

May 9, 2022

POTTSTOWN BOROUGH COUNCIL

ANNOUNCEMENT

Borough Manager Keller explained the format for this evening's meeting, advising that the meeting is a GoTo Virtual Meeting and an in-person meeting. All persons wishing to speak during Public Comment, whether participating by GoToMeeting or telephone, must submit their name and address through chat or email at administration@pottstown.org. Requests to speak will be accepted until 7:15pm, at which time chat will be closed, and no further requests for comment will be honored. As always, Public Comment will be limited to three minutes per person.

CALL TO ORDER

The regular meeting of the Pottstown Borough Council was called to order on Monday, May 9, 2022 at 7:00 p.m. as a hybrid, in-person and Go-To Meeting, with President Weand in the Chair.

INVOCATION

President Weand requested a moment of silence.

PLEDGE OF ALLEGIANCE

ROLL CALL

Councilors present were Ryan Procsal, Lisa Vanni, Donald Lebedynsky, Trenita Lindsay, Dan Weand and Joseph Kirkland (virtual). Also present were Manager Justin Keller, Solicitor Charles Garner (virtual), Mayor Stephanie Henrick (virtual) and Borough Secretary Virginia Takach. Councilor Paules was absent.

APPROVAL OF MINUTES

Motion by Councilor Lindsay, seconded by Councilor Lebedynsky to approve the minutes of the April 11, 2022 Council meeting as presented. Motion carried: 6 ayes.

SUBCOMITTEE REPORTS

a. Finance & Administration – President Weand advised that at 25% of the year, the General Fund revenues received are at 19% and expenses at 18%. The real estate taxes are at 13% collected and local EIT taxes at 35% received. He added that the Audit is in process and the Borough continues to review under-assessed properties with the School District and Portnoff collections continue at 63.5%. He added that the assessment changes increased by \$452,370. There were no new LERTA applications and the ARPA expenses had no changes since last month. President Weand added that Real Estate taxes collected as of December 31, 2020 were \$230,582.

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PRESENTATION – FIRE COMPANIES

Chief Frank Hand thanked the Fire Department for its presentation this evening with all its fire apparatus on display and expressed his appreciation to Council for the new Fire Truck. He introduced the four fire chiefs present: Chief Kevin Yerger, Goodwill Fire Company, Chief Joe Groff, Phillies Fire Company, Andy Pyles, North End Fire Company and Mark Gibson, Empire Fire Company. Mr. Gibson will be retiring in the near future. The Chiefs presented a gift-bag to the Councilors with fire safety items.

COMMITTEE REPORTS

- a. EAC – There was no report.
- b. Regional Planning – Council Procsal reported that there was a discussion on the zoning changes for New Hanover Township. He added that the mini-grants were awarded with \$25,000 for the rehabilitation of the Spruce Street Park.
- c. Blighted Property Review Committee – There was a brief meeting with a scheduled bus tour for May.

NEW BUSINESS

- a. Conditional Offer - Motion by Councilor Procsal, seconded by Councilor Lebedynsky to authorize the Chief of Police to extend a conditional offer of employment to one (1) candidate from the Civil Service List.

President Weand requested public comment on this motion as it was not yet 7:15 p.m. Hearing none, he called for the vote.

Motion carried: 6 ayes.

COMMENTS FROM CITIZENS PRESENT

- a. Deborah Spence, 153 South Roland Street – requested an answer regarding her proposal for a dog park that she presented to the Land Bank over a year and a half years ago. She questioned if she was being ignored because she is black and a woman and questioned how many black, female real estate developers were approved within the last 5-10 years.

Solicitor Garner responded that she will be listed for the June Committee of the Whole meeting for discussion purposes and her proposal will be shared with Council, if not already provided.

- b. Ron Williams, 245 Walnut Street – thanked Council and the Police Department for their assistance with the successful PowWow event of last weekend. He added that Michael Lenhart is an angel and expressed gratitude for the support from all.

UNFINISHED BUSINESS

None.

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NEW BUSINESS (continued)

c. Civil Service List - Motion by Councilor Procsal, seconded by Councilor Lebedynsky to authorize the Civil Service Commission to begin the process of developing an eligibility list for new candidates for the Pottstown Police Department. Motion carried: 6 ayes.

d. 215 South Washington – Mr. Keller referred to the three hand - outs distributed to Council this evening regarding a tax forgiveness request for the property located at 215 South Washington Street. The handouts included a business plan, the zoning restrictions for the property, the release for the arch collapse at 1200 East High Street and an outline of outstanding utility and tax balances on the property in the amount of \$330,035,56. He also outlined the zoning restrictions for the property for a period of two years.

Ms. Lee-Clark reviewed the business plan presented with a proposed completion date of December 31, 2022. She noted that the rents on the property will be in a range of \$4.00 to \$6.00 per square foot. She added that the present owner took title of the property June 4, 2020.

