

## **BOROUGH OF AKRON COUNCIL MEETING – April 12, 2021**

***Council Members present*** – Nathan Imhoff, President; Justin Gehman, Vice-President; Paul Swangren, Jr.; Randall Justice; Thomas J. Murray, Sr., Kleon Zimmerman and Michael Morris.

***Others present*** – Mayor John McBeth; Susan Davidson, Borough Manager/Secretary; Sean Molchany, Assistant Borough Manager, and Police Chief Eric Higgins.

***Visitors*** – Megan Thompson, Herbein + Company, Inc.; Todd Eachus, Comcast; Keith Allridge, Comcast; James Cihocki, Cable Services; Lora Gomboc; Stan Brighten, and Bonnie Young, Monica Hersh-Zoom.

Meeting opened at 6:30 p.m. with the Pledge of Allegiance.

***Council Roll Call:*** Thomas J. Murray, Sr. – Yes  
Kleon Zimmerman – Yes  
Paul Swangren, Jr. – Yes  
Randall Justice – No (showed up later)  
Michael Morris – No (showed up later)  
Justin Gehman, Vice-President – Yes  
Nathan Imhoff, President – Yes  
Mayor John McBeth – Yes

### **Announcement**

Nathan Imhoff announced that the Council met in Executive Session on April 1, 2021 to discuss the matters of employment, specifically, the appointment of the Solicitor. The Executive Session was held after the April 1, 2021 meeting where the Council interviewed two different law firms.

### **Approval of Minutes**

Justin Gehman made a motion to approve the March 22, 2021 and April 1, 2021 Borough of Akron Council Meeting minutes. Paul Swangren, Jr. seconded the motion.

Mayor McBeth pointed out that on page 3 of the minutes for March 22, 2021, beginning of the fourth paragraph, it says that Sean Molchany and Thomas J. Murray, Sr. met on March 18, 2021, to talk about I&I problems in the Borough. The Mayor noted that Sean Molchany did not meet with Thomas J. Murray, Sr. that day. Sean met with Tom Murray, Jr., Public Works.  
Motion carried.

### **Approval of Bills**

Thomas J. Murray, Sr. made a motion to pay the April 2021 bills as reviewed by the Finance Committee and the Mayor. Kleon Zimmerman seconded the motion.  
Motion carried.

### **Reports/Announcements**

#### ***Police Report***

Chief Higgins stated he submitted his report to Council for review.

The Chief reported that at the Police Liaison meeting, they talked about putting speed sentries out on several streets. The speed sentries were not working; however, they were able to get one working. The Chief anticipates putting one on Fulton Street or Main Street first, within the next couple of days.

Nathan Imhoff stated he saw several West Earl police cars go down his road in the last week, or so, and he is pleased to see officers out and about. The Council is very happy for the service that West Earl Police is giving them.

Chief Higgins also reported that they are appointing the 12<sup>th</sup> officer tonight. West Earl Board of Supervisors will offer the individual an initial offer of employment. Once the individual is hired, uniformed and equipped, Chief Higgins will bring him to a Council meeting to meet the public and the Council.

Chief Higgins would like to do a meet-and-greet, or a Coffee with a Cop, either at the Akron Borough building, or the Akron firehouse. He would like to do one during the week, and one on a weekend, and will provide coffee and refreshments. Within the next week, he will provide the Council with some dates on that.

### ***Mayor Report***

Mayor McBeth reported that the radar speed enforcement for local police passed the Pennsylvania House Transportation Committee. The bill is now on the House floor for further consideration. There are two exceptions: one of them is the 10 mile an hour speed limit – drivers would be ticketed only if the speed recorded is at least 10 miles over the posted speed limit. The other one is – they can only be using the radar from a stationary position. State police can use it from a mobile position.

Chief Higgins stated Pennsylvania is the only state that does not allow municipal officers to use radar. Chief Higgins is an advocate for radar. The biggest complaint coming from Akron Borough and West Earl residents is speeding. Officers are limited to a stopwatch, which is very outdated and limited in the way you can use it. Chief Higgins thinks that if radar bill passes, it will make our roads safer. He will approach West Earl Board of Supervisor to do a Resolution and send it to our Representatives to try to get them to move this bill.

Mayor McBeth stated according to a testimony that gets presented to the House and the Senate, Pennsylvania has the highest number of traffic deaths from speeding, percentagewise, than the other 49 states.

