

November 18, 2020

A regular meeting of the Parkside Borough Council was held in Council Chambers located at 22 East Elbon Road, Parkside, PA. The meeting was called to order at 7:00 p.m. by Council President Shirley Purcival. Following the Pledge of Allegiance the roll was call with the following in attendance:

Messrs:	Deitman	Purcival	Chief Murray
	Bull	Capobianco	EMC Powers
	Long	Sweigart	Solicitor Wills
	Sidlow	Guy	Bennet
		Secretary Higgins	

Engineer Catania was excused from the meeting.

President Purcival requested everyone in attendance turn off their cell phones and to please refrain from texting during the meeting.

Councilman Capobianco made a motion, seconded by Councilman Sweigart, to adopt the 10/28/20 Council Meeting Minutes as submitted; motion carried.

Correspondence Report: (Linda Higgins)

The following funds were received in the Borough office during October 2020:

1) License & Inspections	\$	5,355.50
2) PURTA		927.19
3) Liens		5,089.00
4) Recorder of Deeds		4,411.96
5) PD – Parking Tickets		30.00

Tax Collection

Tax Claim Bureau	1,810.67
Tax Collector – Ed Fisher	7,917.86

Regional Court

District Court	427.78
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Total income for October 2020 = \$ 25,969.96
(Total does not include EIT/LST Tax)

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Mayor's Report: (Thomas Deitman)

Mayor Deitman did, again, read his Directive on Intentional Disruption of a Public Meeting (a copy is attached).

Crimes reported = 10. Leading categories: theft – 3, harassment – 3, criminal mischief – 2, disorderly conduct – 2. Calls for service = 117. Leading categories: domestics – 7, medical emergencies – 5, assist other agencies – 15, public service – 5. Accidents = 4. Motor vehicle stops = 15. Traffic citations = 13. Ordinance violations = 1.

Mayor Deitman did report that the Parkside Fire Company is making progress financially.

CALL TO CITIZENS:

Jude Saunders of 62 East Chelton Road – asked about shock collars and the difference between the shock collars and the invisible fence. President Purcival did explain the difference and noted that the SPCA and animal rescue groups recommend NOT using shock collars.

President's Report: (Shirley Purcival)

President Purcival did remind everyone that the December Council Meeting will be held on December 16th at 7:00 p.m. due to the Christmas Holidays.

A reminder was given to all Council members not to post the Preliminary Budget until it is legally advertised.

Borough Council is currently following CDC Guidelines for COVID19.

Police/Public Safety/Code Enforcement Report: (Nick Capobianco)

Councilman Capobianco reported that all police vehicles have been maintained during the month.

An issue was resolved at East Avon and East Roland Roads on Houston Street. There is an igloo for recycling there that belongs to the County. It hasn't been emptied so people are dropping their trash on the ground around the igloo. That has been rectified.

The unit that heats the rear of the police department needs a new transducer. The part is ordered. Councilman Capobianco thanked President Purcival for her diligence in holding spending allowing the Borough to afford the new transducer even though it was not budgeted for.

Ordinance Report: (Perry Sweigart)

Councilman Sweigart requested that Ordinance #564 be re-written to differentiate between a shock collar and an invisible fence. The Ordinance will be ready at the December meeting for a motion to advertise. Councilman Long agreed with Councilman Sweigart that the Ordinance should include more information.

Councilman Sweigart made a motion, seconded by Councilman Capobianco, to advertise Ordinance #565 providing for a civil penalty for a minor public health violation in Parkside Borough – Possession of small amounts of marijuana; motion carried.

Councilman Sidlow did question the penalty fine. The penalty by the State is \$60 for the first offense and Parkside penalty fine is \$100. The offender would only have to pay the Borough, not the State.

