



A regular meeting of the Beaver Borough Council was held on Tuesday, November 15, 2011, in the Community Room.

**PRESENT:** President Shirley Sayers; John Wolbert; Patrick Sims; Walter McDermott; Vice President Lauson Cashdollar; Daniel Deceder; Alex Andres; Kathryn Nestor; Mike Deelo; Borough Manager, Whitney Brady, Mayor Thomas Hamilton; Solicitor John Petrush; Chief Madgar

**VISITORS:** Midge Sefton; Jeff Lloyd; George & Thelma Kauffman; David Yarosz; Jarod Thomas; Luke Berardelli; Tommi Wagner; Robert Rice; and Charles Casbourne.

President Sayers called the meeting to order at 7:30 p.m. with the Pledge of Allegiance to the Flag and roll call.

President Sayers indicated that an Executive Session was held at 6:30 p.m. this evening to discuss a grievance presented by the BBMEA.

### **Public Comment on Motions**

There were no public comments on the proposed motions listed on the agenda.

### **Motions:**

1. Mrs. Nestor moved to approve the minutes of the regular council meeting held on October 11, 2011. Mr. Wolbert seconded the motion and it carried by a voice vote.
2. Mrs. Nestor moved that Ordinance No. 775, an Ordinance of the Borough of Beaver amending Chapter 1, Part 5. B of the Code of Ordinances relating to a Municipal Employees Pension Plan be approved by council subject to the Solicitor's review and from there to proceed to advertisement. Mr. Deceder seconded the motion and it carried by a voice vote.
3. Mrs. Nestor moved to approve the contract between the Borough of Beaver and Deshler Amusements, Inc. to furnish rides, side shows, and other amusements for the 2012 Community Festival at a cost as outlined in the agreement dated October 27, 2011. Mr. Cashdollar seconded the motion and it carried by a voice vote.
4. Mr. Cashdollar moved to pay all of the bills on the November bill list with the exception of an item on page 11, to Richard J. Granati, the amount indicated was \$3,850 and I request that \$3,750 be paid and the Borough Manager determine

whether the additional \$100 should be paid and save that bill for next month, if in fact, she deems it appropriate to pay the extra \$100 . Mrs. Nestor seconded the motion and it carried by a roll call vote as follows:

Mr. Wolbert – Yes; Mr. Sims – Yes; Mr. McDermott – Yes; Mr. Cashdollar – Yes; Mr. Deceder – Yes; Mr. Andres – Yes; Mrs. Nestor – Yes; Mr. Deelo – Yes; President Sayers –Yes.

5. Mr. Cashdollar moved to approve the pay application No. 1 and Final from Diorio Contracting for the 2011 Pavement Maintenance Program in the amount of \$132,262.38. Mr. McDermott seconded the motion and it carried by a roll call vote as follows:

Mr. Sims – Yes; Mr. McDermott – Yes; Mr. Cashdollar – Yes; Mr. Deceder – Yes; Mr. Andres – Yes; Mrs. Nestor – Yes; Mr. Deelo – Yes; President Sayers –Yes Mr. Wolbert – Yes.

6. Mr. Wolbert moved that Council accept the two draft “Request for Proposals” titled “Appointment as Assistant Borough Solicitor” as prepared by Attorney Petrush. He further moved that the manager be directed to place an ad in the local newspaper of general circulation and the forthcoming issue of the “Beaver County Bar Association’ Monthly Newspaper”. The manager will determine the submission due date which will allow for publication in the “BCBA Monthly Newsletter”. Mrs. Nestor seconded the motion.

Mr. Deceder called for a privileged motion to end discussion and vote on the proposed motion. A roll call vote was taken as follows in which a two thirds majority was not obtained and discussion continued on the main motion.

Mr. McDermott – Yes; Mr. Cashdollar – Yes; Mr. Deceder – Yes; Mr. Andres – No; Mrs. Nestor – No; Mr. Deelo – Yes; President Sayers –No; Mr. Wolbert – Yes; Mr. Sims – No.

After continued discussion on this motion a roll call vote was taken as follows in which the motion failed.

Mr. Cashdollar – No; Mr. Deceder – Yes; Mr. Andres – No; Mrs. Nestor – Yes; Mr. Deelo – No; President Sayers –Yes; Mr. Wolbert – Yes; Mr. Sims – No; Mr. McDermott – No;

7. Mr. Wolbert moved that council recognize that a violation of Ordinance 577 constitutes serious misconduct and that any member of council who violates the Ordinance shall be subject to public censure by the other members. Mr. Andres seconded the motion.

Following discussion, Mr. Deelo moved to table this motion. Mrs. Nestor seconded the motion and the motion to table passed following the roll call vote as follows:

Mr. Deceder – Yes; Mr. Andres – No; Mrs. Nestor – Yes; Mr. Deelo – Yes; Mr. Wolbert – No; Mr. Sims – Yes; Mr. McDermott – Yes; Mr. Cashdollar – Yes; President Sayers –No.