Chief Higgins said every fatal crash he has ever been to, speed has been a factor of the death. The Chief also said that last week they did a speed detail on 222. They utilized State Police with their radar units. Within a four-hour window, they got 31 speeders from 80 to 95 mph.

### **Borough Manager Report**

Susan Davidson reported that the Auditor General's Office has started a Pension Audit for the Uniform and Non-Uniform Pension from 2017 through 2020. The audit is being done remotely and should be completed the week of April 19, 2021. There will be a finding because an ordinance was never adopted by Akron Borough to eliminate the Uniform Pension Plan when the Akron Borough Police Department was dissolved. That is going to be included in the ordinance that is on the agenda tonight for police services. If Council adopts the ordinance, it will be adopted before the audit is even finished.

Installation of storm boxes will be the street project for 2021.

Street sweeping will take place April 22, 2021 (East side of Route 272) and April 23, 2021 (West side of Route 272). Sue Davidson will send a Swiftreach notification to the residents.

Susan Davidson is still waiting to hear back from T-Mobile in regard to the agreement.

Susan Davidson is meeting with Hydro-Soft on Tuesday, April 20, 2021 to discuss renewing the contract agreement.

Hydrant flushing and flushing dead ends will take place the week of April 19, 2021.

Handi-Vangelism is requesting a time extension for their land development and stormwater plan. This request is on tonight's meeting agenda.

There are no Zoning Hearings or Planning Commission Meetings scheduled at this time.

The Borough Municipal Office is now open to the public.

There are two bid proposals on the agenda this evening: the Akron Volunteer Fire Company driveway and the Rail Trail Streambank work.

Also, on the agenda this evening is a draft of an ordinance for police services.

Susan Davidson advertised for a School Crossing Guard. Rachele Baker no longer wants to be a crossing guard. Her last day is April 16, 2021. A substitute crossing guard will fill until they find a replacement.

### **Assistant Borough Manager/Zoning Officer Report**

Sean Molchany reported on the Broad Street Park and a punch list of repair work a couple weeks ago. Mr. Molchany met with Parks Committee and recommended removing the existing shed and taking down the bleachers for safety reasons. The Committee asked Mr. Molchany to bring it to Council for comments and discussion.

Nathan Imhoff asked if the shed and the bleachers will be replaced. Mr. Molchany said, at this point, it will not be replaced. The shed has not been used in years and is falling apart. The bleachers also have not been used for games; they are too close to the players' benches; there are some ADA issues; the rise of the bleachers is almost three feet, and there are no guards around it, so the recommendation is to take them down, as it does not meet safety standards.

Sean Molchany stated there is a motion on the agenda this evening for the Library Walk. He met with Ephrata Public Library representatives to discuss and locate the story walk signs. There is a map in the agenda packet showing the location of the walk. The Library approved the location.

Mayor BcBeth commented on the Streets report saying that he was surprised that the storm box on Colonial Drive is not mentioned. Sean Molchany said there was no issue with the storm box,

it was the sidewalk. He explained that the construction of the sidewalk above it was not constructed properly – there was a void. That has been fixed.

### **Finance Report**

Thomas J. Murray, Sr. reviewed the March 2021 Revenues and Expenditures Report.

The March 31, 2021 month-end cash balances were read into the minutes.

General Fund \$218,741.11  
Water Fund \$21,429.53  
Sewer Fund \$199,199.09  
Highway Aid \$161,554.99  
General Reserves \$291,069.47  
Water Reserves \$296,119.85  
Sewer Reserves \$286,067.89  
Capital Projects \$374.14  
Community Fund \$4,191.22  
Total \$1,478,747.29  
Escrow Fund \$5,961.73

Paul Swangren, Jr. asked Thomas J. Murray, Sr. to read the total of the check register when he approves the bills, and to make it part of public record from now on.

Thomas J. Murray, Sr. read the moth-to-date April 2021 check register into the minutes.

General Fund \$125,230.33  
Water Fund \$7,863.15  
Sewer Fund \$2,812.94  
Capital Projects Funds \$7,660.42

### **Community Relations**

Michael Morris reported he spoke with Katrina Zimmerman about a few items for this year. One thing that they discussed was A Dog Day in the Park. They have reached a preliminary date of July 18, 2021, which is a Sunday, to have a 2:00 to 4:00 p.m. time slot where people would come for activities to have with their dogs.

Also, in that conversation it was discussed, that for several years, some people wanted to do Christmas wreaths on Main Street. It was requested if the Borough could do a donation through the Borough's funds to get some wreaths for the first year, and then get a sponsorship in the future years.