License & Inspections Report: (Eric Long)

The following permits were issued for the month:

	Building	Residential	6
	Plumbing	Residential	4
	Electrical	Residential	0
Use & Occupancy:	Inspections	– 11	
	Re-inspections	– 2	

Emergency Management/Fire/Health Reports: (Rob Powers)

Mr. Powers reported that COVID19 cases are increasing in the County. He reported that the Borough is following all CDC guidelines.

There was one fire and two health issues in the Borough during the month. One of the health issues has been turned over to COSA. There is an eatery in Parkside that is under investigation by the State for not following CDC Guidelines.

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Finance Report: (Doug Bull)

Vice President Bull made a motion, seconded by Councilman Sweigart, to accept the Treasurers Report as submitted; motion carried.

Vice President Bull made a motion, seconded by Councilman Sweigart, to pay the bills when properly approved; motion carried.

Vice President Bull made a motion, seconded by Councilman Sweigart, to accept the 2021 Preliminary Budget as presented; motion carried.

Vice President Bull made a motion, seconded by Councilman Sweigart, authorizing the Secretary to advertise the 2021 Preliminary Budget; motion carried.

Vice President Bull did thank Treasurer Possenti for his hard work and diligence on preparing the 2021 budget.

Vice President Bull made a motion, seconded by Councilman Sweigart, to advertise Ordinance #566 – 2021 Trash Fee set at \$245 per household; motion carried.

Vice President Bull made a motion, seconded by Councilman Sweigart, to advertise Ordinance #567 – Setting 2021 Tax Rates at 12.65 mills; motion carried.

Woodlot Project: (Doug Bull)

Vice President Bull is looking into signage for the Ford Fitness Trail in the Woodlot. He is also looking into hiring a company to come into the Woodlot and remove poison ivy and other invasive plants.

Recreation Report: (Perry Sweigart) Progress

Recycling/MS4 Report: (Nick Capobianco)

During the month of October 2020 a total of 220 tons of regular trash were picked up and a total of 15.10 tons of recycling were picked up.

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Tax Collector Report: (Ed Fisher)

The Treasurer has received a total of \$ 900,653.84 to date. A total of \$7,713.25 in revenue deposits from October 11 to November 11, 2020.

Engineers Report: (Lisa Catania)

CDBG 2020 – Electrical Design is underway for Phase 3 of the project. Expect bid to be taken in January 2021.

CDBG 2021 – Prepared listing of potential projects. Council has the ability to submit 2 projects to OHCD for consideration. A priority project and an alternate.

Solicitor's Report: (Jay Wills)

Mr. Wills informed Council that he will complete the paperwork on the 2021 TRAN in the amount of \$100,000.00. The paperwork will be ready for signatures at the 12/16/20 Council Meeting.

Mr. Wills reported that at the 9/2020 Council Meeting he was requested to send a letter to the Governor (along with several printed-out emails and tweets) regarding Councilwoman Anna Guy. On 10/30/20 Mr. Wills received an answer indicating this is not something the Governor is responsible for and suggested the situation be handled locally. Councilwoman Guy will not be removed from her seat as Councilwoman for Parkside Borough. A copy of the Governor's letter is attached to these Minutes. President Purcival asked everyone to help mend the division in the Borough and on Council.

CALL TO CITIZENS:

Jude Saunders of 62 East Chelton Road – Suggested a Committee of volunteers be set up to assist residents in the Borough that cannot get out due to COVID-19 or elderly or handicapped that need help getting groceries or need ride to doctor, etc. Ms. Saunders will put the program together and the Borough Secretary will take calls.

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Ashley Roberts of 118 E. Avon Road – indicated it was a great idea to contact COSA for help for an elderly person in the Borough. She has several ideas for getting those in need assistance.

Councilman Capobianco mentioned that it was nice to see residents putting political agendas aside and working together for the betterment of the Borough residents.

Unfinished Business:

The December Council Meeting will be held on December 16, 2020 at 7:00 p.m.

New Business:

Councilman Capobianco made a motion, seconded by Councilman Sweigart, authorizing the Secretary to advertise the meeting dates for 2021 Council Meetings; motion carried.