Mr. Cashdollar then moved that The Resolution clarifying §§ 1-205 D & E of the Beaver Borough Code of Ordinances (dealing with the preparation and presentation of the Budget) be approved and adopted by Council and that the President and the Borough Secretary be directed to fully execute the same as soon as possible. Mr. Deceder seconded the motion.

Following discussion, Mr. Wolbert moved to table this motion. Mrs. Nestor seconded the motion and the motion to table failed following the roll call vote as follows:

Mr. Andres – No; Mrs. Nestor – Yes; Mr. Deelo – No; Mr. Sims – No; Mr. Wolbert – Yes; Mr. McDermott – Yes; Mr. Cashdollar – No; Mr. Deceder – No; President Sayers – Yes.

After much discussion, Mr. Cashdollar’s motion passed after a roll call vote was taken as follows:

Mrs. Nestor – No; Mr. Deelo – Yes; Mr. Wolbert – No; Mr. Sims –Yes; Mr. McDermott – Yes; Mr. Cashdollar – Yes; Mr. Deceder – Yes; Mr. Andres – No; President Sayers – No.

8. Mr. Wolbert moved to approve the contract between Compass Business Resources for HRonCall services at a rate not to exceed \$180 per hour for a single 10 hour increment, between now and December 31, 2011. Mrs. Nestor seconded the motion and the motion passed after a roll call vote.

Mrs. Nestor – Yes; Mr. Deelo – Yes; Mr. Wolbert – Yes; Mr. Sims –Yes; Mr. McDermott – Yes; Mr. Cashdollar – Yes; Mr. Deceder – Yes; Mr. Andres – No; President Sayers –Yes.

9. Mr. Wolbert moved to permit the Manager to arrange for a council seminar, as proposed this evening on “Meeting Management” to be presented by Compass Business Resources within the 10 hour increment previously established. Mr. Cashdollar seconded the motion and it carried by a voice vote.

10. Mr. Deceder moved to direct the Borough Manager to obtain information required to join PMAA (i.e. documentation, cost, etc.) with the intent of jointing Association at the earliest convenience and availability of funds in current budget or allocate funding in 2012 budget. Mrs. Nestor seconded the motion and it passed on a voice vote.

**General Public Comment:**

1. Tommi Wagner, 230 Beaver Street, on behalf of the Parks and Recreation Advisory Committee presented some interpretations to the report provided by Mr. Andres to Council this evening.
2. George Kaufmann, 100 Oak Street, (a) apologized for previous outburst (b) applauded the efforts of the Borough workers in cleaning up leaves; (c) mentioned nuisance cats.
3. Jeff Lloyd, 396 Fifth Street, appreciate all the hard work on the budget and confident that the borough budget will be better than the federal budget.

At 9:24 p.m. a five minute break was taken. The meeting resumed at 9:29 p.m.

Mr. Sims moved that Council solicit bids to remove the excess black top located by the sewage treatment plant. Mr. McDermott seconded the motion and it passed by a voice vote.

### **Education and Special Services -- Mr. John Wolbert, Chairperson**

1. Expressed thanks to Manager Brady for the memorandum from John McCreary regarding personnel files.
2. Presented materials and made comments on the reduction of the size of council.

### **Highways & Equipment – Mr. Patrick Sims, Chairperson**

1. Work on a more comprehensive vehicle database is continuing.
2. Also a cursory review of the budget with Manager Brady, Mrs. Nestor and Mr. Deceder.

### **Emergency Services – Mr. Walter McDermott, Chairperson**

1. Mr. McDermott moved to authorize payment of the \$3,000 to the Beaver Borough Fire Department upon receipt of an invoice, as outlined in the contract with the Borough of Beaver. Mrs. Nestor seconded the motion and the motion passed after the following roll call vote.

Mr. Deelo – Yes; Mr. Wolbert – Yes; Mr. Sims –Yes; Mr. McDermott – Yes; Mr. Cashdollar – Yes; Mr. Deceder – Yes; Mr. Andres – Yes; Mrs. Nestor – Yes; President Sayers –Yes.

### **Finance Committee – Mr. J. Lauson Cashdollar, Chairperson**

1. Lynette Shuster has developed a significant amount of information that is designed to help predict final revenue and final expenses before this year, and projections for next year.

2. There have been meetings between various people, including Lynette Shuster and various department heads and chairs.
3. Mr. Cashdollar moved to direct the Solicitor be authorized to and that he undertake to advertise two special meetings: one on November 21, 2011 at 6:00 and one on November 22, 2011 beginning at 6:00 p.m. for the general purposes. Mrs. Nestor seconded the motion and it passed by a voice vote.

**Policies, Procedures & Code Enforcement Committee– Mr. Daniel Deceder, Chairperson**

1. Minutes of committee meeting were provided in Council packet.
2. Mr. Deceder will be making inquiries with consultant about going ahead with scheduling and proctoring public meeting on the proposed Zoning Ordinance.

