

EDGEWORTH BOROUGH COUNCIL  
REGULAR MEETING MINUTES  
January 21, 2020

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MEETING was called to order at 7:00 p.m. with Council President Joseph T. Hoepp presiding and the following members of Council and officials of the Borough present: Mr. Joseph T. Hoepp, Mr. David T. Aloe, Mr. Ivan T. Hofmann, Ms. Carrie A. Morris, Mr. Daniel S. Wilson, Mr. Gregory Marlovits, Mrs. Elizabeth Genter, Mayor Gary L. Smith, Borough Manager John F. Schwend, and Mr. Brendan Lucas, Esq., representing the Borough Solicitor.

MINUTES of the Budget Hearing and Regular Meeting held on December 17, 2019 were presented to Council. After some discussion, a motion was made by Mr. Wilson with a second by Mr. Aloe to approve the Regular Meeting Minutes from December 17, 2019. All present voted unanimously in favor of the motion.

TREASURER'S REPORT for the month of December 2019 was presented to Council. After review and discussion, this report was ordered received and filed.

INVESTMENT REPORT as of January 21, 2020 was presented to Council. After review and discussion, this report was ordered received and filed.

FINANCIAL REPORT for the month of December 2019 was presented to Council. After review and discussion, this report was ordered received and filed.

BILLS PAYABLE for the month of January 2020 were presented to Council as follows: General Expenditures, in the amount of \$175,319.76 and Scheduled Expenditures, in the amount of \$401,023.42 were presented to Council as per the following list.

Scheduled Expenditures Account

6384	Fastsigns of Pittsburgh	Borough Building Signs	\$2,653.93
6385	Voided Check	Void	\$0.00
6386	Rally Specialist	Police Car Lighting	\$9,855.00
6387	Trans Associates Engineering	Traffic Study	\$1,415.14
6388	Voided Check	Void	\$0.00
6389	Mele & Mele	2019 Roadway Paving #1	\$384,211.02
6390	Lennon Smith Souleret	Engineering Fees	\$2,906.33

After some discussion, a motion was made by Mr. Hofmann with a second by Mr. Aloe that a voucher be drawn on the General Account in the amount of \$175,319.76, and a voucher be drawn on the Scheduled Expenditures Account in the amount of \$401,023.42. The motion was unanimously carried by all members in attendance.

TAX COLLECTOR'S REPORT for the month of December 2019 was presented to Council. After some review and discussion, this report was ordered received and filed.

DISTRICT JUSTICE REPORT for the month of December 2019 was presented to Council. District Justice Robert L. Ford, for District Court No. 05-03-02, reported remitting fines in the amount of \$1,246.68 to the Borough for the month. After review and discussion this report was ordered received and filed.

POLICE REPORT for the month of December 2019 was presented to Council. After review and discussion, this report was ordered received and filed.

FIRE REPORT for the month of December 2019 was presented to Council. After review and discussion, this report was ordered received and filed.

PUBLIC WORKS REPORT for the month of December 2019 was presented to Council. Mr. Schwend stated that the backhoe sustained damage to the hydraulic cylinder, and is now in need of new cylinders and a pump. The repairs are expected to total between ten and twelve thousand dollars. After review and discussion, this report was ordered received and filed.

BUILDING PERMIT AND ZONING PERMIT REPORTS for the month of December 2019 were presented to Council. After discussion, these reports were ordered received and filed.

MS4 UPDATE AND PUBLIC PARTICIPATION: President Hoepf opened the floor for public comment on the topic of stormwater by reviewing the December 2019 MS4 report. After discussion, the report was ordered received and filed.

QVCOG EXECUTIVE DIRECTOR'S REPORT for the year of 2019 was presented to Council. Mrs. Genter asked Mr. Schwend for an update on the Route 65 Corridor Study. Mr. Schwend stated that the study is ongoing, and the COG hosted public events throughout 2019 to gather feedback on the route. After further discussion, this report was ordered received and filed.

