

MINUTES OF THE CORNWALL BOROUGH COUNCIL MEETING  
HELD ON MONDAY, OCTOBER 9, 2023, AT 6:30 P.M.  
AT CORNWALL BOROUGH HALL

Council President Bruce Harris called the meeting to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE

PRESENT

Council President Bruce Harris, Council Vice President Bruce Conrad, Council Pro Tem Ron Ricard, John Karinch, Thomas Burton, Beth Yocum and Mayor Mark Thomas

ABSENT

Al Brandt

ALSO PRESENT

Borough Manager Cody Rhoads, Public Works Director Tom Smith, Police Chief Brett Hopkins, Solicitor Josele Cleary and Borough Engineer Chad Smith

PUBLIC

Meeting attendance sheet is attached hereto.

EXECUTIVE SESSION

Council held an executive session on September 14<sup>th</sup> from 10:20 a.m. to 12:20 p.m. to discuss personnel.

PUBLIC COMMENT

Mr. Harris said the borough continues working on securing a water source for the borough, looking at both the open pit and drilling wells. Jeff Bamberger asked if the water would have to be treated. Water from wells or the open pit would have to be treated. Julie Bowman asked how deep the wells would be. Mr. Conrad said that hasn't been determined yet. Jo Roussey asked if there was any PFAS in the water that was tested. The water in the open pit is high quality and does not contain any PFAS. A resident asked if the open pit was used for drinking water, would that eliminate the possibility of using it for a marina. It's possible that battery or pedal operated vessels could still be used, but there wouldn't be any gasoline engines.

Ron Ricard stated he was concerned about the traffic impact on the community if the proposed development at Route 419 and Route 72 in West Cornwall comes to fruition.

Ms. Roussey asked how many meetings a council member can miss before they are asked to resign. The council said three consecutive meetings.

Dale Waltman asked for consideration in increasing the contribution to the library to the previous level of \$5,000.

Stan Alekna asked for an update on Cornwall Properties rezoning request. Mr. Rhoads said in his most recent discussion with them, they asked to hold off as they are deciding which direction to move in. Mr. Rhoads said that they did have one resignation from the ad hoc committee and Mr. Harris said that he has appointed Karen Groh to fill that position.

#### APPROVAL OF MINUTES

Bruce Conrad made the motion, seconded by John Karinch, to approve the minutes of the September 11, 2023 council meeting. Motion passed.

#### REPORTS

Mr. Harris read the budget report for September. Ron Ricard made the motion, seconded by John Karinch, to approve the reports. Motion passed.

Mr. Harris said that the EIT is running a little behind. Ms. Bowman said that EIT is cataloged at the headquarters of her business in Cumberland County so it's possible that money is held there a little longer before making its way to Cornwall. Mr. Rhoads pointed out that the budgeted amount of EIT was raised significantly this year, so the percentage might look a little lower at this point compared to last year, but it is expected they will receive 3-5% more in EIT funds than last year.

#### OLD BUSINESS

##### TICE LANE BRIDGE UPDATE

Chad Smith referred to his email in the packet that answered some of council's questions from last month. The lifespan of the steel structure is the same as a concrete structure, which is 100 years. They are still working on the size of the span opening and Mr. Smith hasn't contacted UGI yet regarding the pipe attached to the current bridge.

#### NEW BUSINESS

##### CONSIDER AUTHORIZING RELEASE OF LOC FOR 60 ANTHRACITE

Mr. Rhoads referred to the letter from Josh Weaber in the packet. Mr. Weaber was recommending withholding \$1,000, but Mr. Rhoads said that an as-built plan was received. He was requesting Council authorize a full release, contingent on Mr. Weaber approving the as-built plan. John Karinch made the motion, seconded by Ron Ricard, to authorize the full release of \$13,500 contingent on Mr. Weaber approving the as-built plan. Motion passed.

##### CONSIDER AUTHORIZING RELEASE OF LOC FOR 390A REXMONT

Mr. Smith said that the borough is holding \$44,150 and he is recommending a release of \$38,900. There were a few pipes that were not installed across the driveway and a swale was installed on the west side of the driveway. He wants to speak to the contractor about what was done. He suggested holding \$5,250 for future inspections and an as-built plan.

Ben Martin said that he was the owner and the contractor. He said that the pipes were installed, and that the swale was existing. Mr. Smith said that what was done differed from the plan. It might be acceptable, but there needs to be a conversation about what was done.

John Karinch made the motion, seconded by Bruce Conrad, to reduce the letter of credit in the amount of \$38,900, leaving \$5,250. Motion passed.

CONSIDER AUTHORIZING TRICK OR TREAT NIGHT FOR OCTOBER 31, 6-8 PM

John Karinch made the motion, seconded by Ron Ricard, to authorize Trick or Treat Night for October 31<sup>st</sup> from 6 to 8 p.m. Motion passed.

CONSIDER AUTHORIZING RESOLUTION 2023-8 – SETTING CONTRIBUTION AT 1% FOR POLICE PENSION

Ron Ricard made the motion, seconded by Beth Yocum, to authorize Resolution 2023-8, which sets the police contribution rate at 1% for 2024. Motion passed.

