

September 12, 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](mailto:administration@pottstown.org). Requests to speak will be accepted until 7:05p.m., 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, September 12, 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, Dan Weand and Joseph Kirkland. Also present were Manager Justin Keller, Assistant Solicitor Matthey Hovey, Mayor Stephanie Henrick and Borough Secretary Virginia Takach. Councilors Michael Paules and Trenita Lindsay were absent.

### APPROVAL OF MINUTES

Motion by Councilor Lebedynsky, seconded by Councilor Procsal to approve the minutes of the August 8, 2022 Council meeting as presented. Motion carried: 5 ayes.

### SUBCOMITTEE REPORTS

a. Finance & Administration – President Weand advised the that revenues received at the end of July are at 81% and expenses at 47%. Real estate taxes collected are at 99% and local taxes at 73%. He added the Audit report showed no audit findings. The assessment changes are down by \$1,527,010. The Borough continues to review under-assessed properties with the School District and Portnoff collections continue. There is a new LERTA application and it is from Panera Bread.

### COMMITTEE REPORTS

a. EAC – There was no report.

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- b. Regional Planning – Councilor Procsal noted there is no meeting until September.
- c. Blighted Property Review Committee – There was no meeting.

#### COMMENTS FROM CITIZENS PRESENT

- a. Ray Oskiera, 816 Glasgow Street – thanked all for their service to the community. He commented on his second coming video and will provide additional information in the near future.
- b. Bruce Madara, 543 North Adams Street – reiterated his concerns with the potholes, trash services and high taxes. He objected to additional costs from J.P. Mascaro.

#### UNFINISHED BUSINESS

None.

#### NEW BUSINESS

a. Beacon of Hope – Attorney Hovey reviewed the request of the Beacon of Hope to operate a homeless shelter at the property located at 601 and 619 West High Street. The relief requested included a Conditional Use; a challenge to the Borough Ordinance, noting that a homeless shelter should be permitted in the Borough; a Special Exception, seeking to classify the homeless shelter as a rooming house; and a use variance from the Zoning Ordinance. Attorney Hovey noted that his understanding is that Council wishes to actively oppose the challenge to the Zoning Ordinance and actively oppose the special exception for a rooming house. He added that Council would like to take a neutral position on the variance and authorize the Solicitor to appear at the hearing and propose reasonable conditions to the Zoning Hearing Board.

Motion by Councilor Lebedynsky, seconded by Councilor Procsal to direct the Solicitor to intervene in the Zoning Application No. 11-2022, the application from the Beacon of Hope and oppose both the Applicant's challenge to the validity of the Zoning Ordinance and the request for special exception approval for a zoning for a rooming house. In addition, propose, at the time of the hearing, reasonable conditions which may be imposed on the requested variance by the Zoning Hearing Board if granted.

Councilor Vanni commented that this is the best option heard up to this point.

Motion carried: 5 ayes.

b. MCCC – North Hall Project – Motion by Councilor Lebedynsky, seconded by Councilor Vanni to grant preliminary/final approval for the Montgomery County Community College – North Hall Improvement Project, 144 West High Street, subject to the following conditions within 90 days:

- i. Compliance with the Cedarville Engineering Letter of September 2, 2022
- ii. Compliance with the Montgomery County Planning Commission letter of November 1, 2021

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- iii. Compliance with the HRG letter of October 27, 2021
- iv. Compliance with all applicable ADA requirements
- v. Consolidation of the two existing parcels into one lot
- vi. The payment in full of all Borough review fees

Motion carried: 5 ayes.

c. MCCC - North Hall - Motion by Councilor Vanni, seconded by Councilor Lebedynsky to grant the following waiver requests from the Borough's Subdivision and Land Development Ordinance (SALDO) and the Borough's Grading and Excavating Ordinance (G&EO) for the Montgomery County Community College – North Hall Improvement Project, 144 W. High Street, as set forth in the Cowan Associates, Inc., letter dated September 9, 2022:

- i. SALDO Section 22-201 – treating the Application as a preliminary/final land development plan
- ii. SALDO Section 22-400.3.A, 22-A402.1, and SALDO Section 22-A402.2 – waiving requirement to show physical features and topography of surrounding property.
- iii. G&EO Section 9-105.A – specifications regarding the amount of site alteration proposed (no alteration or disturbance in that area)
- iv. SALDO Section 22-A404.3 – layout of buildings, parking lots, driveways and access points.
- v. SALDO Section 22-A404.6 – allowing existing conditions for access easement to adjacent properties.
- vi. SALDO Section 22-A512.1.C – Lighting requirements for existing lighting.

Motion carried: 5 ayes.

