

**MINUTES OF THE
TOPTON BOROUGH COUNCIL
Monday July 13, 2020**

Members of the Topton Borough Council met on Monday July 13, 2020 at 7:00 P.M. for the regularly scheduled monthly meeting both in person and virtually via Zoom. The meeting was called to order by Council President Mr. Bower with the Pledge of Allegiance.

Roll call was taken and the following members were present Mayor Biltcliff, Ms. Kunkel, Ms. Lorah, Mr. Bower, Mr. Beck, Mr. Stauffer and Mr. Jost. Solicitor London and visitors were also in attendance. Mrs. Moll was absent.

Council President Mr. Bower took a moment to make an announcement to both our in person and virtual guests regarding the actions and discussions that took place at the prior meeting on June 8th, 2020. He also made a statement regarding the settlement agreement and resignation of previous Borough Manager Mr. Marcus Dolny.

Council member Ms. Kunkel made a statement to both Borough Council and the public regarding allegations involving her communication with previous Borough Manager Mr. Marcus Dolny. After discussion it was made clear that the previous allegations council member Mr. Stauffer had brought against Ms. Kunkel were incorrect as acknowledged by Council President Mr. Bower. She also discussed the incorrect previous accusations that she did not handle the motion properly to accept the settlement agreement with Mr. Marcus Dolny. Ms. Kunkel noted that there had been previous opportunities prior to the May meeting to request or question information and nothing additional was asked by Mr. Stauffer. Mr. Stauffer voted in favor of accepting the settlement agreement at the May 11th, 2020 meeting. The only council member that voted against the acceptance of the agreement was Mr. Jost.

APPROVAL OF MINUTES

On a motion by Mr. Jost, seconded by Ms. Kunkel the minutes of June 8, 2020 were approved unanimously with the correction of the removal of the motion regarding the elimination of Solicitor Joan London as the borough solicitor.

POLICE REPORT

Chief Stinsky was present for questions and provided a patrolling report for the month of June by Fleetwood Police within the Borough of Topton. Chief Stinsky also communicated regarding fireworks complaints, speed enforcement within the borough, Furnace Street road block and the Deka property adjacent to Furnace Street.

HEARING OF VISITORS

Mr. Matthew Piero approached Council to discuss swim team, the pool and current status of the budgeted amount of \$78,000 in the pool account. Council replied to Mr. Piero that the budgeted amount in the pool account is based on the borough selling pool memberships. Mr. Piero also

questioned if the park project was put out to the public to bid. He was notified that it was advertised through Barry Isett & Associates. He also discussed the cost of the park project and amount of tax dollars being contributed to this project. Council responded to his request regarding the cost of the park project that some will be covered by grants and borough matches to grants. He also asked council if Mr. Marcus Dolny will be returning to his position as the borough manager. Council informed Mr. Piero that Mr. Dolny will not be returning to his position as he has resigned. Mr. Piero also asked if the ladies in the office stay full time and Council President Toby Bower responded with an absolutely.

Mrs. Michelle Stoudt questioned Council if Mr. Marcus Dolny had been on borough property. Council President Mr. Bower noted that he had been allowed to come to the borough office to pick up his personal belongings but other than that he has not been on borough property. Mrs. Stoudt questioned the friendship in between Mr. Toby Bower and Mr. Marcus Dolny and Mr. Bower noted they are friends but Solicitor London noted that is not a conflict of interest. Mrs. Stoudt questioned borough council regarding the bonuses that were given to only select seasonal pool employees. Mr. Bower noted that those were given to have them return the next year and had been approved. Ms. Kunkel noted those bonuses were not approved by all of council. Mrs. Stoudt asked if there were receipts for the debit card purchases that had been made and discussed at the previous meeting. Mr. Bower noted there are receipts for all purchases made. Mrs. Stoudt asked for reasons why council was looking to release Solicitor London. Mr. Bower's reasons were the way Mr. Dolny's departure was handled, as well that there had been an altercation between two employees that Solicitor London was aware of and hadn't discussed with council. Mr. Bower noted that he would like to and is hoping to take everything that is brought up in this meeting and help procedures change for the future of the borough. Mrs. Stoudt also confronted Mr. Bower regarding the real estate transaction for 229/231 W. Weis Street. She questioned that she feels it was a conflict of interest for Mr. Bower to have been the Real Estate Agent for this transaction and Mr. Bower noted he agreed and that is why he donated the full commission to the building of the fence for the dog park. Mrs. Stoudt asked why Borough Council did not discuss with the Borough employees regarding the departure of Borough Manager Marcus Dolny and Mr. Bower noted that council handled it wrong and that should have been done as well as a statement to the public.

