

1 MINUTES OF MIFFLINBURG BOROUGH COUNCIL

2 December 15, 2020

3

4	PRESENT	ABSENT
5 Beverly L. Hackenberg, Council President	X	
6 Tod M. Steese, Vice President	X	
7 Richard J. Fry, Council Member	X	
8 Ellie K. Kreisher, Council Member	X	
9 Linda L. Lewis, Council Member	X	
10 Duane L. Zimmerman, Council Member	X	
11 David M. Cooney, Mayor	X	
12 Jeffrey L. Hackenburg, Chief of Police	X	
13 Allen P. Page IV, Solicitor	X - Arrived at 6:33 PM	
14 Margaret A. Metzger, Borough Manager	X	
15 Robert M. Rowe, Borough Project Manager	X	
16 Misty L. Ross, Assistant Secretary	X	

17

18 The virtual meeting of Mifflinburg Borough Council was called to order at 6:31 PM.

19
20 There was one (1) visitor present at this meeting which was Lance Miller.

21
22
23 Motion by: Tod M. Steese

24 Second by: Richard J. Fry

25
26 **MOTION: To approve the minutes of the Tuesday, November 17, 2020 regular virtual meeting of**
27 **Mifflinburg Borough Council as amended.**

28
29 Approved via unanimous voice vote.

30
31
32 Motion by: Linda L. Lewis

33 Second by: Richard J. Fry

34
35 **MOTION: To approve payment of Bill List # 2020-12 in the amount of \$573,380.98.**

36
37 Yes – Mr. Fry, Mrs. Kreisher, Ms. Lewis, Mr. Steese, Mr. Zimmerman, Mrs. Hackenberg

38
39 No – None

40
41
42 Motion by: Tod M. Steese

43 Second by: Richard J. Fry

44
45 **MOTION: To approve the Mifflinburg Borough Zoning Report for November 2020 and authorize**
46 **payment to the Central Keystone Council of Governments (CK-COG) in the amount of \$2,101.30.**

47
48 Yes – Mrs. Kreisher, Ms. Lewis, Mr. Steese, Mr. Zimmerman, Mr. Fry, Mrs. Hackenberg

49
50 No – None

51
52
53 Mrs. Metzger reported that the 2021 Tentative Budget for the Borough of Mifflinburg has been properly
54 advertised and is ready for adoption. Borough Council action is requested to adopt the 2021 Final
55 Budget for the Borough of Mifflinburg with revenues in the amount of \$24,918,600.00.

56
57 Motion by: Tod M. Steese

58 Second by: Richard J. Fry

59
60 **MOTION: To adopt the 2021 Final Budget for the Borough of Mifflinburg with revenues in the**
61 **amount of \$24,918,600.00; which includes a 3% increase for the sewer rates, and a 1% increase**
62 **for the water rates.**

63
64 Yes – Ms. Lewis, Mr. Steese, Mr. Zimmerman, Mr. Fry, Mrs. Kreisher, Mrs. Hackenberg

65
66 No – None

67

68 Mrs. Metzger announced that Borough Council consideration is requested for Resolution No. 2020-21;
69 Amending the established and adopted schedule of fees and rates under the Mifflinburg Borough Water
70 System Ordinance. This resolution includes the 1% increase in rates to support what was included for
71 the 2021 Budget. A copy of the resolution has been distributed to Borough Council members via email
72 prior to tonight's meeting. Borough Council action is requested to adopt this resolution.
73

74 Motion by: Richard J. Fry
75 Second by: Ellie K. Kreisher
76

77 **MOTION: To adopt Resolution No. 2020-21; Amending the established and adopted schedule of**
78 **fees and rates under the Mifflinburg Borough Water System Ordinance.**
79

80 Mrs. Hackenberg inquired about the water and sewer rate increases for Limestone and West Buffalo
81 Townships. Mrs. Metzger reported that notification will be sent to Limestone and West Buffalo
82 Townships informing them of the increased water and sewer rates for 2021.
83