Vice President Lebedynsky suggested tabling the item until Council had time to review the documents received this evening and allow time for Finance Staff and the Finance Committee to review.

Solicitor Garner commented that the taxes for 2018 and 2019 were previously forgiven and the present request is forgiveness of taxes for 2020 and 2021. He also explained that most likely the previous owner has no assets and may have filed for bankruptcy and all tax liens would be attached to the real estate.

Councilor Kirkland noted that he understands that the new owner takes on the responsibility of the property but commented that the new owner should not be responsible for the past owner's failures.

Councilor Vanni questioned the urgency and the rush in approving this matter, adding that the handouts were just received this evening. She noted that eight attachments were provided just today.

Ms. Lee-Clark responded that the current owner is in need of a construction loan and the bank will not grant a construction loan if the title is not clean and the work will stop. She added that there is no way around that. Ms. Lee-Clark also advised that the owner is awaiting ISRP money in June, in the amount of \$483,000.

Mr. Keller added that any agreement authorized this evening would still need authorization for the Solicitor to draft the deed restrictions as per the documents distributed this evening.

Solicitor Garner commented that he had a conversation with Mr. Keller that another way to clear the title may be with a construction loan, with the understanding that a municipal lien would be reinstated after the loan closed and would protect the Borough and allow Mr. Jones to move forward by eliminating the taxes and agreeing to have a municipal lien back on the property. The release documents, the deed restrictions and the business plan could then be prepared if acceptable to Council. He added that the Borough would be protected by the municipal lien and after closing, the lien is reinstated by agreement and consent of the owners. Solicitor Garner added that a five -year

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time limit on some restrictions seems to be a short time and questioned how the property could be totally occupied in two years.

Ms. Lee-Clark noted that she questioned the owner regarding a municipal lien and he chose a deed restriction and is working with his attorney as of today to prepare the deed restrictions.

President Weand commented he understands Councilor Kirkland's concerns to allow the owner to move forward, but Council's initial responsibility is to the citizens of the Borough. He added that the Plan, just received this afternoon, is more of a business model and favored Vice President's recommendation to table this matter for one month, until Finance and Legal teams have a chance to review. He would also like to see all prepared documents prior to moving forward.

Council Kirkland reiterated that the future taxes that the Borough will get on this property, will supersede what is owed on the property. He added the owner should be responsible for the taxes owed since he took ownership of the property and the irresponsible thing for Council is to do nothing.

Mr. Keller noted that taxes owed since the owner took title of the property amount to approximately \$18,500 in Borough taxes.

Councilor Procsal noted that by postponing the matter for 30 days, would hopefully not be too much of an inconvenience for the owner.

Solicitor Garner explained that if Council voted to forgive the taxes and utilities, the next step is to work with the owner's attorney to prepare the deed restriction, a release document and business plan, all acceptable to the Borough. He noted that he would not recommend the removal of the tax lien or the utility lien until there is agreed upon documents to include the formal deed restriction to be recorded and the release for 1200 High Street. He added that documents could be prepared with the owner's attorney within 7-10 days and the owner could close on the loan and the Borough would be protected.

Councilor Vanni commented that she would like to see the project move forward and not table until next month but would like to have all the information. She added that she asked if there was any other way to proceed and was told no, but now there is actually another alternative.

Ms. Lee-Clark responded that if the municipal lien is the only option for this to move forward, the owner would select the municipal lien.

Solicitor Garner explained that the municipal lien only puts the Borough back in position to oversee the business plan, the necessary release and the deed restrictions, to be sure the property is being developed as Council sees fit, in consideration for forgiveness of all the liens, basically security for the Borough to know what is happening with the property. The owner can move forward with the construction loan. He added that the taxes would go away, the construction loan would be placed on the property as first priority and the municipal lien would be secondary.

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Councilor Vanni motioned, seconded by Councilor Kirkland to forgive:

- A. Utility fees and charges through calendar year 2021 (including interest and penalties) in the principal amount not to exceed \$296,673.56.
- B. Borough real estate taxes from 2008 until 2019 (including interest and penalties), in a principal amount not to exceed \$174,799.10 for the property located at 215 S. Washington Street, subject to the owner satisfying the following conditions:
 - 1. Submission of a business plan acceptable to Borough Council.
 - 2. Preparation and recording of a deed restriction prohibiting certain uses, the form of which will be acceptable to the Borough.
 - 3. The preparation and execution of a Release regarding claims associated with 1200 E. High Street in the form acceptable to the Borough.

And to permit the recording of a Municipal Lien Claim against the property in an amount not to exceed \$330,000.00, as an interim measure until the three conditions above have been satisfied.