Mr. Rauenzahn asked if Mr. Dolny's administrative leave was paid and Council President Toby Bower noted that it was paid until July 31st, 2020. Solicitor London stated that he was being paid for unused accrued vacation sick time. Mr. Rauenzahn asked why in the June minutes it notes that beginning July 1st, 2020 that office staff would be on call as needed by Marcus Dolny. Council noted that motion was stopped and not voted on. Mr. Rauenzahn also asked what the borough plans are for the property located at 229/231 W. Weis St. Mr. Bower stated that we are going to clean it up and maybe look at parking for that area and that the Topton Fire Department would be doing some training on the property prior to demolition. Mr. Rauenzahn noted in regards to there being a conflict between office staff and Mr. Dolny and why the office staff should be demoted and why they wouldn't be good fit for the position even though they have been running the office. Ms. Kunkel stated that was the opinion of one council member and that motion was not acted upon.

Ms. Kathy Duffy stated we all need to heal, what has been done is done and we need to move forward. She also talked about the amount of money that is being spent in the borough and that she feels the feasibility study should be put on hold till the borough figures out where our finances stand. She also states that money should be spent on road repairs and sewer issues and with the unknown of the economy it would be wise to cancel the study. Ms. Duffy offered to

volunteer to help the Borough of Topton. She asked for Council to think of the taxpayers in the community when making choices. Mr. Stauffer stated that there has only been one real estate tax increase since he has been on council and that was for the Fleetwood Police Department that was last year. Mr. Jost noted that Borough Council has tried to keep the taxes low for the borough and that the higher taxes are the school taxes in which the borough has no control over.

Ms. Colleen Kristula asked council if community yard sale today was still going to happen this year. It was addressed that it had been cancelled and Mr. Bower stated a possible new date could be discussed.

Ms. Debbie Kirby expressed her sadness of the community changes over the last few months. Ms. Kirby also volunteered to help the borough if needed. Ms. Kirby also noted the reduction of vehicles speeding located near her property.

Mr. Frank Rupp asked Council if there is anything that could be done regarding the traffic on Callowhill Street. Council discussed putting possible speed humps or tables on Callowhill Street especially since it's next to the park.

Ms. Alane Falcone asked Mr. Stauffer if at the May 11th, 2020 was he coerced to vote to accept the settlement agreement with Mr. Marcus Dolny that ended in a 6 to 1 vote. Mr. Stauffer answered this question with a reply of no. She then asked Mr. Stauffer if on May 27th, 2020 he voted no for his own motion to have the minutes of May 11th, 2020 changed to read accepting the settlement agreement with Mr. Marcus Dolny from accepting the resignation and settlement agreement. Mr. Stauffer responded that is correct. Mr. Stauffer stated that when minutes for May 11th, 2020 came out that they were wrong and he wanted it corrected. He also said he voted no because him and Marcus Dolny go way back and he wanted Mr. Dolny back in the office. Ms. Falcone then asked Mr. Stauffer why he felt it was good to the taxpayers to default on an agreement. Solicitor London explained there is not going to be a default and the settlement agreement is in place. Ms. Falcone noted that her concern of defaulting on the settlement agreement was also in regards to the financial aspects incurred to create the settlement agreement. Ms. Falcone then asked Mr. Stauffer if he had discussion with other council members regarding the removal of Solicitor London for her position with the Borough, Mr. Stauffer responded that he had some communication with some of the other council members regarding it. Ms. Falcone stated that there had been multiple executive sessions with Solicitor London present so apparently this had not been discussed in any of those sessions. She also stated that Mr. Stauffer made a motion to reappoint Solicitor London at the January 6th, 2020 meeting. Ms. Falcone asked Mr. Stauffer why in one meeting he decided to make the decision to make a motion to remove Solicitor London from her position. Mr. Stauffer answered with no comment. Ms. Falcone asked Mr. Stauffer if he felt his motion to move the office workers who he felt were not a good fit to part time and then to on call was in the best interest of the taxpayers and that action could open the borough up to legal action. Mr. Stauffer replied with no comment that he had his reasons and he does not want to incriminate anyone.