84 Yes – Mr. Steese, Mr. Zimmerman, Mr. Fry, Mrs. Kreisher, Ms. Lewis, Mrs. Hackenberg
85

86 No – None
87
88

89 Mrs. Metzger announced that Borough Council consideration is requested for Resolution No. 2020-22;
90 Amending the established and adopted schedule of fees and rates under the Mifflinburg Borough Sewer
91 System Ordinance. This resolution includes the 3% increase in rates to support what was included for
92 the 2021 Budget. A copy of the resolution has been distributed to Borough Council members via email
93 prior to tonight's meeting. Borough Council action is requested to adopt this resolution.
94

95 Motion by: Richard J. Fry
96 Second by: Linda L. Lewis
97

98 **MOTION: To adopt Resolution No. 2020-22; Amending the established and adopted schedule of**
99 **fees and rates under the Mifflinburg Borough Sewer System Ordinance.**
100

101 Yes – Mr. Zimmerman, Mr. Fry, Mrs. Kreisher, Ms. Lewis, Mr. Steese, Mrs. Hackenberg
102

103 No – None
104
105

106 Mrs. Metzger provided Borough Council with an update on the status of the sale of the 2001 Chevrolet
107 Silverado 2500-HD 4x4 Utility Truck. Mrs. Metzger reported that Borough Management has advertised
108 to accept sealed bids for the sale of the 2001 Chevrolet Silverado 2500-HD 4x4 Utility Truck. The bid
109 opening was held on Monday, December 7, 2020 at 1:00 PM. There was one (1) bid received from
110 Iddings Quarry, Inc. in the amount \$2,509.00. A copy of the bid tabulation has been distributed to
111 Borough Council members via email prior to tonight's meeting. Borough Council action is requested to
112 award the bid for the sale of the 2001 Chevrolet Silverado 2500-HD 4x4 Utility Truck to Iddings
113 Quarry, Inc. in the amount \$2,509.00.
114

115 Motion by: Tod M. Steese
116 Second by: Richard J. Fry
117

118 **MOTION: To award the bid for the sale of the 2001 Chevrolet Silverado 2500-HD 4x4 Utility**
119 **Truck to Iddings Quarry, Inc. in the amount \$2,509.00.**
120

121 Yes – Mr. Fry, Mrs. Kreisher, Ms. Lewis, Mr. Steese, Mr. Zimmerman, Mrs. Hackenberg
122

123 No – None
124
125

126 Mr. Rowe provided Borough Council with an update on the status of the purchase of a used Vacuum/Jet
127 Truck. Mr. Rowe reported that he has solicited bids for a used Vacuum/Jet Truck. The bid opening was
128 held on Thursday, December 10, 2020 at 1:00 PM. There was one (1) bid received from A&H
129 Equipment Company in the amount \$170,835.00. A copy of the tabulation has been distributed to
130 Borough Council members via email prior to tonight's meeting. Borough Council action is requested to
131 award the bid for the used Vacuum/Jet Truck to A&H Equipment Company in the amount of
132 \$170,835.00.
133

134 Motion by: Richard J. Fry
135 Second by: Linda L. Lewis

136
137 **MOTION: To award the bid for the purchase of a used Vacuum/Jet Truck to A&H Equipment**
138 **Company in the amount of \$170,835.00.**

139
140 Mr. Rowe pointed out that the used Vacuum/Jet Truck is still in the hands of the municipality and it's
141 likely that the Borough won't receive this truck until sometime in March 2021.

142
143 Yes – Mrs. Kreisher, Ms. Lewis, Mr. Steese, Mr. Zimmerman, Mr. Fry, Mrs. Hackenberg

144
145 No – None

146
147
148 Mrs. Metzger reminded Borough Council that Lycoming County Resource Management Services
149 (LCRMS) has contacted her regarding the Waste Disposal Agreement contract for the disposal of
150 municipal sewage sludge. The current contract expires on Thursday, December 31, 2020. LCRMS has
151 indicated that they are projecting a three percent (3%) rate increase for the hauling fees. Mrs. Metzger
152 reported that LCRMS has provided the Sixth Amendment to the Waste Disposal Agreement contract
153 which includes the projected three percent (3%) rate increase for the hauling fees. Mr. Page has
154 reviewed the contract and Borough Council action is requested to approve this amendment.

