

Council of the Municipality of Murrysville held a Regular Voting Meeting on Wednesday, October 16, 2019, at 7:00 p.m. in the Municipal Building. Present at the meeting were Council members Toni Brockway, Loren Kase, Jamie Lee Korn, Josh Lorenz, Carl Stepanovich and Mayor Synan. Also present were Chief Administrator, James Morrison, Director of Finance, Diane Heming, and Solicitor, George Kotjarapoglus. Council members Tony Spadaro and Dayne Dice were absent.

**REGULAR VOTING MEETING
AGENDA**

ROLL CALL/VOTING ORDER: Josh Lorenz, Toni Brockway, Tony Spadaro - absent, Carl Stepanovich, Dayne Dice - absent, Loren Kase, Jamie Lee Korn, and Mayor Synan.

PLEDGE OF ALLEGIANCE: Mr. Lorenz led the audience in the Pledge of Allegiance.

UNISTED AMENDMENTS: None

Mrs. Lee Korn moved to approve the agenda as presented. Ms. Brockway seconded. All present voted aye. Motion approved.

CONSENT CALENDAR ITEMS

- A. Accounts Payable
- B. Cash Investments and Transfers
- C. October 2, 2019 Council Meeting Minutes

Mrs. Lee Korn moved to approve all of the consent calendar items. Mr. Kase seconded. All present voted aye. Motion approved.

MAYOR'S COMMENTS: Mayor Synan presented slides on the following events:

The 54th Annual Murrysville Halloween Parade sponsored by the Murrysville-Export Rotary Club will be held Saturday, October 26th at 11:00 a.m. Registration begins at 10:30 a.m. at Mother of Sorrows Church lower parking lot. Children under six years old will start at Laird Hall on North Hills Road.

Trick or Treat for the Municipality of Murrysville will be held Halloween Thursday, October 31st from 6:00 – 8:00 p.m. Please drive slowly.

Westmoreland Parks and Recreation will have a Hobgoblin Hikes at Northmoreland Park on Saturday, October 19th from 7:00 – 9:00 p.m. They are looking for volunteers ages 15 and over to be characters along the trail. Recommended age is 8 years and up. Donations are appreciated. Call 724-830-3950.

This is Homecoming weekend for Franklin Regional. The bonfire is set for Thursday from 5:00 – 8:00 p.m. The football game will take place 7:00 p.m. Friday at Panther Stadium. The Homecoming King and Queen will be crowned at half time. Saturday's Homecoming dance will be 7:00 – 10:00 p.m.

Murrysville Historian to receive St. Clair Award. Local historian Charles Hall is one of two recipients of this year's Arthur St. Clair Historic Preservation Awards presented by the Westmoreland Historical Society. He will be presented with the award at an October 23rd dinner at Rizzo's Malabar Inn in Crabtree. Congratulations to Charles and our Historical Society.

CHIEF ADMINISTRATOR'S COMMENTS: None

Mr. Lorenz stated that if anyone is looking for something to do this Saturday, the defending WPIAL Champion Franklin Regional Boys Soccer Team embarks on their defense of that title at 2:00 p.m. at the Franklin Regional High School Stadium. Come out and see some good soccer and visit the concession stands.

COMMUNITY INPUT: Mr. Lorenz stated that this is the opportunity for members of the community to speak to Council about anything they'd like to talk about, as long as it is three minutes or less.

Barbara Sims, 3837 Hills Church Road: Ms. Sims stated that she understands Council's concerns about the noise coming from the Titan Well Pad. Council is not placing enough emphasis on the dangers from emissions – both from leakage from the equipment and from the drilling itself. You cannot depend on DEP to monitor the emissions because they simply do not have enough personnel to monitor emissions on a continual base. They do not have infra-red camera equipment necessary to see the emissions. There are over 1,800 studies showing that fracking is harmful to people's health. A series of articles in the Post-Gazette noted an increase in childhood cancer cases in Washington County where fracking began 14 years ago. The only people who stand to gain from bringing fracking to Murrysville are the leaseholders and the gas industry. Council should wait until after the Substantive Validity Challenge against the Murrysville Oil and Gas Ordinance has made its way through the PA court system.

LIAISON COMMENTS AND COMMITTEE REPORTS:

Ms. Brockway: Murrysville Community Library meets tomorrow at 7:00 p.m.

Mrs. Lee Kornis: Pension Committee meets next month.