Manager Keller thanked the Vice President Dix and members present for their efforts on this project.

c. Solid Waste Services – Attorney DeGennaro was present representing J. P. Mascaro for 31 years and commented on the alternatives provided with the contract. He noted that the new bid submitted for 5 year services with comparisons for surrounding municipalities, noting the significant increases, would be the most cost effective option for the Borough of Pottstown and the ability to lock in these proposed rates.

Attorney Hovey provided the amended motion for consideration:

Motion by Councilor Procsal, seconded by Councilor Lebedynsky to direct the Solicitor to issue notice to J. P. Mascaro with intent to exercise the one-year option for calendar year 2023 from the contract for Solid Waste Services with J. P. Mascaro & Sons under the amounts provided by J.P. Mascaro in its 2019 bid submission, dated August 26, 2019.

Councilor Kirkland questioned if this could be tabled for future action.

Attorney Hovey commented that it would not be feasible to table action on this matter, which requires notification within 90 days, unless a special meeting was scheduled.

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Councilor Vanni urged Staff to review and evaluate the five-year option.

President Weand confirmed that if this motion is approved, discussions can continue between the parties, prior to an official notice to J. P. Mascaro.

Manager Keller commented that the price on the extension is 25% cheaper than the proposed 5-year contract and will seek compromises.

Motion carried: 4 ayes, 1 nay. Councilor Kirkland cast the negative vote.

d. Street Painting Bid – Motion by Councilor Lebedynsky, seconded by Councilor Vanni to award the Street Painting and Thermal Plastic: Center and Lane Lines and Crosswalks, Stopbars, Parking lines, etc., to Traffic & Safety Signs, Inc., Kennett Square, PA, as per the bid tabulations of August 31, 2022, and based upon the unit prices offered by the contractor, subject to review and approval of the Solicitor. Motion carried: 5 ayes.

e. Fire Service Agreement – Motion by Councilor Lebedynsky, seconded by Councilor Procsal to approve and authorize execution of the Addendum to the Fire Service Agreement dated August 18, 2021 between the Borough of Pottstown and West Pottsgrove Township for a five -year term to expire December 31, 2027. Motion carried: 5 ayes.

f. Noise Ordinance - Motion by Councilor Kirkland, seconded by Councilor Lebedynsky to adopt an Ordinance amending the Noise Ordinance to amend regulations for the use of Fireworks.

#### ORDINANCE NO. 2215

AN ORDINANCE OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN AMENDING PART 8, NOISE, OF CHAPTER 6, CONDUCT, OF THE CODE OF THE BOROUGH OF POTTSTOWN, AS AMENDED, TO AMEND REGULATIONS FOR THE USE OF FIREWORKS, AS PERMITTED PURSUANT TO HOUSE BILL 2157, SESSION OF 2021.

Motion carried: 5 ayes.

g. Vacant Commercial Units – Motion by Councilor Lebedynsky, seconded by Councilor Procsal to adopt an Ordinance creating regulations for the registration, inventorying, inspection and monitoring of vacant commercial units within the Borough.

#### ORDINANCE NO. 2216

AN ORDINANCE OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN AMENDING CHAPTER 5, CODE ENFORCEMENT, TO CREATE A NEW PART 16, REGISTRATION OF VACANT COMMERCIAL UNITS, INTENDED TO CREATE A REGULATORY SCHEME FOR THE REGISTRATION, INVENTORYING, INSPECTION, AND MONITORING OF VACANT COMMERCIAL UNITS WITHIN POTTSTOWN BOROUGH.

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Councilor Procsal noted this will be beneficial for the Blighted Property Review Committee.

Motion carried: 5 ayes.

h. Stormwater Amendment - Motion by Councilor Kirkland, seconded by Councilor Lebedynsky to adopt an Ordinance amending the Stormwater Management Ordinance

ORDINANCE NO. 2217

AN ORDINANCE OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN AMENDING PART 2, STORMWATER MANAGEMENT OF CHAPTER 26, WATER OF THE CODE OF ORDINANCES OF THE BOROUGH OF POTTSTOWN, AS AMENDED, TO CONFORM THE BOROUGH'S STORMWATER MANAGEMENT REGULATIONS TO THOSE SET FORTH WITHIN AND REQUIRED BY THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S 2022 MODEL MUNICIPAL STORMWATER MANAGEMENT ORDINANCE.

Motion carried: 5 ayes.

i. MMO POLICE PENSION 2023 - Motion by Councilor Kirkland, seconded by Councilor Vanni to adopt a Resolution establishing the member contribution for the Police Pension Plan at 5% for calendar year 2023 and acknowledging that the 2023 Minimum Municipal Obligation (MMO) for the Police Pension Plan is \$1,730,677.00.