155
156 Motion by: Linda L. Lewis
157 Second by: Ellie K. Kreisher

158
159 **MOTION: To approve the Sixth Amendment to the Waste Disposal Agreement contract with**
160 **Lycoming County Resource Management Services for the disposal of municipal sewage sludge for**
161 **two (2) years.**

162
163 Yes – Ms. Lewis, Mr. Steese, Mr. Zimmerman, Mr. Fry, Mrs. Kreisher, Mrs. Hackenberg

164
165 No – None

166
167
168 Mrs. Metzger requested Borough Council action to authorize a final check run for 2020, Bill List #
169 2020-13.

170
171 Motion by: Linda L. Lewis
172 Second by: Richard J. Fry

173
174 **MOTION: To authorize a final check run for 2020, Bill List # 2020-13.**

175
176 Yes – Mr. Steese, Mr. Zimmerman, Mr. Fry, Mrs. Kreisher, Ms. Lewis, Mrs. Hackenberg

177
178 No – None

179
180
181 Motion by: Linda L. Lewis
182 Second by: Richard J. Fry

183
184 **MOTION: To reappoint Mr. David C. Holman and Mr. Benjamin M. Dietrich to a four (4) year**
185 **term on the Mifflinburg Planning Commission; Mr. Keith A. Wagner to a six (6) year term on the**
186 **Mifflinburg Civil Service Commission; Ms. Mary A. Williard to a five (5) year term on the**
187 **Mifflinburg Shade Tree Commission; All Points Land Surveys, Inc. to a one (1) year term as**
188 **Sewage Enforcement Officer (SEO) for the Borough of Mifflinburg; Mr. Drew Christy to a one (1)**
189 **year term as the CK-COG Representative for the Borough of Mifflinburg as presented.**

190
191 Mrs. Hackenberg directed Mrs. Metzger to place and article in the Mifflinburg News & Views for the
192 committee vacancies.

193
194 Approved via unanimous voice vote.

195
196
197
198
199

200 Mrs. Metzger informed Borough Council that prior to tonight's meeting they received a copy of a letter
201 via email from Davis, Davis & Kaar on behalf of the Mifflinburg Zoning Hearing Board which read as
202 follows:

203
204 Mr. Vincent J. Romanini
205 220 Regent Court, Suite E-1
206 State College, PA 16801

207
208 Re: Mifflinburg Zoning Hearing Board

209
210 Dear Mr. Romanini:

211
212 This letter will confirm the action of the Zoning Hearing Board following the hearing
213 held December 3, 2020.

214
215 Your application for Special Exception for a 9 acre lot on North Eighth Street, Tax Map
216 Parcel 010-011373, for use of a Personal Care Home, to be constructed, was granted by
217 unanimous vote of the four members present.

218
219 Should you require any further information, please feel free to contact me.

220
221 Very truly yours,

222
223 Davis, Davis & Kaar

224
225 Preston L. Davis

226
227 Mrs. Metzger pointed out that any Zoning Hearing Board decision has sixty (60) days in which anyone
228 could appeal the decision.

229
230 Mrs. Metzger informed Borough Council that they received a copy of the revised 2021 Meeting
231 Advertisement via email prior to tonight's meeting. Mrs. Metzger explained that generally, at the
232 beginning of each year the Borough advertises all of the meetings for the whole calendar year (Borough
233 Council, Planning Commission, Shade Tree Commission, and Borough Work Sessions). Previously, the
234 Borough advertised to conduct the various committee meetings every Tuesday night except for the 3rd
235 Tuesday of each month. The advertisement has been revised to conduct work sessions on the 1st
236 Tuesday of each month.

237
238 Ms. Lewis inquired if it's permissible when Borough Councilmembers give their opinions at the
239 Borough Work Session on certain topics.