Mr. Kase: Murrysville Medic One meets tomorrow. The Murrysville Park & Recreation Foundation is recently a 501(c)3 in the eyes of the State. The website should be going live soon, as well as a Facebook page to make people aware of things they can do and ways to donate.

Mr. Stepanovich: The Parks and Recreation Committee met last Tuesday. The new bucket has been installed at the Splash Park. All of the vendors from the Farmer's Market will return, which is a sign of a successful project. Star Gazing was cancelled with no rescheduled date set. Saturday, October 26th is Trick or Treat on the Trail. Pre-registration is required. There was a small grant received by the Municipality for Concert in the Park for \$1,351. The Committee reviewed three different plans: Magnolia, Ron Anderson property, and a Ferri family member. The Stewardship Plan is being prepared for the various parks. There was a grant submitted for the amphitheater, which is going to be between \$600,000 and \$700,000. A Night of Lights will be December 7th at Sardis Park starting at 2:00 p.m. There will be a bonfire and will conclude with a visit from Santa. Information can be found on the Parks & Recreation website or contact Carly Greene at 724-327-2100 ext. 115. The next meeting is Tuesday, November 12th.

WORKSHOP ITEMS

ADMINISTRATION: None

ENGINEERING: None

COMMUNITY DEVELOPMENT:

11.A. A discussion concerning CU-1-18 Conditional Use, CU-2-18 Major Excavation and SP-4-18 for Construction and Operation of the Titan Well Pad, 6189 Bollinger Road

Mr. Morrison stated that, as discussed at the last meeting, the Land Development Site Plan would be discussed this evening along with discussions concerning noise. The applicant has requested a waiver on the noise ordinance from 45 dBA to 58.64 in addition to increases in dBA for certain durations over a period of time, and a change in the landscaping requirements. In addition, the staff has put together a list of conditions based on the hearings and review of the application as submitted by Olympus. This evening there are representatives here from Olympus to present the site plan. Also, in attendance are representatives from AVT, the consulting firm for the Municipality which was hired to review the noise study that was included in the application.

Kate Gafner, on behalf of Olympus Energy, formerly known as Huntley & Huntley Energy Exploration, LLC, has a question before going into the Land Development Plan. The Conditional Use hearing was held open for the parties' response to Traffic Planning and Design (October 2, 2019 Letter). The parties submitted responses on Friday and she wanted to make sure that these could be submitted into the record with an Exhibit sticker. The October 2, 2019 TPD Letter would be Olympus Exhibit #44. Olympus HHEX response from October 11, 2019 would be Exhibit #45. She does also have Protect PT's data comparison chart that was requested and submitted on October 11, 2019.

Mr. Sittig stated that Mr. Mudry is expected to submit a response and then if staff has any comments, these and the exhibits will also be the final pieces of the Conditional Use record and the transcript for the Public Hearing are closed. Staff comments are solely related to the traffic issues that are still outstanding.

Ms. Gafner stated that on October 26, 2018, HHEX submitted a Preliminary and Final Land Development Plan application for the Titan Natural Gas Well Pad at 6189 Bollinger Road in Export. Olympus submitted voluminous materials in support of that Land Development Plan Application. Over the last several months, Council has been very patient as hours of testimony with a number of witnesses and supplemental submissions to support the Conditional Use Application were presented. Olympus has responded to all comments from the former municipal engineer and the Municipality's consultants and all of the response letters, including the October letters just discussed, which are all part of the record for that Conditional Use application.

Mr. Sittig asked if the Conditional Use was going to be part of the Land Development. Ms. Gafner answered yes; it is appropriate to refer to the entire Conditional Use record and the hearings that were associated with it. As with Olympus' Conditional Use Application, a checklist was provided of all the SALDO requirements and where in those binder materials Council can find those supporting documents to demonstrate that Olympus did, in fact, comply with those requirements. In addition, at Tab 3 of the Land Development Plan Application, Olympus submitted a 14 page narrative that details each and every one of

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the requirements in narrative form. This document was previously provided to Council in October of last year. Since Olympus has satisfied the requirements for Land Development approval, Council is asked to approve the Land Development Site Plan.

Mr. Sittig asked if that included the two modifications that Mr. Morrison referenced for the Conditional Use record. Ms. Gafner stated that Olympus does request the landscape plan waiver. The sound waiver is part of the Zoning Ordinance and is not part of SALDO.