CONSIDER AUTHORIZING CIVIL SERVICE TO ADVERTISE FOR POLICE OFFICERS

Mr. Harris stated that Officer Bender retired, and another officer is on medical leave and might not return. Ron Ricard made the motion, seconded by Bruce Conrad, to authorize the civil service commission to advertise for the position of police officer. Motion passed.

CONSIDER PRIORITIZING INTERSECTION IMPROVEMENTS

A few members of council and Mr. Rhoads along with Rep. Schlegel and a member of Senator Gebhard's office recently met with Jon Fitzkee and members of PennDOT about the transportation concerns in the borough. Mr. Harris said no decisions were made and the suggestion was made to discuss the concerns and then submit a formal letter outlining what priorities Council would like to see considered for improvements.

Mr. Harris said that those in attendance felt that the two main priorities were Spring Hill Lane and Route 72 and Cornwall Center (Route 419, Burd Coleman and Cornwall). There was also discussion about the intersection of Route 322 and Route 72.

Mr. Karinch felt that Cornwall Center was the biggest priority. He thought Route 322 and Route 72 had big hurdles to overcome for improvements. Mr. Burton thought Cornwall Center would be a tough sell because there aren't many accidents there. He thought Spring Hill/72 and 322/72 were the priorities.

Rob Anspach asked if there was any recourse against Manheim Borough for the traffic caused by the Ren Faire that impacts Spring Hill Acres. He also stated that Cornwall Center will only continue to get worse.

Mr. Bamberger felt that the whole Route 72 corridor needs to be upgraded. He also stated it is difficult to cross 419 on the rail trail.

Ms. Bowman asked if there were any conversations with PennDOT about breaking access along 322. Mr. Harris said that they only talked about a previous idea of a second entrance for Spring Hill Acres, but they couldn't recollect why that didn't move forward. There was no discussion about any recent requests in the borough.

Jeremy Zimmerman said as a reminder there is another large warehouse being built nearby that will continue to add to the traffic congestion.

There was discussion about the effectiveness of roundabouts. Ms. Roussey said that there was a recent report on roundabouts in Ohio that showed people spent 18 less minutes getting to their destination and there were 85% less accidents along with less idling time. It was asked if a roundabout was considered at Spring Hill/72. Mr. Harris said that they briefly discussed the idea during that meeting.

Ray Granger suggested making Burd Coleman a one way at Cornwall Center.

Mr. Conrad said that two of the three intersections discussed directly impacted residents, which were Spring Hill/72 and Cornwall Center, and those are the two that should be focused on.

It was decided to send a formal letter listing the priorities as Spring Hill/72 and Cornwall Center with a request to also look at the 322/72 intersection.

Chief Hopkins also recommended seeking a reduced speed limit on Route 72 from 55 mph to 45 mph. He felt there was no reason for it to be 55 mph.

#### CONSIDER REQUEST FOR VERIZON TOWER ON BOROUGH PROPERTY

A contractor representing Verizon recently contacted the borough to see if they had interest in locating a tower on borough property. The initial rent would be \$1,700 per month. Mr. Rhoads did not know the footprint, but the tower would be 120-130 feet high.

John Karinch made the motion, seconded by Ron Ricard, to let Verizon know there was interest and to continue further discussion about the possibility. Motion passed.

#### DISCUSSION REGARDING DEAD TREES ALONG PUBLIC ROADS

Mr. Karinch said that a few years ago there was a discussion about dead trees and the safety issue they present. He felt it was only a matter of time until one falls and kills someone. He encouraged residents to take care of any dead trees that might fall on the road.

Mr. Harris asked what liability the borough would have in these instances. Solicitor Cleary said that if the tree is not in the right of way, the borough is not liable. If a tree is within the right of way, the political subdivision Tort Claims Act states that the borough would need to be aware that the dangerous condition exists and have sufficient time to address it. Ms. Cleary said that if a tree falls and causes an injury or damage, it is likely the owner and borough will both get sued, but that is why the borough has insurance.

Mr. Zimmerman brought up the fact that there are many trees leaning on wires throughout the borough. Ms. Cleary said unfortunately there is no way to enforce an ordinance against public utilities if it is dealing with a public utility facility.

Stan Alekna said that last year the Met-Ed forester took down over 100 trees that were threatening power lines.

It was decided that if dead trees are noticed, the owner will receive a letter notifying them of the concern and requesting them to consider taking them down.

#### CORNWALL UNITED 4 RESPONSIBLE DEVELOPMENT

Ms. Bowman said that their group wanted to talk about a proposed text amendment to the zoning ordinance, omissions from council minutes and incompleteness of Right to Know responses. Ms. Bowman said that in reviewing the minutes over the last year, there was information that could be viewed as negative of council that were not included in the minutes. She felt that the December 2022 meeting had a lot of back-and-forth conversation at that meeting that was not included in the minutes. She also felt that there was a back and forth with the Mayor at the August 2023 meeting that was not included in the minutes. She stated that Mr. Rhoads provided to her that the process for creating the minutes included recording the meetings for transcription purposes, completing the minutes, and then distributing them in the council packets for the next meeting. The minutes are also posted online on the Friday prior to the meeting and Council or the public can make comments on them at the meeting before they are accepted. Mr. Rhoads confirmed that nobody views the minutes before they are distributed in the packets, and nobody has ever asked that any details be removed from the minutes.