Mrs. Kristin Apgar spoke in regards to being on previous Zoom meetings and noted how the public does not know the back story or who is talking. She noted last month's meeting was very disappointing to her as she can tell there is sides and how one meeting it is being voted one way and the next meeting another way. She stated these actions are very disheartening to the community. Mrs. Apgar stated if there were things not being done properly by Mr. Marcus Dolny why would council want to bring him back to the borough and then attack two other employees in the borough. She felt the last meeting was very unprofessional. Mr. Jost suggested

to the public to run for a council position if they have issues with the actions of the current council.

Ms. Carol Cook asked council what day he signed the settlement agreement. Mr. Toby Bower answered that it was signed on May 12th, 2020. Ms. Cook then asked when the Borough Manager position will be posted. Mr. Bower noted that the position will be advertised tomorrow July 14th, 2020. Ms. Cook also questioned why the position wasn't advertised prior to this. Mr. Bower stated he didn't want to blame it on COVID but the borough had a lot of other items to take care and the office wasn't open all the time. Ms. Cook asked about how it will be advertised and Mr. Bower noted it has to be advertised for 30 days and will go in local papers and social media. Ms. Cook asked what type of consulting Mr. Marcus Dolny is doing for the Borough. Mr. Bower noted he is available if we have questions of things we don't know how to do. Ms. Cook asked if he is being paid additional for these services. Mr. Bower responded with a no and Solicitor London stated no his pay is under the settlement agreement as he is being paid for his accrued sick and vacation time. Ms. Cook asked council if not only would there be more eyes on things but also names and Mr. Bower responded by noting the borough is in the process of putting this in place by adding more names to the bank accounts so there is more accountability. Ms. Cook asked if the property located at 229/231 West Weis Street is turned into a parking lot what type of studies would be completed. Solicitor London stated that a storm water and an erosion sedimentation plan.

Mr. Zackary Dixon, Vice President of Brandywine Girls Softball expressed his concern of the safety of the temporary fence around the park project next to the softball field. He also noted that with the current placement of the fence softball is unable to follow CDC guidelines for COVID-19. He also stated there is not enough room on the ramp to get a wheelchair through. Mrs. Trynda Schoonover stated that she had met with Nikki the President of softball and she had explained that the fence is unable to be moved and that the home team will have to enter through the visitor side. She noted the fence is only temporary and we are hoping it will be moved by end of fall. Mr. Dixon stated he doesn't feel they can follow the guidelines with the fence there. Mr. Jesse Kemp borough employee stated he can move it a little to try and help give a little more room. Mrs. Schoonover requested to have a meeting with Mr. Dixon onsite to discuss these matters.

Mrs. Jennifer Fredericks asked if council would consider adding crosswalks on Haas Street at East Smith Street and East Penn Street. She also asked that maybe there could be pedestrian signs placed there as well. Council President Toby Bower stated the borough council will discuss it and look into this more.