Mrs. Lee Korn asked what the rationale was for reducing the landscaping requirement. Ryan Dailey, Project Manager with Civil Engineering Consultants who prepared the landscape plan for the site, stated that the nature of the well pad site compared to your standard commercial development, there are not internal parking areas with landscape islands where you would traditionally have plantings. The approach for this site was to provide perimeter screening around the outside of the well pad. Mrs. Lee Korn noted that required under the Zoning Ordinance was 81 trees and 401 shrubs. Olympus' proposed plan is to plant 57 evergreen trees, 6 deciduous trees, and 18 shrubs. The trees will be planted when the pad is completed. Mr. Morrison stated that staff recommended that if Council was considering the waiver, the trees be a minimum of six feet tall with a 1.5" to 2" caliper.

Mr. Stepanovich asked if the site itself sits relatively high in elevation. Mr. Dailey stated that it does sit on top of a hill. Mr. Stepanovich stated that there is an individual on Hilty Road and asked if the site would be above that residence. Mr. Dailey answered yes.

Next, Mr. Morrison stated that the noise ordinance requires a 45 dBA ambient level. The testing that was performed by Olympus' consultant established the ambient to be at 58.64 over a 72 hour study period and subsequently requested a waiver of 10 dBA above the 58.64. During the hearing, the waiver was expanded for permitted increases of 5 dBA for 15 minutes, 10 dBA for 5 minutes, 15 dBA for 1 minute, and 20 dBA for 1 minute cumulative minutes during one hour. Bernard Kinney and Bryan Reggit with AVT are here this evening to give an overview of the study and comment on the waiver.

Bernard Kinney, AVT Inc., one of the Acoustical Consultants on the project, stated that they spoke with Mr. Morrison earlier concerning this additional waiver. It was their belief that initially they were going to seek a 10 decibel increase above the ordinance. Now they are requesting an additional waiver to go even further during certain times of their operation. Mr. Sittig stated that it was his understanding that Olympus is looking at 10 dBA over their ambient over normal operations. Their position is that they are on average within that 10 dBA of their ambient. Looking at individual noise activity and peak noise, even though it's within that average, they brought the K&L Gates summary of those above that 10 dBA level. Mr. Kinney stated that he would agree to the waiver of 10dBA, but limit the additional to the 5 dBA and 10 dBA. Mr. Kinney agrees that the ordinance doesn't work because of the characteristic of that area, but we have to determine how much over we'll let them go. In his professional opinion, he would take the 58.64 and just give them 10 decibel increase over that and then, if a waiver is needed, give them an additional 5 for 15 and 10 for 5, he would agree to that. The 15 dBA and 20 dBA are much higher. Mr. Kinney doesn't feel that Olympus has given enough information and data on why they need the increase. If they can demonstrate that they need it, then there are two choices; to either approve it or provide additional abatement so that complaints don't start coming in.

Mr. Sittig stated that this is where the consultants can help, if they would coordinate and figure it out, especially with being 30 dBA above the ambient. Those are very limited durations of amounts of time, vmp

particularly on the horizontal drilling. These wells need to be horizontally drilled. There are going to be some concentrated events that are going to be significant that the sound wall will not mitigate. This is a 24 hour operation and it's a reality that some of these events are going to happen in the middle of the night. Council needs some feedback from the acoustical consultants and to give some guidance because Council has the same concerns. Another thing Council needs some help with is that since Olympus now has all their monitoring and they can produce the data, with best management practices, the Municipality would like to be able to notify neighbors or give concerned citizens an answer about noise spikes so they are aware of what's going on.

Mr. Lorenz asked about a timeline on when the consultants can meet. There is one more meeting where this is going to be discussed in a workshop. The second meeting in November is when there will be a vote.

Mr. Morrison stated that he will schedule something for early next week with the consultants and representatives from Olympus and Acoustical Control and see what kind of progress can be made and go from there.

PUBLIC WORKS AND PARKS: None

COUNCIL ACTION ITEMS

ADMINISTRATION:

13.A. Consider authorization to advertise Ordinance No. 1011-19, restating the Non-Uniform Pension Plan

Ms. Brockway made a motion to authorize advertisement of Ordinance No. 1011-19, an ordinance restating the Non-uniform pension plan. Mrs. Lee Korn's seconded.

Ms. Heming stated that this was basically some housekeeping. When an ordinance is passed after the original document is adopted, it doesn't become part of the document. This Ordinance will include the last three amendments as part of the document. The reinstatement of the plan document has no effect on the Operating Budget. It is merely an administrative tool to combine all amendments to the plan into one document for ease of use.