RESOLUTION NO. 2022

A RESOLUTION OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN, MONTGOMERY COUNTY, PENNSYLVANIA, ACKNOWLEDGING THE 2023 MINIMUM MUNICIPAL OBLIGATION (MMO) AND ESTABLISHING THE CONTRIBUTION FOR MEMBERS OF THE POTTSTOWN POLICE PENSION PLAN FOR THE CALENDAR YEAR 2023, ENDING DECEMBER 31, 2023.

WHEREAS, it has been determined by the plan actuary that member contributions for calendar year 2023 should be established at five percent (5%); and

WHEREAS, the Pottstown Police Pension Board has formally acted to recommend to Borough Council a contribution to the plan consistent with the actuary's recommendation;

WHEREAS, it is further required that the Minimum Municipal Obligation ("MMO") for 2023 as calculated by the plan actuary be presented to Council prior to September 30th of the preceding year.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Burgess and Town Council of the Borough of Pottstown in lawful session this 12<sup>th</sup> day of September 2022, as follows:

1. The annual member contribution is established for the calendar year 2023 at five percent (5%) which shall begin January 7, 2023 and shall remain in effect through December 31, 2023.

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2. The 2023 MMO, as calculated by the plan actuary, is One Million, Seven Hundred Thirty Thousand and Six Hundred and Seventy-Seven dollars (\$1,730,677.00).

Motion carried: 5 ayes.

j. MMO NON-UNIFORM PENSION 2023- Motion by Councilor Lebedynsky, seconded by Councilor Procsal to adopt a Resolution acknowledging that the 2023 Minimum Municipal Obligation (MMO) for the Pottstown Pension Plan (Non-Uniform) is \$913,773.00

RESOLUTION NO. 2022-

A RESOLUTION OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN, MONTGOMERY COUNTY, PENNSYLVANIA, ACKNOWLEDGING THE 2023 MINIMUM MUNICIPAL OBLIGATION FOR THE POTTSTOWN BOROUGH NON-UNIFORMED PENSION PLAN.

WHEREAS, the Borough of Pottstown maintains a pension plan for the benefits of its municipal employees; and

WHEREAS, upon a yearly basis pursuant to law, the Borough is required to calculate the Minimal Municipal Obligation (hereinafter referred to as “MMO”) for the next calendar year; and

WHEREAS, the MMO for 2023 has been computed to be Nine Hundred and Thirteen Thousand, Seven Hundred and Seventy-three dollars (\$913,773.00).

WHEREAS, the Borough is required to pass a Resolution recognizing the actuarial condition of the plan each year and acknowledges the required MMO; and

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Burgess and Town Council of the Borough of Pottstown that the Borough of Pottstown Municipal Non-Uniformed Pension Plan MMO for 2023 is Nine Hundred and Thirteen Thousand, Seven Hundred and Seventy-three dollars (\$913,773.00).

ENACTED AND RESOLVED this 12<sup>th</sup> day of September, 2022.

Motion carried: 5 ayes.

k. Oak Street Right of Way – Motion by Councilor Kirkland, seconded by Councilor Lebedynsky to adopt a Resolution authorizing the conveyance of a portion of the Oak Street right-of-way via a Quit-Claim Deed with May Street Home Ownership, Inc. and the Borough of Pottstown

RESOLUTION NO. 2022 – 21

A RESOLUTION OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN AUTHORIZING DISPOSITION OF CERTAIN REAL PROPERTY PURSUANT TO SECTION 3301.2 OF THE PENNSYLVANIA BOROUGH CODE.

WHEREAS, the Borough of Pottstown and May Street Home Ownership, Inc., ostensibly have ownership/possessory interest in Lot C5, as identified on Plan Sheet 1 of the May Street Crossing Subdivision Plan, consisting of approximately 3,325 square feet thereafter "Property"); and

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WHEREAS, the Property was previously part of the Oak Street right-of-way, which Property is no longer required to connect Oak Street to Washington Street; and  
WHEREAS, Borough Council has determined it is in the best interest of the Borough to convey, via Quit Claim Deed, its interest in the Property to the adjacent property owner to eliminate the Borough's ongoing maintenance responsibility for the Property.  
NOW, THEREFORE BE IT AND IT IS HEREBY ENACTED AND RESOLVED by the Burgess and Town Council of the Borough of Pottstown, as follows:  
SECTION 1. It is hereby determined that the value of the Borough's interest in the Property, if any, is less than One Thousand Five Hundred Dollars (\$1,500.00).  
SECTION 2. This Resolution is enacted pursuant to the authority set forth in Section 3301-2 of the Pennsylvania Borough Code, relating to the disposition of real property.  
SECTION 3. The Borough Council President and the Borough Secretary are hereby authorized to execute a Quit Claim Deed in order to convey and dispose of the Property, as well as, any other documents necessary to effectuate the intent of this Resolution.  
SECTION 4. The Borough Manager is further authorized to take any additional action necessary to effectuate the conveyance of this Property.  
ENACTED and RESOLVED this 12<sup>th</sup> day of September, 2022.