President Weand called for a roll-call vote.

Kirkland	yes	Procsal	yes
Lebedynsky	yes	Vanni	yes
Lindsay	yes	Weand	yes

Motion carried: 6 ayes.

- e. Hill School Turf Field – Motion by Councilor Lebedynsky, seconded by Councilor Procsal to grant preliminary/final approval of the Hill School Turf Field Minor Land Development, 860 Beech Street, subject to the Applicant satisfying the following conditions within 90 days:
 - i. Compliance with the comments set forth in the Cedarville Engineering review letter dated March 11, 2022
 - ii. Compliance of the comments set forth in the Montgomery County Planning Commission review letter dated March 7, 2022
 - iii. Compliance with the comments set forth in the HRG letter dated March 14, 2022
 - iv. A payment of a fee in lieu of open space in the amount of \$9,450.00 prior to the issue of building permits
 - v. A payment of a fee in lieu of street trees in the amount of \$5,000.00 (calculated at 10 required street trees along Jackson Street at \$500.00 per tree) prior to the issuance of building permits
 - vi. The preparation and execution of a Development Agreement in a form acceptable to the Borough solicitor
 - vii. The payment to the Borough of a voluntary contribution in the amount of \$15,000.00 to be used for security cameras, equipment and maintenance
 - viii. The payment in full of all Borough review fees

Solicitor Garner noted that the Planning Commission is in favor of this action and agreeable with The Hill School. No members of The Hill School were present.

Motion carried: 6 ayes.

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f. Hill School Turf Field - Motion by Councilor Lebedynsky, seconded by Councilor Procsal to grant the following waivers from the Borough's Subdivision and Land Development Ordinance (SALDO) and the Borough Stormwater Management Ordinance (SWMO), which waivers are contained in the Pennoni letter dated April 20, 2022, with the understanding that 22 shade trees are proposed near the proposed basin and along the edge of the project limits, adjacent to the existing wooded area. Motion carried: 6 ayes.

g. Upper Pottsgrove Township/PA American - Motion by Councilor Kirkland, seconded by Councilor Lindsay to authorize the Pottstown Borough Authority Solicitor Vincent Pompo to prepare an amendment to the Upper Pottsgrove Township Support Agreement with the Pottstown Borough Authority, the Borough of Pottstown, Upper Pottsgrove Township and Pennsylvania American Water. Motion carried: 6 ayes.

h. International Property Maintenance - Motion by Councilor Kirkland, seconded by Councilor Procsal to adopt an Ordinance amending Chapter 5, Code enforcement to adopt the 2018 International Property Maintenance Code

ORDINANCE NO 2212

AN ORDINANCE OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN AMENDING SECTIONS 301 THROUGH 304 OF PART 3, INTERNATIONAL PROPERTY MAINTENANCE CODE, OF CHAPTER 5, CODE ENFORCEMENT, OF THE CODE OF ORDINANCES OF THE BOROUGH OF POTTSTOWN, AS AMENDED, TO ADOPT, BY REFERENCE, THE 2018 INTERNATIONAL PROPERTY MAINTENANCE CODE.

Motion carried: 6 ayes.

i. DCNR Resolution - Motion by Councilor Procsal, seconded by Councilor Lebedynsky to adopt a Resolution authorizing submission of a grant request to the Department of Community and Economic Development's Greenways, Trails and recreation program for the Chestnut Street Park and South Street Park projects in the amount of \$250,000

RESOLUTION NO. 2022-12

AUTHORIZING A REQUEST FOR FUNDING FROM THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT'S GREENWAYS, TRAILS AND RECREATION PROGRAM FOR THE CHESTNUT STREET PARK AND SOUTH STREET PARK REDEVELOPMENT PROJECT

BE IT RESOLVED, the Borough of Pottstown, (Applicant) Montgomery County, hereby request a Greenways, Trails and Recreation Program (GTRP) grant in the amount of \$250,000 from the Commonwealth Financing Authority to be used for improvements at Chestnut Street Park and South Street Park in the Borough of Pottstown.

BE IT FURTHER RESOLVED, that the Applicant does hereby designate Dan Weand, Council President, and Justin Keller, Borough Manager, as the officials to execute all documents and

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agreements between Borough of Pottstown and the Commonwealth Financing Authority to facilitate and assist in obtaining the requested grant.

I, Virginia L. Takach, duly qualified Secretary of the Borough of Pottstown, Montgomery County, PA, hereby certify that the forgoing is a true and correct copy of a Resolution duly adopted by a majority vote of the Borough Council at a regular meeting held on the 9th day of May 2022 and said Resolution has been recorded in the Minutes of the Borough of Pottstown and remain in effect as of this date.

IN WITNESS WHEREOF, I affix my hand and attach the seal of the Borough of Pottstown, this 9th day of May, 2022.