In a roll call vote: Mr. Lorenz – yes, Ms. Brockway – yes, Mr. Stepanovich – yes, Mr. Kase – yes, Mrs. Lee Korn's – yes. Motion approved.

13.B. Consider authorization to advertise for a Public Hearing to be held at 7:00 p.m. on November 6, 2019 to present the 2020 Operating Budget

Mrs. Lee Korn's made a motion for approval to advertise for a Public Hearing for the 2020 Operating Budget to be held on November 6, 2019 at 7:00 p.m. Mr. Stepanovich seconded.

Ms. Heming noted that Council will have a copy of the budget in their mailboxes by the end of the month. Normally, a public hearing is held early in November so a workshop can be scheduled if needed before mid-December.

Upon a roll call vote: Mr. Lorenz – yes, Ms. Brockway – yes, Mr. Stepanovich – yes, Mr. Kase – yes, Mrs. Lee Korn – yes. Motion approved.

13.C. Consider approval of two-year agreement with Hoffman Kennels for dog control

Mrs. Lee Korn made a motion to approve a two-year agreement with Hoffman Kennels for animal control for the period January 2, 2020 to December 31, 2021. Ms. Brockway seconded.

Ms. Heming stated that this is done annually, but Hoffman proposed a two-year agreement this year. Hoffman is pretty much the only animal control person available. Hoffman is currently patrolling three days a week and is proposing to patrol two days a week. Emergency calls are currently \$85 per call and he is proposing \$95 per call. His current monthly fee is \$415 per month and proposes \$425 per month. There were a few addendums to the contract, one being that instead of holding the dogs for 5 days, he has to hold them for 7 days and make every effort to find a shelter or find the owner.

Mr. Kase questioned the reduced services and increased costs. Mrs. Lee Korn asked how many hours a day Hoffman patrols now and how many hours he would be patrolling on 2 days a week schedule. Mr. Morrison noted that since the last contract, he has not received one complaint. Mr. Kase asked if staff can propose that since the current schedule seems to be working, he maintain that level of service. Ms. Heming stated that staff can contact Hoffman and indicate that Council is not acceptable to the change in service or ask his rationality for the change. Mayor Synan suggested asking Hoffman how many hours a day he patrols. Mr. Lorenz stated that Council is not being adversarial. There are a few fundamental changes and Council would just like some clarification regarding those changes.

Mrs. Lee Korn made a motion to table consideration of approval of a two-year agreement with Hoffman Kennels for the period of January 1, 2020 to December 31, 2021 until the next Council meeting on November 6th. Ms. Brockway seconded. All present voted aye. Motion approved.

13.D. Council authorization to advertise for 2020 Board, Commission, and Committees vacancies

Mrs. Lee Korn made a motion to consider authorization to advertise for 2020 Board, Commission and Committees vacancies. Mr. Kase seconded.

Mr. Morrison stated that this is to advertise for the various vacancies. The vacancy on the Zoning Hearing Board has been for a year and a half. We may want to have some discussions on reducing the number of members to that Board from 5 to 3. One member's term expires this year plus the vacancy. An ordinance would be required to reduce that number. Mr. Morrison suggested advertising, see if there is any interest, and then make a decision in December.

Upon a roll call vote: Mr. Lorenz – yes, Ms. Brockway – yes, Mr. Stepanovich – yes, Mr. Kase – yes, Mrs. Lee Korn – yes. Motion approved.

13.E. Consider authorization to appoint legal counsel for the appeal of the zoning validity challenge of Ordinance No. 930-15, an ordinance regulating unconventional oil and gas development in the Municipality of Murrysville to the Common Pleas Court of Westmoreland County

Mrs. Lee Kornis made a motion to consider authorization to appoint legal counsel for the appeal of the zoning validity challenge of Ordinance #930-15, an ordinance regulating unconventional oil and gas development in the Municipality of Murrysville, to appoint William Sittig and the Municipal Solicitor, George Kotjarapoglus as counsel to represent the Municipality before the Court of Common Pleas of Westmoreland County. Mr. Kase seconded.

Mr. Morrison stated that there was a unanimous decision in favor of the Municipality at the Zoning Hearing Board level. Murrysville Watch has filed an appeal to the Court of Common Pleas of Westmoreland County. Mr. Lorenz noted that the costs are estimated to be between \$8,000 - \$10,000.

