

Minutes – July 10, 2019

McSherrystown, Pennsylvania

Council of the Borough of McSherrystown met at 7 p.m. on Wednesday, July 10, 2019 in the Municipal Building, 338 Main Street, McSherrystown, Pennsylvania with Patricia D. McKim-Bortner presiding.

President McKim-Bortner led the Pledge of Allegiance to the Flag of the United States of America and the Invocation for Divine Guidance.

Present on roll call were the following members of Council constituting a quorum: Patricia D. McKim-Bortner, Joseph E. Vonsas, Michael J. Calderone, James A. Forbes, Lisa Koontz, Robert D. Niedererr, and Stephen J. Pascoe. Other Borough Officials in attendance included: Mayor Anthony J. Weaver, Solicitor Robert Campbell, Esq., Manager/Zoning Officer Scott J. Cook, Secretary/Treasurer Gerald C. Walmer, and Chief of Police Michael F. Woods.

President McKim-Bortner acknowledged Boy Scout Joey Cooper in attendance who stated that he was attending the meeting to fulfill requirements for the Communications Merit Badge and was from Boy Scout Troop 107. In an exchange with President McKim-Bortner, it was noted that the scout had just returned from a trip to Germany and met President McKim-Bortner's brother. He was thanked by the President and the meeting continued.

President McKim-Bortner made a request to approve regular meeting minutes from June 12th. Councilmember Calderone made a motion to approve the minutes and expressed that he liked the style in which the minutes were written by Secretary/Treasurer Walmer. The motion was seconded by Councilmember Pascoe, motion carries.

The Financial Review and Budget Analysis reports had previously been distributed to the Borough Council by Secretary/Treasurer Walmer. There were no questions about the reports.

COMMUNICATIONS

President McKim-Bortner announced a request for a new digital recorder for Council Meetings. Manager Cook said that the cassettes for the existing recorder were no longer available and haven't been for years. He also noted that old recordings have been recorded over due to the unavailability. Convenience and ease of use were cited by Manager Cook as reasons to replace the existing, analog recorder. Councilmember Joseph E. Vonsas made a motion to replace the existing, analog recorder, which was seconded by Councilmember Koontz. A price range of \$30-\$300 was agreed upon. The motion carried.

President McKim-Bortner reintroduced having Secretary/Treasurer Walmer as a signatory for checks at Adams County National Bank and requested a motion to add Secretary/Treasurer Walmer as a signatory. Councilmember Forbes made a motion, which was then seconded by Councilmember Niedererr. Motion carries.

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President McKim-Bortner reintroduced having Secretary/Treasurer Walmer become a Notary. It was decided without a motion that it was unnecessary at this point to send him to class and become a Notary. The subject was thus tabled.