240
241 Mr. Page reported that as he mentioned in the past, the Sunshine Act provides that "official action and
242 deliberations by a quorum of the members of an agency shall take place at a meeting open to the public
243 unless closed under [Sections 707, 708, or 712]." 65 Pa.C.S. § 704. If official action and/or
244 deliberations take place, then minutes of the meeting must be taken. The Sunshine Act defines
245 'deliberation' as "the discussion of agency business held for the purpose of making a decision." 65
246 Pa.C.S. § 703. Pennsylvania courts do not construe 'deliberations' strictly and the Sunshine Act does
247 not require a public official to inquire and learn about issues only at open meetings. See, *Smith v. Twp.*
248 *of Richmond*, 54 A.3d 404, 409 (Pa. Commw. 2012). The Pennsylvania Supreme Court has held that
249 the Sunshine Act does not "expressly preclude private information gathering as a collective effort by
250 members of an agency, including by quorum." *Smith v. Twp. of Richmond*, 82 A.3d 407, 415 (Pa.
251 2013). In this regard, a gathering by an agency held for the purpose of collecting information and/or
252 educating agency members about upcoming issues is not considered a "meeting," as that term is defined
253 by the Sunshine Act and therefore minutes are not required. It is, and has always been, my
254 understanding that the Borough Work Sessions were held strictly for informational and/or fact gathering
255 purposes. Therefore, the Borough Work Sessions are not considered "meetings" under the Sunshine
256 Act. The Work Sessions are permissible as long as they are held for informational, educational, and/or
257 fact gathering purposes only. Thus, Council may attend the Work Sessions to learn about upcoming
258 issues and ask questions about same; however, Council should not discuss their positions with respect to
259 the upcoming issues with other Councilmembers, as such discussion may be seen as constituting
260 'deliberations.' If Council wishes to engage in discussion with other Councilmembers and thus engage
261 in 'deliberations,' they are certainly allowed to do so, but the meeting then must be open to the public
262 and minutes must be taken. Mr. Page advised that a very feasible workaround or solution is to have
263 minutes taken during the Borough Work Sessions. The work sessions are already open to the public.
264 The minutes that are required under the Sunshine Act are very minimum in nature. The Sunshine Act
265 requires the date, time, and place of the meeting; the Councilmembers in attendance; any members of
266 the public that are in attendance that officially participated; and then any official action taken.

267 A lengthy discussion was held; Mrs. Metzger stated that the Borough would develop a form to fill in
268 during the Borough Work Session which would be much more informal than the Borough Council
269 meeting minute.

270
271 Motion by: Linda L. Lewis
272 Second by: Richard J. Fry

273
274 **MOTION: To approve the revised 2021 Meeting Advertisement as presented.**

275
276 Approved via unanimous voice vote.

277
278
279 Mrs. Metzger announced that 1 Oak Avenue was officially sold to Dave and Cindy Gutelius on
280 Wednesday, December 9, 2020.

281
282 Mrs. Metzger provided Borough Council with an update on the status of the 2020 Automated Red Light
283 Enforcement (ARLE) Grant application through the Pennsylvania Department of Transportation
284 (PennDOT). Mrs. Metzger reminded Borough Council that they took action at the Tuesday, June 16,
285 2020 regular virtual Borough Council meeting to authorize Mr. Rowe to resubmit an application for a
286 2020 ARLE Grant to PennDOT for improvements to signalization at 3rd and 4th Streets on Chestnut
287 Street. Mrs. Metzger reported that Mr. Rowe resubmitted an application for a 2020 ARLE Grant to
288 PennDOT; however, the Borough was unsuccessful in obtaining a grant.

289
290 Mr. Rowe provided Borough Council with an update on the status of the Community Development
291 Block Grant (CDBG) application through the Pennsylvania Department of Community and Economic
292 Development (DCED) for additional ADA curb ramps. It's anticipated that this project will be ready to
293 go to bid next month.

294
295 Mrs. Metzger reminded Borough Council that they took action at the Tuesday, September 15, 2020
296 regular virtual Borough Council meeting to authorize her to advertise the vacancy for the Electric
297 Lineman III Class/Lineman Apprentice position. Mrs. Metzger reported that she has advertised the
298 vacancy for the Electric Lineman III Class/Lineman Apprentice position. The deadline to submit
299 applications was Friday, October 16, 2020. There were five (5) applications received. Mrs. Metzger
300 informed Borough Council that she and Mr. Craig Lewis, the Borough Electrical Foreman, have
301 reviewed the applications and interviewed the candidates. Borough Council action is requested to make
302 a contingent offer of employment to Mr. David Long under the terms of the AFSCME employment
303 agreement, as an Electric Lineman Apprentice/Lineman III, at a rate of \$16.00/hr., contingent upon
304 successful completion of the required pre-employment testing and criminal, child abuse and FBI
305 clearances and with the requirement that CDL licenses must be obtained within six (6) months of the
306 start of employment.