Councilman Sweigart informed everyone that on December 5th, 2020 at 1:00 p.m. there will be a small parade through the Borough with Santa. The rain date is 12/6/20. There will also be a virtual raffle of gift cards, two on the East side and two on the West side. A thank you was given for Kim Roman and Melinda Laird for setting up the Christmas tree.

The boy scouts will be picking up food donations on Saturday 11/21/20. The food donated will stay within the community for those in need.

Councilwoman Guy asked Mr. Wills if he was aware of limited capacity regarding COVID restrictions at meetings. Mr. Wills indicated he is aware of the CDC restrictions and we are following all guidelines and the meetings are being filmed for those that are not able to attend. Councilwoman Guy stated that the Borough is not in compliance with the PA Sunshine Act. President Purcival indicated that several people said they were locked out of the October meeting because of their political persuasion. That statement is totally incorrect. The Borough followed CDC guidelines and once the room reached capacity anyone not present was turned away. Councilwoman Guy accused Mr. Wills of not serving Council properly. President Purcival noted that every CDC protocol is being followed. President Purcival asked Councilwoman Guy if she is saying Mr. Wills is lying and Councilwoman Guy replied yes.

Councilwoman Guy proceeded on to read what she felt was the current Sunshine Law.

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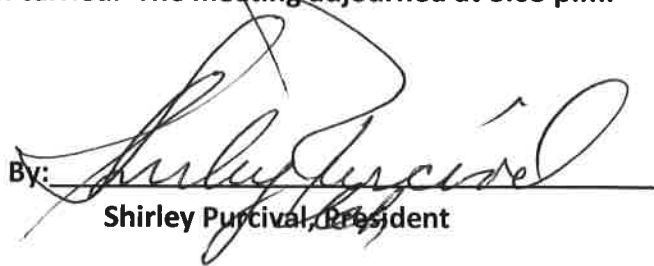
There were some arguments among Council due to this topic and Councilwoman Guy's accusations. Mayor Deitman did request everyone stop arguing and move on. A copy of Councilwoman Guy's letter is attached to these Minutes.

Mr. Wills indicated that on 4/20/20 Governor Wolff stated Municipal bodies do not have to hold Zoom meetings. He stated all meetings of Parkside Borough Council in 2020 have been in compliance with guidelines.

There being no further business, Vice President Bull made a motion, seconded by Councilman Sweigart, that the meeting adjourn; motion carried. The meeting adjourned at 8:05 p.m.

PARKSIDE BOROUGH COUNCIL:

Attest: 
Linda Higgins, Secretary

By: 
Shirley Purtival, President

Office of The Mayor
Borough of Parkside, Delaware County, Pennsylvania

~~28 October 2020~~

RE: INTENTIONAL DISRUPTION OF A PUBLIC MEETING

1. The disruption of a public meeting, by any person or persons and for any reason, will not be tolerated.
2. Any person or persons disrupting a public meeting will be escorted from the Council Chambers by a law enforcement officer.
3. If the disruptive person or persons assumes an attitude of decorum, that person or persons will be allowed to reenter the chambers.
4. If that person or persons continues to disrupt the public meeting, they will be charged with a criminal act up to 18 PA Consolidated Statute 55 §5508 (Disruption of a Public Meeting) (A misdemeanor of the third degree)
5. If, while being escorted from the Council Chambers or anytime thereafter, that person or persons shows any aggressive actions toward any law enforcement officer, they will be charged with a criminal act up to a violation of 18 PA Consolidated Statute § 2702 (a), (b), (c) (Aggravated assault upon a police officer) (A felony of the first degree)

Regards,



Thomas G. Deitman, Mayor
Borough of Parkside, Delaware Co., PA

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COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR
HARRISBURG

THE GOVERNOR

October 15, 2020

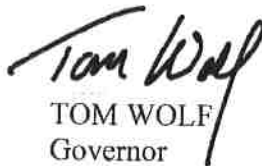
John Jay Wills
4124 Chichester Avenue
Upper Chichester, PA 19061-2834

Dear John:

Thank you for your correspondence. Please know that I am committed to providing exceptional constituent services, so I want to ensure that your issue is addressed. However, based on the information you provided in your correspondence, this issue is managed by your local government. As governor, I have no jurisdiction over this matter and urge you to contact your local authorities.