Michael Morris has been working on proposals for updating the Akron Borough website. Mr. Morris reached out to three different companies. Two companies already responded, and the third company should respond by the next Council meeting, so Mr. Morris will present the proposals at that time. The rough cost estimate is – one proposal is \$5,500, and the other proposal is around \$7,200. It is definitely on the high-end of what Mr. Morris originally had estimated. The type of things that the Council is looking for in the new website, in order to help the Akron residents to be able to get information quickly and easily, is a simple feed that would be simple to update. Mr. Morris also asked about a police page. All three companies said that it

will be fairly easy to set up that system.

Mayor McBeth suggested that Mr. Morris would write a short article about the Dog Day in the Park and put it in the newsletter to send it out with the water bill.

Nathan Imhoff stated he likes the idea of the wreaths; however, they will have to look at the price on that. Also, putting lit up wreaths might be a little more of a challenge because Akron does not have a hook-up ability.

### **Parks and Property Report**

Randall Justice reported that there is now an updated quote on the pavilion. The current budget for the pavilion exceeds the estimated allocation/donation they have. Mr. Justice asked the Council how they want to address that, and whether they want to go forward with the pavilion, given the projected cost overrun. The budget as projected now is about \$50,000, and the donation is about half of that.

Mr. Justice stated he spoke with Sean Molchany about the desire to remove the shed and the bleachers. He would like to know if Council needs to take action on that this evening, or whether they would like to deal with that at another time. It is a liability in Mr. Justice's view, so the sooner they take action on that, the better.

Nathan Imhoff thinks that it would not be an action item.

The Council was in favor of removing the old shed and bleachers, and there were no objections. Nathan Imhoff said they will talk more about the pavilion during Old Business.

### **Personnel Report**

Paul Swangren, Jr. had nothing to report.

Mr. Swangren announced that there is a Personnel Committee meeting scheduled for Monday, April 26, 2021 at 6:00 p.m.

### **Streets**

Justin Gehman stated they he received a letter from Construction Masters Services, LLC with the fixing cost for Front Street in the amount of \$9,791. The Council needs to decide if they want to retain 15% of the original cost, and decide how they want to move forward.

Paul Swangren, Jr. stated he would like to see a resolution with this issue. The Borough owes Construction Masters part of the money, so they should release some of the money.

Mr. Swangren said there are three parties involved: the Borough, Hanover Engineering and Construction Masters. He suggested they split the amount into thirds, that is \$3,263 each, and propose that to Hanover Engineering and Construction Masters to get this resolution resolved. He also suggested they release 5% with a letter from the Council thanking them for the proposal and an explanation of the resolution. The Council was in favor.

Thomas J. Murray, Sr. made a motion to release the retainage as per the contract with a letter stating that everyone will pay a third for this repair. Michael Morris seconded the motion.

Kleon Zimmerman stated he is fine releasing 5%, but does not think that the Borough should be held liable to pay for the work that Construction Masters messed up.

Paul Swangren, Jr. agreed, and said that if it was a big defect, he would stay strong on it; however, he is trying to keep the legalities out of it. Motion carried.

## **Public Utilities Report**

Kleon Zimmerman stated they are getting a \$98,000 refund from Ephrata Sewer for last year's sewer treatment cost. That will go towards the Borough's first quarter.

Paul Swangren, Jr. stated when they get to the reports, he would like to see more things to be brought up in the reports. In the Borough Manager's report, under Public Utilities, it says that sewer flows are dropping, but they have not had 30 consecutive days under 500,000 gallons. Mr. Swangren thinks that should definitely be brought up in Utilities report. He was also disappointed not seeing what they did over the last month. Mr. Swangren would like a little more detail of what they have done last month reducing I&I, and how they can reduce the sewer bills and reduce the flow into Ephrata. Mr. Swangren views over 500,000 gallons a day as an emergency.

Sean Molchany said they have identified a problematic area in the Borough that they are aware of. They are looking at lining the pipes where they are finding the major leaks, but they identified that there are four or five specific locations. Mr. Molchany said it is in the process. He does not have an answer for Mr. Swangren because they do not have the camera person under contract at this time, but they have a proposal from him and are moving forward.

## **Public Comment on Agenda Items**

Paul Swangren, Jr. said he likes the new agenda, but for public comments, if someone has something to say, it is not fair for them to wait all the way down through the agenda. He encouraged the public to raise their hand anytime during the meeting if they have something to say.