PUBLIC PARTICIPATION

Richard Groft brought up what he described as a “delicate situation” regarding K9 Ozi. In the interest of transparency, Mr. Groft, stated that he researched Borough meeting minutes from 2008-2012/13 and discovered the conversations surrounding the purchase of a K9 for the Borough police department. He relayed that in his research he could only find (other than a couple executive sessions) that there was a motion requested to purchase K9 Ozi for \$1. He questioned how a highly trained K9 could be purchased for \$1. He asked the current Councilmembers who were present at the time of the purchase of K9 Ozi if there were any issues with K9 Ozi at that time. Councilmember Pascoe asked what issues to which Mr. Groft was referring. Mr. Groft went on to outline meeting minutes from May, 2013 stating that an assessment was made by Land County K9 Academy in relation to k9 Ozi’s skittishness. He went on to say that, according to the minutes from May, 2013, that the assessment recommended K9 Ozi be transferred to a department or institution where his drug sensing capabilities can be fully utilized. Mr. Groft stated to the Council that the Chief of Police for McSherrystown, after reviewing K9 Ozi’s record and evaluation had agreed to take K9 Ozi “as is and will indemnify and hold harmless the City of Somers Point Police Dept.” Mr. Groft went on; that according to his reading of the minutes, K9 Ozi was found to be less effective in close quarters and confined situations and that K9 Ozi should not be offered for sale to the general public, but to another police department or correctional institution. Mayor Weaver expressed to Mr. Groft that his concerns were read in a meeting and that K9 Ozi was retrained. Councilmember Pascoe asked Councilmember Forbes and Council President Bortner-Mckim if they recalled being made aware of potential issues with K9 Ozi. Councilmember Forbes said he had not. Councilmember Vonsas did not recall if they had been made aware of the issue. Mayor Weaver made it known that K9 Ozi was retrained. Councilmember Niedererr questioned why K9 Ozi was sold to the Borough for \$1. Chief Woods answered that it was a formality. Mayor Weaver reiterated K9 Ozi’s training and that he would not have been put in to service had he not passed the testing. Councilmember Koontz asked if there was documentation of Ozi’s training and certification. Councilmember Pascoe requested to see documentation of that training. Mayor Weaver stated that Somers Point Police Dept. would not have offered K9 Ozi to another police organization had he been completely ineffective, but most likely did not fit their needs. Councilmember Pascoe again wondered if the Borough Council knew of the issues with K9 Ozi. Councilmember Niedererr wondered how K9 Ozi became available to the Borough. Chief Woods reminded the Council that the Borough Police Department had been contacted about the availability of K9 Ozi. Mayor Weaver said that a bulletin went out to organizations regarding K9 Ozi’s availability. Mr. Groft claimed that the controversy related to K9 Ozi was blamed on him by Mayor Weaver. Mayor Weaver offered a public apology for offense taken by Mr. Groft regarding his claim that Mayor Weaver brought on the controversy surrounding K9 Ozi. Mayor Weaver reiterated his apology, which was accepted by Mr. Groft.

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Danielle Smith offered a follow-up to Mr. Groft's information. After contacting Somers Point Police department, she noted that K9 Ozi had been acquired by Somers Point Police Dept. in 2010. She went on to outline the K9 needs of Somers Point. She stated that the Dept. congratulated Ozi for his meritorious service to the community and that they recommended K9 Ozi still be utilized, but that a recent disruption led the Dept. to decide that K9 Ozi did not fit the community's specific needs. She said that Atlantic K9 Organization evaluated and recommend that K9 Ozi continue to be used in law enforcement. Mrs. Smith stated that in her investigation, there was no indication that there was any issues putting K9 Ozi in service. Members of the Borough Council thanked Mrs. Smith for the information. Councilmember Pascoe stated that Mrs. Smith's information was not in the meeting minutes and wondered how she got the information. Mrs. Smith stated that Mr. Groft asked her to look in to the history of K9 Ozi and that the section regarding K9 Ozi stretched for three pages of Somers Point's meeting minutes. She went on to state that she looked-up the population, articles, and utilization of K9s in Somers Point. She pieced information together and reached out for additional information, but was not able to get additional specifics from their police department.

REPORTS

Mayor Weaver reported that the carnival went well and that there were no problems. Prompted by a question from Councilmember Niedererr, Mayor Weaver reported that Tuesday and Wednesday nights had big crowds, but Thursday night the carnival did not open due to rain.

Police Chief Woods apologized for not being at the prior monthly meeting due to working at the carnival. He brought up comments made at last month's meeting by Councilmember Niedererr pertaining to the excessive number of traffic stops made by the department. Councilmember Niedererr said that he did not use the word "excessive." Councilmember Koontz clarified to Chief Woods that the inquiry was merely based on stops being higher than they had seen in previous reports.

Chief Woods read the resignation of officer Travis Smith dated July 8th, 2019:

Dear Chief Woods,

please accept this letter of notice of resignation from the McSherrystown Borough Police Department, effective two weeks from today's date. I've enjoyed my time working for the McSherrystown Borough Police Department. I appreciate all I've learned while here. Thanks for the opportunities, the mentorship, and support during my time here. It was a truly great experience and one that's helped me grow and learn to be professional. I wish you and all in the department the best.