CORRESPONDENCE:

- A. Minutes from the Edgeworth Municipal Authority were received. Mr. Schwend stated that a new agreement had been reached with Ambridge Water Authority, and that new rates had been posted on the Edgeworth Municipal Authority's website.
- B. Minutes from the Leetsdale Municipal Authority were received.

RECOGNITION OF VISITORS CONCERNING NON-AGENDA ITEMS:

Gary & Janet Chace	313 Maple Lane	Bill Merryman	445 Leet Road
Greg Kaminski	443 Maple Lane	Christopher Inacio	450 Leet Road
Amy Thropp	450 Maple Lane	Mark & Christine Fuoss	453 Leet Road
Mary Pat Blaylock	451 Maple Lane	Leonard Ganz	418 Newbury Lane
Alan & Anna Torrance	513 Maple Lane	George Morgan	321 Nicholas Place
Sybil Baumwell	517 Maple Lane	John Holton	205 Church Lane
Jeff & Gail Murray	605 Maple Lane	Suzanne Watters	107 Woodland Road
William Lang	617 Maple Lane	Alie Gruelle	711 Chestnut Road
Hugh & Rachel St.Martin	609 Maple Lane	Douglas Shields	Food and Water Watch
Maria Napolitano	15 Valley Lane, Leetsdale		
Barry Lewis	151 Ferndale Avenue, Aleppo		

Ms. Mary Pat Blaylock asked about the status of Way Hollow Road. Mr. Schwend stated that Way Hollow Road is maintained by the state, and that PennDOT has stated that they will close the road indefinitely. The future of the road has yet to be determined. Mr. Schwend stated that he will keep Council and residents apprised of the situation as more details become available.

Ms. Alie Gruelle expressed concern regarding a 5-G small cell tower that was installed on a telephone pole near Edgeworth Elementary School, due to the unknown effects of 5-G technology. She asked about public notification for the cell tower, and asked Council to consider passing an ordinance to not allow the towers in the Borough. Mr. Schwend explained that the Borough had such an ordinance, however the installation in the right of way is currently considered a public utility and is exempt from Borough's zoning ordinance. Mr. Lucas and Ms. Morris discussed the Pennsylvania Supreme Court case that will be decided in the coming months regarding whether or not small cell towers in the rights of way are public utilities. Mr. Marlovits stated that the Borough has very little choice in approving building applications for the cell towers. Ms. Gruelle asked whether the Borough had any other applications pending, and if the public could view the applications. Mr. Schwend stated that no other applications had been received, and that building permits are not considered public information. After further discussion, Ms. Gruelle thanked Council for their time.

#### OLD BUSINESS:

ACTION CONCERNING ORDINANCE 553 – AMENDING PROVISIONS OF THE BOROUGH OF EDGEWORTH ZONING ORDINANCE RELATING TO GAS RESOURCES DEVELOPMENT: Mr. Schwend began discussion by providing an overview of the proposed amendments. He stated that during the Council meeting on February 19, 2019, Ms. Gail Murray approached Council to discuss a plastic reduction event, and brought up concerns regarding gas and oil drilling in the area. Ms. Murray asked Council to review current ordinances to further limit gas and oil drilling in Edgeworth. At that time, Council agreed to review existing ordinances and affirmed that no gas resources development would be allowed on Borough-owned property. Mr. Schwend and Mr. Aloe then met with Ms. Murray and a representative from Food and Water Watch to discuss gas and oil development further, and during the March 19, 2019 Council meeting, Mr. Aloe recommended that the Property Committee review the zoning ordinance for updates. During the April 16, 2019 Council meeting, Ms. Morris stated that the Property Committee began their review of the zoning ordinance, and was working with the Borough Solicitor to strengthen language regarding gas development. During the June 18, 2019 Council meeting, Ms. Morris stated that the Property Committee recommended revising the existing gas and oil ordinance and proposed changes. During the July 16, 2019 Council meeting, Mr. Schwend stated that no other changes to the gas and oil ordinance were proposed. Council authorized Mr. Schwend to advertise Ordinance 553 – Amending Provisions of the Borough of Edgeworth Zoning Ordinance Relating to Gas Resources Development. The Edgeworth Planning Commission reviewed the proposed changes at their October 9, 2019 meeting and recommended the ordinance for approval. The ordinance was reviewed by the Allegheny County Department of Economic Development (ACED) who recommended the proposed changes on November 25, 2019. The ordinance was advertised in the paper of record on January 3, 2020 and January 10, 2020.