It is my hope that you find resolution to your situation through the proper channels. Should you have questions regarding state government, please contact my office at 717-787-2500 or visit www.governor.pa.gov. To learn more about how I am making a new way forward for Pennsylvania, follow me on Twitter at [@GovernorTomWolf](https://twitter.com/GovernorTomWolf), and on Facebook at www.facebook.com/governorwolf.

Sincerely,


TOM WOLF
Governor

11/18/20

read by
Councilwoman *Jay* (3)

Solicitor Wills, we held two meetings via Zoom in April and May in which residents were not given the ability to attend. Additionally, we have reached the capacity allowable for this space under covid guidelines for the meetings in September and October (and tonight) and residents were turned away. Are these meetings considered open under the Sunshine Act?

The Sunshine Act gives the public the right to comment on issues "that are or may be before the board." Agencies must provide a reasonable opportunity for residents and/or taxpayers to comment on an issue before a decision takes place.

From the advisory issued by the Office of Open Records on March 11:

"To the extent practicable," local government agencies must provide for public participation directly through the teleconferencing or videoconferencing system used to hold the meeting, via email and/or via postal mail. (Ideally, agencies will accommodate all three methods and possibly others.)

NOTE: "Practicable" is a much stronger word than "practical." (Merriam-Webster defines "practicable" as "capable of being put into practice or of being done or accomplished; feasible." In other words, unless it is actually impossible to do so, it must be done. This means that advance notice and public participation are essentially required.)

According to the Sunshine Act, all the meetings I referenced were not open, which is required. We violated the rights of any resident who was prevented from attending, all of whom would have standing in a case against both the council and against each person participating in these meetings.

Nowhere in the Sunshine Act does it say that recording the meeting so that residents can watch it after the fact is an acceptable substitute for an open meeting. Residents have the right to attend the meeting in real time and comment on items being discussed.

According to the Sunshine Act:

Section 714. Penalty

(a) Fines and Costs. — Any member of any agency who participates in a meeting with the intent and purpose by that member of violating this chapter commits a summary offense and shall, upon conviction, be sentenced to pay:

(1) For a first offense, the costs of prosecution plus a fine of at least \$100 and, in the discretion of the sentencing authority, of not more than \$1,000.

(2) For a second or subsequent offense, the costs of prosecution plus a fine of at least \$500 and, in the discretion of the sentencing authority, of not more than \$2,000.

(b) Payment. An agency shall not make a payment on behalf of or reimburse a member of an agency for a fine or cost resulting from the member's violation of this section.

Section 714.1. Attorney fees

If the court determines that an agency willfully or with wanton disregard violated a provision of this chapter, in whole or in part, the court shall award the prevailing party reasonable attorney fees and costs of litigation or an appropriate portion of the fees and costs. If the court finds that the legal challenge was of a frivolous nature or was brought with no substantial justification, the court shall award the prevailing party reasonable attorney fees and costs of litigation or an appropriate portion of the fees and costs.

It seems to me that, as our solicitor, you should have warned council that our two Zoom meetings which excluded residents from commenting violated the Sunshine Act. Additionally, when you observed that we exceeded the capacity of this room in September and residents were prevented from attending, you should have advised council that we were violating the rights of our residents.

I sent an email 9 days ago asking that we move our meetings to Zoom so that we could allow all residents who wish to participate to do so. At that time, you did NOT advise us to hold our meeting on Zoom in order to adhere to the law.

Is it your job, as our solicitor, to know the law and advise council to follow the law in order to protect the rights of our residents and so the borough and council members avoid risk of litigation and fines?