Upon a roll call vote: Mr. Lorenz – yes, Ms. Brockway – yes, Mr. Stepanovich – yes, Mr. Kase – yes, Mrs. Lee Kornis – yes. Motion approved.

13.F. Consider authorization to hire Attorney Joseph Cortese to develop an ordinance regulating small cell towers

Mrs. Lee Kornis made a motion to consider authorization to hire Attorney Joseph Cortese to develop an ordinance regulating small cell towers for a sum not to exceed \$4,000. Ms. Brockway seconded.

Mr. Morrison stated that about a month ago, the Municipality had received an application from Crown Castle to place a small cell tower on Logan Ferry Road. Late last year, the Planning Commission was approached to start working on an ordinance to regulate small cell towers. This is a challenging subject due to FCC regulations. These are towers which are no more than 40 feet high and are usually located in areas that are more developed because they require 5G. The Planning Commission made a recommendation to hire an attorney to help them with the development of this ordinance and recommended Mr. Cortese.

Upon a roll call vote: Mr. Lorenz – yes, Ms. Brockway – yes, Mr. Stepanovich – yes, Mr. Kase – yes, Mrs. Lee Kornis – yes. Motion approved.

COMMUNITY DEVELOPMENT: None

14.A. Consider authorization to amend the Murrysville Traffic Impact Plan

Ms. Brockway made a motion to consider authorization to amend the Murrysville Traffic Impact Plan as set forth in the staff briefing. Mrs. Lee Kornis seconded.

Mr. Morrison stated that the Municipality had a subdivision preliminary approval that Bushy Run Investors proposed for the intersection of Manor Road and Route 22. As part of that development, there are road improvements that will be necessary. The proposed improvements are essentially a right hand turning lane on Route 22 heading west at the intersection and turning lanes and a traffic light at the intersection of Wilson and Manor Road. The developer is proposing to use the Traffic Impact Fees that he is assessed for that development as a credit toward those improvements. This requires an amendment to the Traffic Improvements Plan. The amended plan was presented to the Planning Commission and the Transportation Improvement Committee and they recommended approval. Based on the staff recommendations, this would incorporate the improvements into the Transportation Improvement Program, would authorize

credit of payment by Bushy Run Investors based on the Traffic Impact Fee towards the improvements on Wilson and Manor Road, incorporate the right hand turn on Route 22 as a municipal project in the TIP plan, and direct staff to pursue available funding for that improvement.

Mr. Lorenz noted that including something into the Traffic Improvement Plan does not obligate the Municipality, at this time, to move forward on that. It incorporates that the Municipality will seek grant money for that to happen. This is part of a planning document for 2025.

Mr. Stepanovich asked what the four stages of the project were. Mr. Morrison stated that Phase 1 would be the DNA office building and restaurant, Phase 2 is the medical facility, Phase 3 is retail, and Phase 4 is the townhouses. Mrs. Lee Kornis noted that there will be a lot of jobs for the community.

Upon a roll call vote: Mr. Lorenz – yes, Ms. Brockway – yes, Mr. Stepanovich – yes, Mr. Kase – yes, Mrs. Lee Kornis – yes. Motion approved.

ENGINEERING: None

PUBLIC WORKS AND PARKS: None

OLD BUSINESS: None

NEW BUSINESS: Mr. Morrison stated that he will schedule a meeting with the noise consultants and will let Council know once the meeting is scheduled. Up to three Council members are welcome to attend.

Mr. Kase asked about the accident that took out the traffic lights on Route 22 and Berlin Farm Road. Will PennDOT not allow a barrier or trees to protect the control boxes? Mr. Morrison answered that was correct, unfortunately. Mr. Lorenz asked about terms of reimbursement for that very expensive equipment. Mr. Morrison stated that it was covered under insurance.

EXECUTIVE SESSION: None

ACTION ITEMS: Mr. Lorenz stated that a meeting will be set up with the noise consultants.

ADJOURNMENT: Mrs. Lee Kornis made a motion to adjourn the meeting. Mr. Kase seconded. All present voted aye. Motion approved. Mr. Lorenz adjourned the regular voting meeting at 8:48 p.m.

The Regular Voting Meeting was broadcast on local government Channel 19. A true copy of the Council meeting DVD is available for the public to purchase from the Municipality of Murrysville and is in the Murrysville Public Library for review.