307
308 Motion by: Tod M. Steese
309 Second by: Richard J. Fry

310
311 **MOTION: To make a contingent offer of employment to Mr. David Long under the terms of the**
312 **AFSCME employment agreement, as an Electric Lineman Apprentice/Lineman III, at a rate of**
313 **\$16.00/hr., contingent upon successful completion of the required pre-employment testing and**
314 **criminal, child abuse and FBI clearances and with the requirement that CDL licenses must be**
315 **obtained within six (6) months of the start of employment.**

316
317 Yes – Mr. Zimmerman, Mr. Fry, Mrs. Kreisher, Ms. Lewis, Mr. Steese, Mrs. Hackenberg

318
319 No – None

320
321
322 Mrs. Metzger requested an executive session to discuss potential litigation and personnel matters.

323
324
325
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330
331

332 Mrs. Metzger informed Borough Council that she received another letter via email from Mr. Bill Flack
333 concerning the hate crimes that have been happening locally, which reads as follows:

334
335 Dear Borough Council Members and Council Meeting Participants:

336
337 Having listened to portions of the November 17 Borough Council meeting via the online
338 recording of it, we write to say that we appreciate Mayor Cooney’s statement denouncing racist
339 graffiti and Council Member Linda Lewis’s suggestion that the Council consider issuing a
340 statement denouncing it. **We request that the Borough Council issue a public statement**
341 **condemning racism in all of its forms. In addition, we urge you as our elected officials to**
342 **contribute to antiracist efforts in our community.**

343
344 Some of the comments shared during the November 17 meeting revealed significant
345 misunderstandings about racism and its effects. Racism is not confined to a single political
346 party or “side,” nor is it limited to an individual’s or group’s *intentions*. Graffiti depicting racist
347 slurs (like the n-word), symbols (like a swastika), and expressions of white supremacy (like
348 “white power”) have a racist *impact*; they are expressions of violent ideas and/or demeaning
349 characterizations, rooted in racist histories, and they create fear in the people they unjustly
350 target.

351
352 While spray painting “BLM” (suggesting Black Lives Matter) on a bridge was an act of
353 vandalism, BLM is not a racial slur or racist message. It’s a statement that aims to remind
354 people that in our country, Black people’s lives, which have been and continue to be
355 disproportionately subjected to police abuse and killing, do matter. It’s not racist to assert that
356 Black lives matter.

357
358 The graffiti on Tower Road, which Chief Hackenburg alluded to in the meeting, depicted the
359 following message: “Trump 2020 Fuck Yeah Fuck BLM White Power :)” It’s a political
360 message, but it’s also an indisputably racist message, endorsing the racist belief of white
361 supremacy.

362
363 We are not sure of the content of the graffiti that appeared on Stein Lane, though we
364 understand it included Biden’s name. If it included language like “White Power” or “Fuck
365 BLM,” it’s also racist. It doesn’t matter whether a Democrat, Republican, Libertarian, or
366 Canadian spray painted the racist message; messages that convey support for white supremacy
367 or hatred of Black people (and members of other racial minorities) are racist.

368
369 It’s deeply harmful to minimize racism in our community. In addition to the systemic racism
370 that affects Black, Indigenous, People of Color (BIPOC) all over the country, there’s been no
371 lack of explicitly racist behaviors in Mifflinburg in recent months. The display of Confederate
372 flags and license plates, for instance, sends a hostile message to BIPOC, as did the gun-toting
373 counter-protestors who showed up at the summer’s rallies in support of Black Lives and
374 equality for LGBTQ+ people. Black Lives Matter yard signs are routinely stolen in
375 Mifflinburg. Mifflinburg students made a racist video. Mifflinburg students tampered with
376 BLM signs. Members of our community routinely share racist ideas and memes on social
377 media. Mifflinburg residents and/or visitors have shouted racist language at Black people in
378 our streets. Racist behavior is not unusual in Mifflinburg; it’s undeniably common.

379
380 As members of Mifflinburg Against Racism and Hate (MARH), we would be glad to discuss
381 ways we might work together to make our community more inclusive and welcoming to
382 everyone. We would appreciate a response to this letter and look forward to hearing from you
383 soon.