Mr. Schwend stated that gas resources development is currently permitted as a special exception in the C-1 and C-2 Zoning Districts. In the C-2 district, all vacant land is currently owned by the Borough. He then highlighted the main changes to the ordinance, including: changing gas development from a special exception to a conditional use, increasing setbacks to 500 feet, requiring additional water, waste, and noise management plans, and requiring air, hydrological, and soil studies. Applicants will also be required to give notification of past violations, provide a detailed schedule of work, and provide proof of insurance, with the Borough as a named additional insured, in the amount of \$25 million. The applicant will also be required to communicate with and provide training to the Borough's first responders in the event of an emergency at the site. Mr. Schwend stated that these changes are all in addition to the existing gas resources development ordinance enacted in 2014. He explained that the Municipalities Planning Code requires each municipality to provide a space for each use, and making a zoning ordinance that excludes any practical use of the land could allow for oil and gas drilling to be deemed permitted anywhere in the Borough. He also explained that the changes in the proposed ordinance are not

considered exclusionary, but are as restrictive as possible without subjecting the Borough to potential litigation in the future.

Mr. Hoepf and Mr. Hofmann stated that owning much of the land where gas and oil uses are located, as well as designating resource development as a conditional use, allows Council to have control over the decision. Ms. Morris stated that the Property Committee reviewed and analyzed multiple options to strengthen the ordinance, and felt that the change to a conditional use was important. She referenced the case of *Jefferson Hills v. EQT*, where non-residents were permitted to testify about experiences with well pads located outside of the municipality. Ms. Morris stated that past conduct is relevant in consideration of a conditional use, and will help Council in their deliberations if a gas development application was submitted in the future. Mayor Smith stated that the changes in the ordinance protect Edgeworth and residents, and can be modified at any time. After further discussion, Mr. Hoepf opened the floor for public comment.

Mrs. Gail Murray began by thanking Council for their efforts in updating the gas and oil ordinance. She stated that she believed the ordinance could be strengthened even further, and that Council should consider other suggestions before taking a vote on the ordinance. She recommended that Council review gas and oil ordinances from other municipalities in the area to compare provisions, and presented the following list of changes for consideration:

- Further discussion about the change from Special Exception to Conditional Use
- Requirements for full disclosure of “full capacity buildout” of any/all planned oil and gas operations and supporting infrastructure as part of all Conditional Use permit applications. In particular see Oakmont pages 6, 7, 8 and 20
- Requirements for per-application testing/monitoring/reporting including: Traffic Study, Noise Management Plan, Environmental Impact Analysis, Air Quality Study, Hydrogeological Study, Pre-Development and Post-Development Soil Testing – see Indiana Township and Oakmont ordinances
- Requirements for all electric engines – see Indiana Township, page 26, section vii and viii
- Noise and Vibrations requirements – see Smith Township
- Performance Standards – see Smith Township
- Insurance and Bonding requirements – see Indiana Township, section t
- Fracture fluid storage ponds, open pits and reserve pits shall be prohibited.” – see Indiana Township, page 14, section d
- “Multiple well pad sites on any one oil and gas developments shall be prohibited.” – see Indiana Township, page 15, section h
- “Changes in the site plan, including but not limited to any expansion of the ground surface area used and/or devoted towards drilling operations, requires a new conditional use approval pursuant to the terms and conditions of this section.” – see Indiana Township, page 15, section i
- “Wellheads shall be located not less than 500 feet from any protected structure and not less than 200 feet from the nearest property line.” – see Indiana Township, page 16, section n
- “There shall be no bunk houses, employee trailers or any such employee residential type housing of employees on site.” – see Indiana Township, page 16, section o
- “Applicant shall provide the Township with a list of contractors and subcontractors who will be accessing the well site.” – see Indiana Township, page 16, section p
- All contractors and subcontractors that are retained by applicant are retained according to Total Recordable Injury Rate (TRIR) Standards and contracts only with those individuals or contractors who have a favorable TRIR.” – see Indiana Township, page 16, section q
- “Existing gas infrastructure plan” – see Indiana Township, page 16 section r
- Air and Water Quality – see Indiana Township, pages 19 and 20
- Noise, Vibrations – see Indiana Township page 20
- Vapor Recovery Units – see Oakmont, page 16, section O
- “No on-site burial or other disposal of drilling residuals or hydraulic fracturing chemicals or residuals is permitted.” – see Oakmont, page 16, section Q