COMMUNICATIONS

Ms. Kunkel made a motion authorizing the Census to use the Borough conference room for training purposes providing they follow all CDC guidelines. Ms. Lorah seconded this motion passing unanimously.

Mr. Stauffer made a motion to authorize the employment advertisement of a full time Borough Manager. Mr. Jost seconded this motion passing unanimously.

Ms. Lorah made a motion to adopt Resolution 15-2020, extending the flat period for taxes until September 30th, 2020. Mr. Jost seconded this motion passing unanimously.

Mr. Bower spoke in regards to the current bleachers located at the Little League field. After further discussion it was decided the Borough of Topton will remove these bleachers and get quotes to replace the bleachers.

Ms. Kunkel made a motion to grant the request from Friends, Inc. to hold their annual bike ride on August 8th through Topton providing they submit a certificate of insurance. Mr. Stauffer seconded this motion passing unanimously.

MAYOR'S REPORT

Ms. Lorah made a motion to approve the continuation of weekly Disaster Declarations until further notice as needed. Ms. Kunkel seconded this motion passing unanimously.

SOLICITOR'S REPORT

Solicitor London updated Council that the Improvements Agreement for Brandywine Heights School District project is complete.

Solicitor London also notified Council that the parking ordinance will be advertised for possible adoption at the August meeting.

Solicitor London made Council aware that settlement is now closed on the property located at 229/231 West Weis Street.

COMMITTEE REPORTS

Public Affairs Committee – (Ms. Kunkel)

Ms. Kunkel discussed with Council communication she had with Topton Community Outreach Club in regards to the possible cancellation of the Topton annual Halloween parade. After further discussion Mr. Jost made a motion to cancel the 2020 Halloween parade. Ms. Kunkel seconded this motion passing unanimously.

Personnel Committee – (Mr. Stauffer)

Mr. Stauffer made a motion to hire Ty Beau O'Brien as the seasonal grounds crew employee and if he isn't available to offer Dallas Fronheiser the position. Mr. Jost seconded this motion passing unanimously.

Finance Committee – (Mrs. Moll)

Ms. Kunkel made a motion to pay the bills as presented. Ms. Lorah seconded this motion passing unanimously.

Mr. Bower updated council that another bank account was opened at ESSA as needed for the Feasibility Study.

Mr. Bower discussed with council the need for a motion to remove Marcus Dolny from our ESSA bank accounts. Mr. Jost made the motion to remove Marcus Dolny from both our Liquid Fuels and Parks and Recreation bank account at ESSA Bank. Mr. Stauffer seconded this motion passing unanimously.

Mr. Bower gave Council an update on the current third party accounting work being performed by RKL in the borough office.

It was also noted that Council President Toby Bower gave borough administrative assistant permission to transfer \$120,000 from the water fund to the general fund to cover the monthly bills.

Property Committee – (Mr. Jost)

No Report

Parks & Recreation Committee – (Mr. Bower)

Picnic tables for the new pavilion were discussed and agreed to be researched further.

Mrs. Schoonover gave an update on the gala that was scheduled for December 4th, 2020. The borough council had made the decision to cancel the gala due to COVID-19. Currently the cancellation fee per the agreement with Bear Creek is \$6,000.00. After discussion it was noted that Solicitor London, Council President Toby Bower and Trynda Schoonover will review the agreement and discuss options with Bear Creek.

Mrs. Schoonover updated Council that the area for the proposed dog park has been assessed and the borough is awaiting a quote. It was also noted that the dog park is strictly going to be funded by donations.

Mrs. Schoonover advised Council that the cost of continuing the fence rental currently in place is included in the change order.

Streets Committee – (Ms. Lorah)

Council discussed the possibility of placement of no parking signs on the East side of Main Street from the railroad tracks to the baseball field. Ms. Lorah will look into this matter and discuss at a future meeting.