384
385 Sincerely,

386
387 Bill Flack, Resident, MARH Antiracist Education Committee member*
388 Deirdre O’Connor, Resident, MARH Antiracist Education Committee member
389 Bronwen Sanders, Resident, MARH Antiracist Education Committee member
390 Tim Kainzbauer, Resident, MARH Antiracist Education Committee member
391 Nancy Morgan, Resident, MARH Antiracist Education Committee member
392 Ashley Shay, Resident
393 Doug Richard, Resident
394 Vanessa DeVett, Resident
395 Eleni Chappen, MARH Antiracist Education Committee member

396
397 A copy of the letter has been distributed to Borough Council members via email prior to tonight’s
398 meeting. Borough Council direction is requested on this matter.

399 Ms. Lewis expressed that she personally thinks it's important that Borough Council considers issuing a
400 public statement which condemns the racist graffiti and affirms that such messages are not welcome in
401 the Borough of Mifflinburg.

402
403 Mr. Zimmerman disagreed with Ms. Lewis and stated that he thinks Borough Council should stay out of
404 the middle or out of the edges of it. This is a political issue and the Municipality should not get involved
405 in this.

406
407 Chief Hackenburg clarified that any public statement issued to condemn the racist graffiti should from
408 Borough Council, not the Mifflinburg Police Department.

409
410 A lengthy discussion was held; the consensus of Borough Council members shared support of the
411 statement issued by Mayor Cooney at the Tuesday, November 17, 2020 regular virtual Borough Council
412 meeting which condemned the racist graffiti and affirmed that such messages are not welcome in the
413 Borough of Mifflinburg.

414
415 Ms. Lewis provided Borough Council with a COVID-19 update briefing which highlighted: how many
416 new positive COVID-19 cases the Borough has in their zip code; whether that number has increased or
417 decreased from the previous month; and whether there are any hot spots or spikes in new COVID-19
418 cases. A copy of the update briefing has been distributed to Borough Council members via email prior
419 to tonight's meeting.

420
421 Mayor Cooney informed Borough Council that they received a copy of the Monthly Police Report for
422 November 2020 via email prior to tonight's meeting.

423
424 Chief Hackenburg presented Borough Council with some Monthly Highlights for the Mifflinburg Police
425 Department for November 2020.

426
427 Mayor Cooney informed Borough Council that he participated in or will be participating in the
428 following meetings or events:

- 429
- 430 • The Community Christmas Tree Lighting that was held on Sunday, November 29, 2020
 - 431 from 7:00 PM – 8:00 PM. There were about 40 individuals in attendance during this year's
 - 432 Tree Lighting.
 - 433 • A new church has opened up at the corner of 4th and Chestnut Streets in the building owned
 - 434 by Mifflinburg Innovation Works.
- 435

436
437 Motion by: Richard J. Fry
438 Second by: Ellie K. Kreisher

439
440 MOTION: **To enter into executive session at 7:17 PM.**

441
442 Approved via unanimous voice vote.

443
444
445 Motion by: Richard J. Fry
446 Second by: Ellie K. Kreisher

447
448 MOTION: **To reconvene the meeting at 8:09 PM.**

449
450 Approved via unanimous voice vote.

451
452
453 Motion by: Tod M. Steese
454 Second by: Richard J. Fry

455
456 MOTION: **To reappoint Mr. Jason W. Mitchell, the Public Works Supervisor; Mr. Robert M.**
457 **Rowe, the Borough Project Manager; Mrs. Margaret A. Metzger, the Borough Manager; and Mr.**
458 **Jeffrey L. Hackenburg, the Chief of Police; with a 2% increase in salary for 2021.**

459
460 Yes – Mr. Fry, Mrs. Kreisher, Ms. Lewis, Mr. Steese, Mr. Zimmerman, Mrs. Hackenberg

461
462 No – None

463
464
465

466 Motion by: Richard J. Fry

467

468 MOTION: **To adjourn the Mifflinburg Borough Council meeting.**

469

470 Approved via unanimous voice vote.

471

472

473 Meeting adjourned at 8:11 PM.

474

475 Respectfully Submitted,

476

477

478 Misty L. Ross

479 Assistant Borough Secretary

480