Sincerely, Travis Smith.

Councilmember Pascoe and Niedererr stated their desire to conduct an exit interview.

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Chief Woods relayed that Officer Smith was not likely to participate in an interview with the Borough Council, but would have one with Mayor Weaver. Councilmember Niedererr asked Chief Woods why Officer Smith was leaving his position. Chief Woods answered that his departure was related to his contract and pay. Job security was also cited as an additional reason for his departure. Chief Woods said that rumors of the Borough not having a police department was a contributing factor. Council questioned the genesis of the rumors to which Chief Woods remarked that it was said in a prior meeting. Chief Woods, replying to a visitor's question stated that Officer Smith was on the force for about six months. Council President Bortner-Mckim asked if there were any individuals in mind to fill officer Smith's position. Chief Woods told the council that there was no one in mind to fill the position. Councilmember Pascoe reiterated his desire to start a process for uniformed and non-uniformed borough employees. Chief Woods stated that the police association would need to give prior approval for exit interviews. Council requested to hear directly from Officer Smith.

Meeting attendee, Bill Smith requested to speak. After input from Solicitor Campbell, it was determined that Mr. Smith would be able to speak during the public comment period.

Councilmember Vonsas, speaking about officer pay, stated that the Council's proposed pay was a lot higher than where arbitration ended up. Chief Woods told Councilmember Vonsas that starting pay was not the issue. Rather, pay three-to-four years down the road. Councilmembers said that they tried, but were not able to increase long-term pay rates. Councilmember Niedererr reminded the attendees that Officer Smith knew what the pay schedule was when accepting the position, which he claimed was after the arbitration. He continued by saying that there was more to his departure than just pay. Chief Woods told the Council that Officer Smith would be making \$15,000 more in five years elsewhere. President Mckim-Bortner stated that the pay scale was set by the arbitrator. Councilmember Pascoe and Councilmember Niedererr again mentioned that they tried to set the pay higher than the arbitrator and had no say once the dispute went to arbitration. Councilmember Niedererr noted that Officer Smith was the third officer to leave within a roughly two-year time frame and asked Solicitor Campbell what needed to be done to assemble a committee to conduct exit interviews. Solicitor Campbell remarked that he had never been asked what needed to be done to assemble a committee to conduct exit interviews. He said the Borough Council had a right to ask him to come for an interview. Solicitor Campbell said it would be a good idea to conduct interviews to find out what were the main reasons for the high turnover. Councilmember Forbes asked Councilmember Pascoe what other municipalities were paying their officers. He said his research indicated that some were paying higher than McSherrystown Borough at which point Councilmember Niedererr commented that they had found two years prior that the Borough of McSherrystown was actually higher in the short-term. Chief Woods stated that short-term pay was not the issue, rather the fourth and fifth year pay did not match the increases seen at other departments. Councilmember Pascoe said it was expensive to have a police force and to be competitive in pay with other departments. The geography of the Borough, combined with the lack of a growing industrial base makes it difficult to justify budgetary spending without raising taxes or cutting other Borough expenses. Further discussion ensued about the limited number of lots in the borough and the lack of

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industry. Councilmember Koontz stated that she did not think anyone on the Council suggested getting rid of the police department. She mentioned that younger generations tended to change jobs more frequently than older generations. Councilmember Niedererr wondered if Officer Smith's departure could have been related to working third shift. Chief Woods restated that he already outlined the reasons for his departure and that he discussed it with the Mayor. Again, Councilmember Pascoe advocated for an exit interview. He went on to say that perhaps a small town was not as exciting for hungry, young guys as compared to other municipalities. Mayor Weaver stated that there was the same amount of activity as nearby municipalities and that the call ratio was similar. Gettysburg was noted to be higher due to tourists in the summer months. He said that State Route 116 is one of the highest traveled roads in the county. He said that he has been told that the Borough Council won't let the Chief run the police department. Councilmember Pascoe said that one of the two officers who left told him that it was kind of a boring beat going down the same street. The Mayor conveyed that there was always downtime, but that officers had to be ready to respond and that some officers cannot take the down time.