Mr. Conrad asked that through Roberts Rules if minutes should only reflect actions taken. Ms. Cleary said that the Sunshine Act is what governs an agency. She stated that discussion is not one of the things that is required in the minutes. The minutes need to have the date, time, place, members who attended, the substance of all official actions, the names of all citizens who appeared officially and the subject of their testimony. The borough's minutes go well beyond what is required, as does the transparency. She said that many municipalities do this to see what the topics were and what the feelings were, but it is not required. Ms. Bowman felt that the minutes are also a communication tool with the public. Ms. Cleary pointed out that the draft minutes are not a public record so providing them to the public before the meeting increases transparency.

Mr. Conrad asked if the recordings could be posted on the website. Mr. Rhoads said he was not sure of the capability of uploading audio minutes. He stated that if A/V capabilities are installed, that those recordings could be uploaded, or residents are permitted to bring their own recording devices to keep records of the meetings.

Ms. Bowman asked about the lack of process regarding Byler's rezoning process. She felt there was one process that gets detailed in public and then another one that gets followed. She said that in December her group brought forward the idea of updating the zoning ordinance. In February council authorized requesting an RFP to update the zoning ordinance. In June, Gannett Flemming submitted an RFP but felt that the process would be best suited to take place after the comprehensive plan was completed. Ms. Bowman felt that was understandable, albeit a slow process. She wondered then why council entertained a text amendment from Cornwall Properties a few months later.

Ms. Cleary said that there is both practical and legal to anything. Council has the right to entertain any request to amend the zoning ordinance. She said any planner will recommend that

nothing be updated until a new comprehensive plan is completed. In an ideal world, that is correct recommendation, but a new plan is an 18-month to two-year process and no landowner will want to wait that long. Ms. Cleary said that Council has the right to entertain or not entertain a request. It is a policy decision for the majority of Council.

Ms. Bowman asked how much Cornwall Properties has reimbursed so far for this process. Mr. Rhoads did not know off the top of his head but said he could get that information to her.

Mr. Zimmerman presented a text amendment to the zoning ordinance that their group is asking Council to entertain. This would remove public warehousing as permitted use from the Limited Industrial (LI) and allow it as a permitted, conditional use in the General Commercial (GC) district. Mr. Zimmerman reviewed the differences between traditional warehouses and the distribution and fulfillment centers that are being constructed today.

Ms. Cleary clarified that it takes at least 60 days to amend the zoning ordinance. The text amendment needs to be provided to the Lebanon County Planning Department and the borough Planning Commission for their review, which they are allowed 45 days. It needs to be advertised twice, a week apart, with the first advertisement being not more than 30 days and the last advertisement not less than 7 days before Council's meeting. If Council wishes to consider the text amendment that was presented, it could authorize the borough manager to send it to the County Planning Department and the Borough Planning Department.

Mr. Ricard asked if there was another municipality going through this process that the borough could review. Ms. Cleary said that different municipalities have different ordinances. Some municipalities she represents only have general requirements. Some municipalities she represents have different regulations for anything over 50,000 sq. feet. Everyone has different ways of looking at things, including the warehouse use.

Ms. Cleary did not think this amendment could be turned around in 60 days because to prepare that ordinance Council needs to make a series of policy decisions. Those include where you are going to put it, is it going to be as of right, conditional use or special exception and are there going to be two levels (over and under 500,000 sq. ft.) among other items.

Emily Bixler asked if the text amendment were to be adopted, would that use be grandfathered for the current property owner or could the current property owner sue to follow that use. Ms. Cleary stated that grandfather is not a legal term, and anybody can sue for any reason.

Nicole Anspach felt that Cornwall United 4 Responsible Development was spreading propaganda of no warehouse, when they meant no warehouse on the parcel currently zoned General Industrial (GI) because one could currently be built by-right in the LI district. CU4RD did not believe it was economically feasible to build one in the LI, which is why one hasn't been built there yet.

Council discussed the next step for the request. Mr. Zimmerman asked why they were considering sending it to Planning Commission when Cornwall Properties didn't have to go

before the Planning Commission. Ms. Cleary clarified that any amendment must go before the Planning Commission at some point before it is adopted.

Bruce Conrad made a motion, seconded by John Karinch, to send the text amendment to the ad hoc committee. Motion passed.

Ms. Bowman asked that at some point it be clarified what the ad hoc committee is supposed to do.

#### COMMENTS FOR THE GOOD OF THE ORDER

There will be no Coffee with Council this week.

#### ADJOURNMENT

With no further business to conduct, Ron Ricard made the motion, seconded by John Karinch, to adjourn the meeting at 9:01 p.m. Motion passed.

Cody Rhoads  
Secretary