**Recreation and Property Committee – Mr. Alex Andres, Chairperson**

1. Discussed the comments by Ms. Wagner and the vagueness of his report.

**Wage and Personnel and General Government Committee – Mrs. Kathryn Nestor, Chairperson:**

1. General government has had low attendance at meetings. Mrs. Nestor suggests using the December meeting to review some portions of the Comprehensive Plan and to begin thinking of prioritizing goals.
2. Received official recognition of the Beaver Historical District established by Ordinance 773 adopted on June 14, 2011 by the Pennsylvania Historical Museum Commission.

Mrs. Nestor requested an executive session regarding communication received today on negotiations of collective bargaining contract and to discuss a matter of employee evaluation.

**Water and Sewage Committee -- Mr. Michael Deelo, Chairperson:**

1. Mr. Deceder chaired the recent committee meeting on November 2, 2011 and minutes were provided.
2. Mr. Deceder moved that Council redact the amendment to clarify confusion until the structure of the Municipal Authority is determined and the issue can be addressed in more detail and consideration to a fair and equitable solution. Mrs. Nestor seconded the motion.

Following discussion, Mr. Cashdollar moved to table this motion. Mrs. Nestor seconded the motion and the motion to table carried following a voice vote.

**Manager's Report:**

1. We are entering the winter season and the probability of line breaks increases and she is looking to and has approached the committee for some policy guidance.
2. Received confirmation that the code enforcement reports are satisfactory.
3. Mr. Wolbert moved to accept the proposed changes to the Employee Handbook as presented by the manager via email dated November 10, 2011, with an effective date of November 16, 2011. Mrs. Nestor seconded the motion and following a voice vote with Mr. McDermott voting nay, the motion carried.

**Mayor Hamilton:**

We hosted the Veteran's Parade last week and things went well.

**Beaver Police Department – Chief Madgar:**

1. Chief has reviewed the budget with the Mayor and Sgt. McCoy will be sitting in on any meetings in his absence.
2. The Citizens' Police Academy has its last class on Monday, November 21, 2011 at 6 p.m. and the Community Room is scheduled.
3. There was a final wrap up meeting at Lock 6 with members of the Coast Guard and the Locks and Dams Security Nuclear Plant concerning the boat. Boat has been put away for the winter and we are revisiting policy and procedure. All money has been reimbursed to the Borough.

**Other Business:**

Mr. Deceder indicated that the steering committee met this week on the train station and Representative Christiana and Senator Vogel attended that meeting and advised that funding on a state level is a matching grant. They were very supportive.

Mrs. Sayers reported the Rochester VFW was very pleased with having the parade in town and commented on our borough employees, the police department and just how well it went.

**Solicitor's Report:**

1. Mr. Petrush provided a proposed tobacco resolution, together with a copy of the prior resolution adopted by Beaver Borough Council on February, 1989 and has not been rescinded and considered and still in effect. The use of smoking tobacco is prohibited by the Clean Indoor Act. That Act preempts the authority of the political subdivision to regulate smoking tobacco.

The regulation of smokeless tobacco was determined by the Supreme Court of Pennsylvania that if a workplace is tobacco free or not, is a condition of employee,

subject to collective bargaining and a Borough cannot unilaterally cram that down the throat of its employees.

The Borough's regulatory rights are limited but can ban smokeless tobacco in the building when you have public meetings going on by any group or agency of the Borough, a committee, or anyone who uses the building. Mr. Petrush will continue to review and revise the Resolution for smokeless tobacco for council's review at the December meeting.

2. Mr. Deceder moved to adopt the proposed Resolution by the Beaver County Regional Council of Governments to establish a regional board of appeals. Mrs. Nestor seconded the motion and it carried by a voice vote.
3. Following a review of the duties of the Code Enforcement Officer, it is determined that animal nuisances are within her purview.
4. Property at 369 Fifth Street is scheduled for a Judicial Tax Sale for \$1396.00 thereby eliminating the Borough's municipal lien for less than \$300. Mr. Petrush is looking for guidance on the potential purchase by the Borough and then reselling the property.
5. Working with Solicitor of Center Township on a Memorandum of Understanding concerning our joint river response unit.

Mr. Petrush will address two other issues in an executive session: one concerns an existing lawsuit; and the other is a zoning issue where litigation is a likely result.

#### **Other Business:**

Mr. Andres also advised Council of his attendance at the meeting of the Ohio River Trails Council concerning the bicycle path. There will be public meeting on this subject on December 5, 2011 at 6:30 p.m. in the Borough Building.

#### **President's Report:**

Council went into executive session at 11:20 p.m. for the purposes of (1) negotiations of a collective bargaining agreement, (2) employee evaluation, (3) existing lawsuit; and (4) zoning issues with a possible lawsuit.

Council came out of executive session at 12:20 A.M. President Sayers announced that Mr. Wolbert did not participate in the executive session discussion related to the zoning issue at 308 River Road. There being no other business, President Sayers adjourned the meeting at 12:22 A.M.

Respectfully submitted by  
Donna Taylor, Recording Secretary and John W. Wolbert, Assistant Borough Secretary