Visitor Bill Smith stated to the Council received a 2015/16 report asserting that McSherrystown uses about 35% of their budget on police, while the average borough uses 45-50%. Mayor Weaver said that the study was a State study. He went on to say that Councilmember Forbes said "if we have a police department" in a meeting. Councilmember Forbes responded that that comment was made in relation to negotiations and that he said he "hoped we have a police department." Councilmember Koontz posited that Councilmember Forbes' comment should not be construed to mean that he had threatened to disband the police department. Councilmember Pascoe said that putting Councilmember Forbes quote on a sign on Ridge Ave may have had an impact on the entire situation. Mr. Smith continued to mention that officers leaving may or may not be related to downtime, but asked if the officers were going to larger cities or nearby municipalities. Chief Woods stated that Officer Smith was leaving for Littlestown. Mr. Smith commented that since the officers were leaving the Borough for other, similar sized municipalities, that perhaps their departure was not related to the downtime experienced in McSherrystown. Councilmember Niedererr noted that the Borough was a stepping stone and a resume builder. He then verbally wondered how that could be stopped. Mr. Smith said that pay was better in McSherrystown during the first few years, but better elsewhere after that time frame elsewhere. Discussion related to pension benefits and the lack of transferability impacted officer attrition rates. Councilmember Koontz stated that due to the pay structure, McSherrystown may not be able to change its predicament of being stepping stone for future officers. Councilmembers noted the generational differences related to officer's tenure with the Borough.

Solicitor Campbell interjected by saying that the atmosphere where one works is important when one starts out. He said that no one entity needs to take the blame for current contention in the Borough. He said what has occurred in the Borough related to K9 Ozi is contributing to the overall atmosphere and that it is directly related to the major incident concerning K9 Ozi, which is still coming up. He suggested letting the incident go and moving forward. Additionally, Solicitor Campbell suggested that constant arguing

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may lead to officers avoiding the unneeded stress by moving to another municipality. Mayor Weaver agreed before Solicitor Campbell relayed to the Borough Council that he had never really seen such a situation in his fifty years of work. He advised that everyone should go on with their work and calm down and recognize that everyone involved is doing and has a job to do. Councilmember Forbes agreed that he had not seen anything like this in his thirty-seven years. He said it all started over a bunch of rumors and that it was nonsense. Solicitor Campbell mentioned that Bendersville had hired an officer who was sent thorough school, but was now leaving for a different municipality. He reiterated that there are a number of factors that lead to officers leaving for positions elsewhere. Councilmember Pascoe mentioned the signs around town in support of the police force and what effects that may have on officers employed by the Borough. Chief Woods questioned the figures presented on the budget line for labor relations and wondered if all the charges were arbitration related. Secretary/Treasurer Walmer told Chief Woods he would look in to the expenses charged against that account. Councilmember Forbes brought up the overtime expenses incurred by the Borough for police protection. Chief Woods answered that during officer's time off for holidays and vacation, other officers need to cover for them, which leads to overtime being paid. Councilmember Pascoe questioned Chief Woods as to whether or not he received regular over-time. Chief Woods alluded to safety concerns related to staffing levels and said that the question would not be answered publicly.

Manager Cook's report for the month prior (June) included the following:

- 1) Cleaned-up tree limbs and mowed at the quarry.
- 2) Dug out sod as needed and replaced with blacktop millings to set picnic tables at the dog park.
- 3) Mulched around miscellaneous trees at South St. Recreational Park, Senior Center areas, Main St. Park, the new Pavilion on North St., and the Borough offices.
- 4) Painted old trash containers and set in place at the new pavilion.
- 5) Painted metal posts as needed at the dog kennel.
- 6) Replaced miscellaneous street signs as needed.
- 7) Swept miscellaneous streets.

