is essentially a public statement of disapproval of an action by a member of Council.

Ron Shafer of 142 Carowinds Drive stated he didn't perceive Mr. Kinzer's email as a threat. Shafer stated he attended this meeting to discuss stormwater expenses.

Albert Miller of 171 Apple Drive stated he agreed with some topics in Mr. Kinzer's email but Miller stated the specific wording towards Borough Manager Hohl was inappropriate.

President Miller stated the Sunshine Law is very clear that Council cannot debate an issue by email and there are strict warning and guidelines.

Councilmen Smith stated that this censure is not about the content of the email but is a result of how it was done behind closed doors.

Councilmen Kinzer stated, "I had no intention to embarrass and I'd like to apologize to you Lorraine if you took it that way, I'm sorry."

REGULAR AGENDA

Borough Manager's Presentation

Borough Manager Hohl gave a historical overview of the Borough's timeline involving MS4 and the Stormwater utility. Hohl discussed Ordinance No. 2019-04 which authorizes the Borough to charge fees associated with Stormwater. Previous and current Stormwater budgets were presented and analyzed. Additionally Hohl presented information on projects including the Lilian Besore Library raingarden and outlined ongoing infrastructure needs such as storm sewer inlet repairs.

Councilmember Follow Up Discussion

President Miller questioned if the Besore Library raingarden project could be used for future MS4 credit.

Hohl replied that yes the Besore Library project would reduce our baseline numbers if in the future the Borough did not receive an MS4 waiver. Additionally Hohl added that the \$50,000 DCED grant the Borough received for the raingarden could only be used for this project.

Councilmen Amsley discussed the more proactive approach the Water Authority is now taking versus how historically the Authority had functioned reactively.

Mayor Thomas challenged the percentage for Stormwater labor cost and stated that using 15% as a general average for administrative labor cost is excessive. Thomas expressed that the Borough has committed to the library project and should follow through. Thomas suggested the Borough borrow a camera from Antrim Township to minimize the cost of inlet inspections. Thomas stated the money paid for Stormwater should be returned to the taxpayers.

Councilmen Kinzer stated that he is on record as voting no to MS4. Kinzer stated that nowhere else has fees like the Borough of Greencastle. Kinzer stated that MS4 has graduated into Stormwater management and that he doesn't want to disregard the money already spent to create the ordinance.

President Miller asked all Council if any member was against refunding a portion of the collected Stormwater fees.

All Councilmembers were in agreement to refund a portion of the Stormwater fees.

Councilmen Kinzer reiterated his desire to absolve the Besore Library commitment and ask Antrim Township to take over the raingarden project.

Councilmen Amsley stated that if we made a commitment we need to honor it.

Councilmen Smith and Burkholder agreed that the commitment should be upheld.

President Miller polled Council to determine who was in favor of proceeding with the Besore Library raingarden project.

Yes:

Steve Miller
Larry Faight
Matt Smith
Wade Burkholder
Joel Amsley

No:

Duane Kinzer

Undecided:

Jeremy Layman

Second Opportunity to be Heard

Brian Harbaugh, co-owner of JCH Associates, discussed the Besore Library raingarden project and the associated cost. Harbaugh also reiterated the need for the Borough to obtain an exemption and rationalized that a Stormwater fee to maintain storm sewer infrastructure is appropriate.

Charlie Eckstine of 64 Williamson Avenue noted that he has a tremendous amount of respect for Mayor Thomas, stating that when Mayor Thomas speaks people listen. Eckstine stated that the administration cost in the Stormwater and the fees themselves are astronomical.

Linda Martin of 71 Celestial Terrace stated that as business owners, her family paid 1000s for MS4 and now with the effects of COVID-19, people are really hurting. Martin stated the money should be returned to the community.

John Henson of 680 Osbourne Avenue stated the cost estimate of \$110,000 for a raingarden is too much and requested to see preliminary drawings.

Leah Harclerode of 506 S. Carlisle Street questioned the amount and purpose of the \$25,000 transfer from the Stormwater Fund to the Capital Reserve.

Hohl replied that the transferred money is used for capital expenditures.

President Miller stated that the transfer amount is decided upon by Council during the annual budgeting process and all funds have a transfer to the Capital Reserve.

Bill Little thanked Council for requiring Columbia Gas to fix the pot holes on S. Cedar Lane. Little also stated that residences want their money back.

Albert Miller of 171 Apple Drive questioned what the goal of Stormwater is and gave examples of ways residents can mitigate run off and reduce sediment load.

Ron Shafer of 142 Carowinds Drive asked if all Council positions were elected and questioned the voting and polling procedures.

Kendra Phiel of 30 Baumgardner Drive stated that her clapping after Councilmen Kinzer read his email was not against Lorraine but in support of a Councilmen being supportive of the community.

William Reynolds of Danco Inc. questioned the timeline of future Stormwater fees. Reynold also suggested the cost for the Besore Library project be reevaluated or the project be scaled down. Reynolds stated that the Council should follow up with any Stormwater projects when completed to ensure proper functionality.

Darlene Reynolds of Danco Inc. stated that water service should not be turned off if a customer does not pay the Stormwater portion of their utility bill.

President Miller stated that previous Councils knew about MS4 for several years and did not take action. Miller stated that now this Council will do the right thing and do the best they can for the community moving forward.

Mayor Thomas thanked everyone for attending and discussed the Besore Library project. Mayor Thomas urged residents to contact local representatives and request a stay on MS4.

On a Faight/Burkholder motion the Council unanimously voted to adjourn the meeting at 8:25 p.m.

Respectfully submitted,
Lorraine K. Hohl
Borough Manager