Justin Gehman agreed that it is not fair for the public to sit through the Council's reports waiting to bring something to their attention.

Nathan Imhoff said they will shift the Visitors section back to the top.

## **Public Hearings/Presentations/Appointments**

### ***Herbein & Co. 2020 Audit Presentation and Review***

Megan Thompson, Manager of Herbein & Co., gave a quick recap of the 2020 audit that she distributed to the Council.

Ms. Thompson reported that it was an unmodified opinion, which had no prior means, no concerns during the audit, and no major adjustments to the numbers that were given to them to audit.

## **Old Business**

### ***Colonial Park Pavilion***

Randall Justice gave a background on the pavilion saying that when they started exploring the pavilion, they did some unofficial cost estimation on their own, and part of that cost estimate was the belief that some of the work could be done by public works. Digging deeper into the scope of the project and the required scope of work, they are going to need more labor from beyond the Borough engineering, ADA, etc. to make certain that the project is appropriate. The Borough received the initial significant donation from Rosenberger, but now the Council understands that the total cost of the pavilion is around \$50,000. There would be the need for some unbudgeted

funds to complete the project, if that is what the Council wants to do. The other question becomes, if the Council does not want to complete the project in light of the required unbudgeted funds, what do they do with the significant donation they received from Rosenberger.

Sean Molchany added that the material cost and installation cost is about \$50,000, which does not include stormwater, and things of that nature. He thinks that the realistic cost is going to be around \$70,000.

Nathan Imhoff asked how much of the Rosenberger's donation is actually covering the cost for the pavilion.

Sean Molchany said that the donation would cover the material only, but not the construction of the material. The installation of the pavilion costs more than the cost of the material. They are looking at roughly a \$45,000 to \$50,000 unbudgeted expenditure, if they want to continue moving forward with this project.

Paul Swangren, Jr. stated he is not looking to spend \$50,000 to complete something that is a \$25,000 donation. He thinks they need to reevaluate this matter.

Mayor McBeth said from their original talk, the size of the pavilion is 20 feet by 28 feet. The Mayor would like to see a breakdown of what is going in this project.

Nathan Imhoff recommended that Randall Justice would contact Rosenberger to tell them where they stand and ask if they are willing to help the project a little more.

The Council will discuss the project again at the next meeting.

## **New Business**

### ***Comcast Memorandum of Understanding***

Todd Eachus, Senior Director for Comcast, was present to follow up to their previous discussions regarding Comcast's cable system that is being built in accordance with the October 8, 2018 Franchise Agreement between Akron Borough and Comcast, which was granted by the Council. Since that point in time, the aerial construction is complete within the Borough. What remains is the underground portion of the Comcast system. Mr. Eachus stated they held community meetings with residents to let them know what underground work was going to take place. Issuance of the underground permits is the only issue that remains in order to complete construction.

In December of 2020, former Borough Solicitor offered a Letter of Understanding that went a little bit afield of the rights and privileges that Council granted under the Franchise Agreement. Mr. Eachus issued a letter to staff back in January, and they have been working together, and they came to an agreement that, essentially, that covers the Council's inspection concerns. Comcast already has a bond in the Franchise Agreement, however, Mr. Eachus agreed to do a construction bond over and beyond that, and is asking for Council's execution of this Memorandum, after which Comcast will go ahead and apply for permits under the Borough's Ordinances to get this work finished.

Randall Justice stated the Council is not confident that they have a sound enough legal perspective on the proposed agreement to act on it.

Nathan Imhoff said that with the uncertainty of things, they will have to postpone this for two weeks until the April 26, 2021 meeting.

Mr. Eachus asked Council's permission to begin the process of applying for permits during that period of time, and then, if Council approves the Memorandum, they will be set up to get to

work. Council was in favor.

***Motions and Decisions***

***Ordinance No. 2021-00104: Amending the Code of Ordinances of the Borough of Akron, which pertains to Police Department and Police Pension:***

Paul Swangren, Jr. made a motion to adopt Ordinance No. 2021-00104 amending Chapter 1, Part 3, Police Department, by repealing Section 301 in its entirety and replacing Section 301 to establish a certified Police Department of the Borough and repealing Chapter 1, Part 6, Police Pension, in its entirety. Thomas J. Murray, Sr. seconded the motion. Motion carried.