Utility Committee – (Mr. Beck)

No Report

ENGINEER'S REPORT

1. Annual Reporting

PADEP:

The Chapter 94 report was submitted to DEP on March 17, 2020, a copy is available at the wastewater treatment plant. By a letter dated June 16, 2020, DEP has advised that the 2019 Chapter 94 report is acceptable.

DRBC:

The Annual Effluent Monitoring Report was submitted to the DRBC on January 15, 2020. A copy of this report is available at the treatment plant.

2. DEP MS-4

ISETT to prepare draft 2019-2020 annual report for Borough review by August 26th. Draft report shall include list of documents needed for inclusion into the appendix. Report due to DEP by September 30th.

PSU Extension has prepared a resident's guide to identifying stormwater BMPs. the publication gives easy to understand pictures and descriptions. ISETT recommends PDF copy be provided on the Borough's website page. <https://extension.psu.edu/roadside-guide-to-clean-water>

Next Berks County MS4 Steering Committee meeting to be held via teleconference on Thursday, July 16th. ISETT to provide summary notes to the Borough following the meeting.

3. **Topton Transportation Alternatives Trail Connection Project**

Bridge information has been received and is being sent out for third-party bridge review (required by PennDOT), wetlands permitting is in process, ROW plans are under review by PennDOT, and design plans are in process of being resubmitted.

4. **Sewer Rehabilitation**

Contractor has completed work; Final pay request is in process. Contractor is scheduling to come out and repair lawn damaged by the project

5. **New Public Water Well**

We are researching the site to the west of the Borough and plan to have an analysis back for the August Meeting.

6. **Topton Park Improvements**

Construction – Over 50% complete, with base paving and most of the playground equipment in place. Ten field reports (plus one Special Inspections Report) have been filed, including photos documenting progress.

Substantial Completion – July 13, 2020 per Council's vote granting Contractor's extension request. Contractor has referenced delays based on COVID-19 impacts to material suppliers and now forecasts July 30th.

Final Completion – Two weeks following Substantial Completion. Contractor is providing pricing to keep the temporary fence in place through the lawn establishment period per Borough request.

7. **Topton Pool/Recreation Center Feasibility Study**

Project is being coordinated by the study committee.

8. **Transfer of Sewer Lines from Longswamp Township to Topton**

Charley spoke with Jill Smith on April 7, 2020 and she indicated that they are in the process of putting the final parts of the rehabilitation work out to bid, she will let me know when they have it out and the schedule.

9. WWTP Flood Protection

The latest word from Faddis Concrete is that the concrete barriers are in production and are expected to be delivered to the sewage treatment plant during the week of July 20th. Faddis will confirm the date prior to delivery. The borough is to have equipment to unload the barriers at the plant and Borough crew will place the barriers along the swale on the west side of the site.

10. Pavement Condition Evaluation Report for Croll Street, Penn Street, Hoch Avenue and Main Street

The report was completed, submitted and was discussed at the last council meeting. A subsequent tar & chip letter outlining the pros & cons of tar & chip was sent to the Township Manager on November 7, 2019 to assist in the Borough's decision to use tar & chip. Tar & chip is normally to be used on 'low volume' roadways. From site observations during the midday in September, Croll Street and Hoch Avenue can be considered 'low volume'. Traffic counts could be utilized to confirm the visual observation.

11. Washington Street Pumping Station

Fieldwork is complete. Preliminary design has been started. The existing station appears to be sited on an easement, so to place a new one, one of two methods would be needed:

- (1) Replace in Place – no new property rights needed
- (2) Replace beside the existing – additional area needed for installation

We have several manufactures putting together design packages for the station and anticipate having a preliminary design with recommendations for the August meeting.

OLD BUSINESS

None

ADJOURNMENT

Council adjourned at 9:19PM on a motion by Ms. Lorah, seconded by Mr. Jost.

Next Borough Council meeting will be held on August 10th, 2020 at 7:00PM.

Respectfully Submitted
Sherry Palinkas
Administrative Assistant