Note: Emptied trash containers at all Borough offices. Performed daily maintenance and repairs on police and borough vehicles and equipment. Mowed and maintained all recreation areas as needed. Dragged and lined all ball diamonds as needed.

Gasoline Usage:

06 Explorer: 33
15 Ford truck: 51.1
Can: 4
John Deere 720: 33.3
17 Ford Dump: 27.3
Air Compressor: 5
04 Ford: 30.5
464 Tractor: 5

TOTAL: 189.2

Diesel Usage:

Kubota: 29
X750 John Deere 7.1
Case Backhoe: 58
Sweeper: 23.7

TOTAL: 117.8

S.A.V.E.S
Diesel: 192
Gasoline: 6.5

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Manager Cook spoke about the Borough's two Ferris mowers that had been placed for auction on Municibid.com for approximately fifteen days. The high bid for the Ferris mower purchased in 1995 was made by Matt Hissler of Echton, PA for \$1,110. The Ferris mower with cab and snowblower was sold by auction to Fred Palmer from Coatesville, PA for \$1,200. Manager Cook requested a motion to release the mowers to the high bidders. Councilmember Forbes made a motion to release the mowers and Councilmember Pascoe seconded his motion, motion carries.

Manager Cook brought up the previously discussed and condemned property at 138 Main St. He reported that the owner's secretary contacted him about the height of the grass and weeds. Ten citations had been issued so far on the property. After speaking with Judge Bowman, Manager Cook said that restitution would be sought. Details about the prior citations were outlined for Mayor Weaver. Solicitor Campbell told the Council that there was a provision in the Borough ordinances stating that a Lien can be put against the property. Solicitor Campbell continued by stating that he had never filed a lien for the Borough against a property owner for work done by the Borough for high weeds or grass. He briefly outlined to the Council the process related to recouping costs incurred for maintaining a derelict property. Manager Cook followed up by describing the condition of the house and property at 138 Main St. A motion was tendered by Councilmember Pascoe and seconded by Councilmember Niedererr to continue to mow the grass at 138 Main St.

President Mckim-Bortner asked if Alexia Colin had moved forward with her plans for a small building to be erected on her property for a boutique shop. Manager Cook reported that he had reviewed the plans and that he was going to get exact measurements of the applicant's house to satisfy Borough ordinance requirements.

Highway Committee Chairman Calderone asked Manager Cook about the sinkhole on Ridge Ave. Manager Cook relayed that it wasn't much of a sinkhole and that it was on the Conewago Township side.

Solicitor Campbell announced that he had been away and will get an update from his assistant on the status of current municipal liens.

NEW BUSINESS

Approval to pay listed expenditures of \$78,671.47 (General Fund- \$25,129.82; Highway Aid - \$2,115.46 and Payroll - \$51,426.19) was given on a motion moved by Councilmember Niedererr, seconded by Councilmember Pascoe. Motion carries.

President McKim-Bortner announced to the Council that she had received a letter concerning the Highway Aid Fund audit and that according to the letter, it went well.

President McKim-Bortner reported that she and Councilmember Forbes updated the employee pay and benefits package that was distributed to the Council. Only slight modifications were made with regard to Healthcare contributions. A motion was made by

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Councilmember Calderone and seconded by Councilmember Vonsas to adopt the changes made.

President McKim-Bortner requested a committee be formed to address employee contributions to the healthcare plan. She requested that Councilmember Vonsas chair the committee and Councilmember Niedererr and Councilmember Calderone sit on the committee. They are to have suggestions by September of 2019 for the Council.

Adjournment was declared at 8:01p.m. on a motion moved by Councilmember Forbes, seconded by Councilmember Pascoe. Motion carries.

A handwritten signature in black ink, appearing to read "G. Walmer", is written on a small, light-colored rectangular piece of paper.

Gerald C. Walmer
Borough Secretary