Motion carried: 5 ayes.

1. Approved Tree Species - Motion by Councilor Lebedynsky, seconded by Councilor Procsal to adopt a Resolution modifying the list of approved tree species that are permitted within the public right-of-way.

#### RESOLUTION NO. 2022- 22

A RESOLUTION OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN MODIFYING THE LIST OF APPROVED TREE SPECIES THAT ARE PERMITTED WITHIN THE PUBLIC RIGHT-OF-WAY.

WHEREAS, Chapter 25, Trees, of the Code of Ordinances of the Borough of Pottstown, as amended, includes the Pottstown Tree Ordinance which governs and regulates the type and placement of certain trees within the Borough; and  
WHEREAS, Section 104.2 of Chapter 25, Trees, allows Borough Council to adopt, by Resolution, a list of approved tree species that are permitted to be planted within the public right-of-way; and  
WHEREAS, Borough Council now desires to modify the approved tree species list through this Resolution.  
NOW, THEREFORE, BE IT AND IT IS HEREBY ENACTED AND RESOLVED by the Burgess and Town Council of the Borough of Pottstown, as follows:  
SECTION 1. For all classes of trees, ash trees are hereby removed and deleted from the approved tree species list.  
SECTION 2. Otherwise, the content of the current list of tree species is hereby reaffirmed.  
SECTION 3. Future changes to the approved list of tree species shall be made by future Resolution of Pottstown Borough Council.  
SECTION 4. This Resolution shall become effective immediately upon enactment.

Motion carried: 5 ayes.

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m. Financial Statements – Motion by Councilor Procsal, seconded by Councilor Vanni to accept the Borough Of Pottstown Financial Statements for year ended December 31, 2021 as presented by Maillie Accountants. Motion carried: 5 ayes.

n. Paper Alley West & Washington Street – Motion by Councilor Lebedynsky, seconded by Councilor Vanni to authorize the Solicitor to prepare and advertise an ordinance ordaining and vacating a portion of the paper alley between West Street and Washington Street.

Mr. Keller explained the Borough's policy for vacating alleyways and the adjoining residents have requested the conveyance of the property to the owners and relieving the Borough of any responsibility.

Motion carried: 5 ayes.

o. TRAAC Biergarten – Motion by Councilors Procsal, seconded by Councilor Vanni to grant the request of the TriCounty Active Adult Center to hold a beer garden in Memorial Park at the October 22, 2022 Cheesetoberfest, from 12:00 p.m. - 3:00 p.m., subject to compliance with the Liquor Control Board. Motion carried: 5 ayes.

p. Toss Your Turkey 5K - Motion by Councilor Lebedynsky, seconded by Councilor Vanni to grant the request of the Pottsgrove School District to hold its Toss Your Turkey 5K event on November 24, 2022 and allowing the closure of Keystone Boulevard, from College Drive to South Hanover Street from 7:00 a.m. to 11:30 a.m., subject to approval of the Police and Fire Departments. Motion carried: 5 ayes.

q. Parks & Recreation 5K – Motion by Councilor Vanni, seconded by Councilor Lebedynsky to grant the request of the Parks and Recreation Department to hold its 5K on January 1, 2023 and allowing the closure of Keystone Boulevard and College Drive from 11:00 a.m. to 1:30 p.m., subject to approval of the Police and Fire Departments. Motion carried: 5 ayes.

REPORT OF BILLS - Motion by Councilor Lebedynsky, seconded by Councilor Vanni to pay the outstanding bills in the amount of \$3,823,931.97. Motion carried: 5 ayes.

## ANNOUNCEMENTS

President Weand announced the appointment of Barry Beasley, Jefferson Street, to serve on the Transportation Committee.

President Weand, Councilor Procsal, Vanni and Lebedynsky praised all involved with the successful Fete en Blanc event.

Councilor Vanni, on behalf of Councilor Lindsay, reminded all of a Blood Drive on October 13<sup>th</sup>, 2:00 p.m. - 7:00 p.m. at the Ricketts Center, specifically African Americans to address the sickle cell disease.



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Mayor Henrick announced that Trick or Treat night in the Borough is Monday, October 31<sup>st</sup>, 5:30 p.m. – 8:00 p.m.

ADJOURNMENT

President Weand adjourned the meeting at 7:40 p.m.

Submitted by,

Justin M. Keller  
Borough Manager