Borough of Pottstown, Montgomery County

ENACTED AND RESOLVED, this 9th day of May 2022.

Motion carried: 6 ayes.

j. Local Match Resolution – Motion by Councilor Procsal, seconded by Councilor Lindsay to adopt a Resolution certifying the local match for State Operating Financial Assistance for Fiscal Year 2022- 2023

RESOLUTION NO. 2022-13

LOCAL TRANSPORTATION ORGANIZATION RESOLUTION CERTIFYING THE LOCAL MATCH FOR STATE OPERATING FINANCIAL ASSISTANCE

The Borough Council of the Borough of Pottstown resolves and certifies that the operating financial assistance of \$1,675,991.00 provided pursuant to 74 Pa.C.S. §1513 is needed in Fiscal Year 2022-2023 or in a subsequent fiscal year to help pay for projected operating expenses, including asset maintenance costs; and that these funds will be used for this purpose only, because these funds are ineligible to be used for asset, or capital improvements projects; and that any funds not used this Fiscal Year will be retained and used only for operating assistance in a subsequent fiscal year(s). Further, the Pottstown Borough Council resolves and certifies that the required local matching funds of \$109,142.00 will be secured from local contributors no later than the end of Fiscal Year 2022-2023 to match the requested Section 1513 funds.

I, Dan Weand, Borough Council President of the Pottstown Borough Council do hereby certify that the foregoing is a true and correct copy of the Resolution adopted at a regular meeting of the Pottstown Borough Council held the 9th day of May 2022.

Motion carried: 6 ayes.

k. PART Budget - Motion by Councilor Lebedynsky, seconded by Councilor Vanni to approve the Pottstown Area Rapid Transit (PART) Operating Budget for Fiscal Year 2022-2023, dated April 25, 2022. Motion carried: 6 ayes.

l. Pottsgrove – Pottstown Little League - Motion by Councilor Procsal, seconded by Councilor Lindsay to authorize execution of the Assignment and Assumption Agreement among the Borough of Pottstown, the Pottstown Little League and the Pottsgrove – Pottstown Little League, Inc. Motion carried: 6 ayes.

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m. Patriotic 5K - Motion by Councilor Lebedynsky, seconded by Councilor Vanni to grant the request of the Parks and Recreation Department to hold its Patriotic 5K on July 4, 2022, and to close portions of Beech, Price, High, Hanover, Chestnut and Grant Streets from 8:00 a.m. – 10:00 a.m., subject to review of the Police and Fire Departments. Motion carried: 6 ayes.

n. Red Horse Biergartens - Motion by Councilor Vanni, seconded by Councilor Lebedynsky to grant the request of the Red Horse Motoring Club to allow the operation of Biergartens in Smith Family Plaza on June 4, July 2, August 6, September 3 and October 1, 2022, subject to review and approval of the Police and Fire Departments, the Federal Transit Administration and complying with the Liquor Control Board regulations. Motion carried: 6 ayes.

o. Independence Day Parade - Motion by Councilor Vanni, seconded by Councilor Lebedynsky to grant the request of Rotary Club to conduct the Independence Day Parade on July 4, 2022, resulting in the closure of High Street from Madison to Manatawny Streets, from 9:00 a.m. – 11:30 a.m., subject to review and approval of the Police and Fire Departments . Motion carried: 6 ayes.

p. HARB - Motion by Councilor Lindsay, seconded by Councilor Lebedynsky to approve a Certificate of Appropriateness for the Property located at 726 East High Street as recommended by HARB. Motion carried: 6 ayes.

q. HARB - Motion by Councilor Lebedynsky, seconded by Councilor Lindsay to ratify action of the Building Permit Officer approving Certificates of Appropriateness for the following properties:

- i. 125 North Hanover
- ii. 1023 East High Street

Motion carried: 6 ayes.

r. Blighted Property – Motion by Councilor Procsal, seconded by Councilor Kirkland to appoint Denise Hughes to the Blighted Property Review committee to fill a vacant term to expire December 31, 2022. Motion carried: 6 ayes.

REPORT OF BILLS – Motion by Councilor Lindsay, seconded by Councilor Procsal to pay the outstanding bills in the amount of \$3,607,000.94. Motion carried: 6 ayes.

ANNOUNCEMENTS

Councilor Kirkland thanked Council for working together in support of a prosperous business.

Councilor Lindsay acknowledged last week's Teacher Appreciation Day.

Councilor Procsal commended the Fire Company on its display of apparatus.

Councilor Vanni thanked Ron Williams on his successful PowWow event.

Mayor Henrick reminded all that the FARM begins on May 14th.

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ADJOURNMENT

President Weand adjourned the meeting at 8:25 p.m.

Submitted by,

Justin M. Keller, Borough Manager