- “Applicant shall demonstrate that its operation will not violate the citizens’ right to clean air and pure water” – see Oakmont, page 17, section W
- “Compressors shall be located within a completely enclosed building” – see Oakmont, page 20, section G

Mr. Schwend stated that the Borough’s zoning ordinance sets restrictions on noise and vibrations for all uses in all zoning districts. Mr. Hofmann stated that a conditional use approval allows Council to make the final decision, and allows residents to hold their elected officials accountable. Mr. Hoeppe stated that Council has reviewed proposed changes for many months, and that not passing the ordinance would leave the Borough less protected in the meantime. He stated that Council would be open to considering other changes in the future. Mrs. Murray expressed her opinion that residents have not been involved in the process, and that Council should delay voting on the ordinance until further considerations are made.

Mrs. Suzanne Watters expressed the need for further protections in the ordinance. She suggested adding provisions related to fracture fluid storage ponds, prohibiting multiple wells on one site, and increasing the setback from property lines. Mr. Hugh St. Martin also stated that the Borough should consider increasing the setback, and exploring multi municipal zoning with neighboring municipalities. Mr. Schwend explained that some of the Borough’s opportunity to control gas resources development would be lost with multi-municipal zoning. Mr. Aloe explained that with the physical standards for gas resources development, drilling physically can’t occur in Edgeworth. Mr. St. Martin argued that expanding the setback would provide further protections, and isn’t considered exclusionary since it has worked in other municipalities. Mr. Schwend explained that regardless of other municipalities’ ordinances, the Borough cannot enact provisions in an ordinance that will exclude gas resources development in the zoning district where it is designated. Other municipalities may have expansive lots that allow for increased setbacks, however the Borough cannot enforce setbacks that are not reasonable for the lots zoned for gas resource development. If an ordinance is considered exclusionary, the use is presumed to be allowed anywhere in the Borough.

Ms. Maria Napolitano, a Leetsdale resident and member of the Leetsdale Planning Commission, shared that Leetsdale Borough had recently reviewed their gas and oil ordinance and increased the setback. She stated that any applicant would then have to prove a hardship in order to have less restrictive setbacks. She also recommended restricting average noise throughout the course of a day, and recommended that the Borough determine who owns the mineral rights on its property. Mr. Aloe stated that the Borough would determine ownership of mineral rights. Mr. Jeff Murray thanked Council for their dedication to updating the ordinance, and stated that further review is necessary. He also urged Council to involve residents in the review process as much as possible. Mr. Alan Torrance asked what the process for further updating the ordinance would be, and Mr. Schwend stated that any other suggestions would be reviewed by the Property Committee, Council, the Planning Commission, and ACED prior to any vote taking place. Mr. Lucas stated that the legal recommendation to Council was to adopt the ordinance in its present state and review other changes at a later date.