***Bid Award for Streambank Protection of Unnamed Tributary of Cocalico Creek Project:***

Paul Swangren, Jr. made a motion to award the Streambank Protection of Unnamed Tributary of Cocalico Creek Project to the apparent low bidder Flyway Excavating, Inc. in the amount not to exceed \$48,897.50. Kleon Zimmerman seconded the motion. Motion carried.

***Bid Award for Akron Borough property located at the Akron Fire Company for the Driveway and Parking Lot Improvements:***

Thomas J. Murray, Sr. noted that the Borough owns all that property, and the Fire Company is leasing that property from the Borough. Nathan Imhoff added that the project name is Akron Fire Company Driveway and Parking Lot Improvements.

Randall Justice made a motion to award the Akron Fire Company Driveway and Parking Lot Improvements project to the apparent low bidder CPA Pavement Services, Inc. in the amount not to exceed \$47,236.18 with the additional understanding that any cost over budget would be allocated – 40% to General Discretionary Funds; 30% to Water, and 30% to Sewer. Paul Swangren, Jr. seconded the motion. Motion carried.

***Appointment of Borough Solicitor:***

Nathan Imhoff stated on April 1, 2021 the Council interviewed two different law firms – Jason Hess from Morgan, Hallgren, Crosswell & Kane, P.C. and Edward Browne from Nikolaus & Hohenadel, LLP.

After listening to both presentations and questioning both lawyers, Council then had a discussion in an Executive Session on thoughts of those two potential Solicitors. The Council members present for those interviews decided to make a recommendation this evening for an appointment of one of those Solicitors. The Council took no official action in the Executive Session, but discussed it and agreed that they would make a recommendation this evening for the appointment of Nikolaus & Hohenadel, LLP as next Solicitor for the Borough. That was the perspective reached by the members who were present at the interviews.

Thomas J. Murray, Sr. made a motion to appoint Nikolaus & Hohenadel, LLP as Akron Borough Solicitor. Paul Swangren, Jr. seconded the motion.



Paul Swangren, Jr. stated one of the reasons for the interview was to make sure the staff was comfortable with the selection. Reading the minutes, Mr. Swangren's conclusion is that the staff was comfortable with Nikolaus & Hohenadel, LLP.

Nathan Imhoff said that he liked both Solicitors, but obviously he really liked Nikolaus & Hohenadel, LLP and the chemistry they had in the conversations, as well as their passion for municipal law.

Motion carried.

***HVMI Organizational Headquarters Campus, Preliminary/Final Land Development Plan – 2361 Rothsville Road, Zoned R-1, Extension of Time Request.***

Randall Justice made a motion to approve the time extension request for HVMI Organizational Headquarters Campus, Preliminary/Final Land Development Plan for action by Borough of Akron Council. The request will extend the time period in which they are planning to act on the plan to May 10, 2021. Justin Gehman seconded the motion.

Michael Morris asked for a quick summary of what these extension requests are for, and why they are necessary.

Sean Molchany stated when someone submits a Final/Preliminary Plan, Council has so many days to act on the plan, or it is a deemed approval. They are granting the Council additional time to act on their plan. That is what they are doing here.

Motion carried.

***Ephrata Public Library Story Walk***

Randall Justice made a motion to enter into an agreement with Ephrata Public Library for the purpose of creation of a Story Walk located at a designated area at Roland Park. The cost associated with the construction or installation of the walk by Borough Public Wok employees will offset the Borough contribution to the Ephrata Public Library for the year 2021 or any future year where such costs are incurred. Michael Morris seconded the motion.

Randall Justice believes the motion needs to be amended to include published guidelines about what could and could not be put on the individual posts, as discussed before. Michael Morris agreed with that.

Paul Swangren, Jr. wanted to make sure the Borough is covered in the final agreement, and will not be held liable if someone runs into the posts and gets injured; also, if someone runs the posts over with a car or lawn mower, the Borough will not be responsible to fix it.

Sean Molchany stated this will be addressed in the agreement.

Motion carried.

**Public Comment on other Borough Related Business**

Bonnie Young, Akron Resident, was very impressed with the Borough Council and how much work they get done in one meeting. Ms. Young is pleased to know that police officers come to the school every day. The school feels very confident and secure.

Paul Swangren, Jr. made a motion to adjourn the meeting. Thomas J. Murray, Sr. seconded the motion.

Motion carried.

Meeting adjourned at 8:36 p.m.

Respectfully submitted,

Lydia Kovalchuk  
Minute Taker

LK