Mr. Douglas Shields of Food and Water Watch stated that he has experience with updating gas and oil ordinances, and offered consulting services to the Borough. He expressed his opinion that the ordinance is controversial and in need of many changes, and urged Council to postpone their vote. He stated that the Borough must do a better job of involving residents in the process, and should hold organized meetings in addition to regularly scheduled Council meetings. Mr. Shields also stated that the Borough should update its Comprehensive Plan to address gas and oil issues. Mr. Hoeppe reminded the audience that monthly Council meetings are open to the public, and that any issue may be addressed and discussed. After further discussion, a motion was made by Mr. Wilson with a second from Mr. Aloe to take a roll call vote to adopt Ordinance 553. A roll call vote was taken, and all members voted unanimously in favor.

SEWERS COMMITTEE – SEWICKLEY BOROUGH ACT 537 PLAN: Mr. Hoepf stated that the Sewers Committee recently met with representatives from Leetsdale Municipal Authority (LMA) regarding the proposed Sewickley Borough Act 537 Plan. He explained that LMA states that the 537 Plan will lower rates, although existing rate payers would be responsible for paying for additional infrastructure needed. Mr. Hoepf also stated that the Leetsdale treatment plant is currently operating at about 60% capacity, and the additional sewage could amount to almost 100% capacity. Mr. Schwend stated that the Borough Engineer's review of the plan found a number of issues that need addressed, and that further discussion would be necessary before the Borough could agree to support the plan. Mr. Hoepf stated that Council will plan to hold a public meeting with representatives from LMA to further discuss the plan. Mr. Hofmann and Mr. Wilson expressed concern with existing rate payers being responsible for infrastructure needed to bring Sewickley Borough in as a customer, as well as with capacity issues without upgrading the Leetsdale plant. Mr. Marlovits stated that current rates for existing payers aren't a concern, and stated that accurate rate projections must be provided if the plan is to be approved. After further discussion, Council agreed to continue the dialog and hold a public meeting to discuss the 537 Plan at a future date.

NEW BUSINESS:

ACTION CONCERNING CONTRACT 19-R01 – PARTIAL PAYMENT #1: Mr. Schwend stated that Mele & Mele & Sons submitted their first payment request to the Borough Engineer for the 2019 Roadway Improvements Program in the amount of \$384,211.02. The Borough Engineer recommended payment with the understanding that the company still has substantial work to do, including adjusting manhole covers and remilling and paving part of Academy Avenue for the third time. Mr. Schwend explained that tax-payer dollars are not being used to redo the work, as the Borough will be withholding approximately \$70,000 in payment until the work is completed properly by Mele or by another contractor. Mr. Wilson and Mr. Hofmann discussed the quality of work performed by Mele, and expressed concern regarding accepting a bid from them in the future. After further discussion, a motion was made by Mr. Aloe with a second from Mr. Hofmann to approve partial payment to Mele & Mele & Sons in the amount of \$384,211.02 for the 2019 Roadway Improvement Program. All present voted in favor of the motion.

OTHER BUSINESS:

RECYCLING INFORMATION SESSION UPDATE: Administrative Assistant Ellen DeWeese explained that the Borough's Recycling Information Session, held on January 15<sup>th</sup>, had approximately thirty people in attendance, twenty-five of whom were residents. Representatives from Pennsylvania Resources Council and Waste Management presented information on the recycling process, waste reduction, and various recycling resources throughout the area. Mayor Smith stated that the information provided was very thorough and helpful, and he was pleased with the number of residents in attendance. Ms. DeWeese stated that copies of the presentations have been posted to the website, and further updates to recycling changes will be shared there as well. Mr. Hofmann commended the professional staff for putting together the event, and asked whether a separate dumpster for aluminum and tin cans would be an option for the Borough to explore. Ms. DeWeese stated that she would look into the suggestion. After further discussion, Council thanked Ms. DeWeese for the report.

EXECUTIVE SESSION: Council entered executive session to discuss a legal matter and personnel matter at 9:30 p.m., and returned to regular session at 9:50 p.m.

There being no further business, the meeting on motion duly made and seconded was adjourned at 9:57 p.m.

John F. Schwend – Borough Manager