

COUNCIL OF THE MUNICIPALITY OF MURRYSVILLE
REGULAR VOTING MEETING
February 6, 2008

Council of the Municipality of Murrysville held a Regular Voting Meeting on Wednesday, February 6, 2008 at 7:00 p.m. in the Municipal Building. Present at the meeting were Council members Nancy Kacin, Larry Nicolette, Dennis Pavlik, Joan Kearns, Jeff Franke, Rege Synan, and Theo van de Venne. Also present were Mayor Joyce K. Somers, Chief Administrator John M. Barrett and Solicitor George A. Kotjarapoglus.

CALL TO ORDER: Mrs. Kacin called to order the Regular Voting Meeting of Wednesday, February 6, 2008.

DETERMINATION OF VOTING ORDER – ROLL CALL: Kim Blauvelt determined the voting order and called the roll: Mr. van de Venne, Mrs. Kacin, Mr. Franke, Mrs. Kearns, Mr. Pavlik, Mr. Nicolette, and Mr. Synan.

PLEDGE OF ALLEGIANCE: Mrs. Kacin led the audience in the Pledge of Allegiance.

ANNOUNCEMENT OF UNLISTED AMENDMENTS:

None

Mrs. Kearns moved to approve the agenda. Mr. Franke seconded. All present voted aye. Motion approved.

CONSENT CALENDAR ITEMS:

4A. ACCOUNTS PAYABLE

4B. INVESTMENTS AND TRANSFERS

4C. NOVEMBER 28, 2007 MEETING MINUTES TO BE APPROVED.

4D. DECEMBER 5, 2007 MEETING MINUTES TO BE APPROVED.

4E. DECEMBER 19, 2007 MEETING MINUTES TO BE APPROVED.

Mr. Pavlik made a motion to revise and extend the approval of the December 19, 2007 Meeting Minutes to reflect more completely the discussion held relative to Medic One. Mr. Nicolette seconded. All present voted aye. Motion to amend Consent Calendar Items approved.

Mr. van de Venne moved to approve the Consent Calendar Items as amended. Mr. Franke seconded. All present voted aye. Motion approved.

COMMUNITY INPUT:

Jerome Wolfe – 2380 Flagstaff Drive – Mr. Wolfe urged Council NOT to get dragged into mediation with Manor Development regarding the Buncher Property rezoning issue. Mr. Wolfe also contends that it is wrong for Manor Development to challenge a community's right to zone its own properties.

Shirley Turnage – 3924 Sardis Road – Mrs. Turnage said the if a mediation committee is approved at tonight's meeting, that it be made up of two Council members who voted in favor of

the rezoning of the Buncher Property and two Council members who voted against the rezoning. She also asked Council that the mediation meetings be open to the public.

Jerome Franey – 2342 Harrison City Road – Mr. Franey asked Council why the Municipality of Murrysville wants to go to mediation with Manor Development? He encouraged Council to stay with their original decision, which opposed the rezoning of the Buncher Property.

Lawrence Keller – 3907 Bridgewood Circle – Mr. Keller requested Council to abide by their original decision regarding the Buncher Property rezoning issue. He urged Council to “honor the decisions of previous governing bodies.” He continued by saying that Murrysville must maintain its rural residential character.

COMMENTS BY MAYOR SOMERS:

Mayor Somers reported that she has completed the Mayor’s Report for 2007 and the public can look for it in the first edition of ‘IN Murrysville’ magazine.

Mayor Somers continued by commending Officer Yakshe, the School Resource Officer, for his work in finding a solution to an ongoing problem which exists at a parking lot often used by high school students. Apparently, there have been problems with the students backing into private property of the residents who live on this road (Tarr Hollow Road), often causing damage. Officer Yakshe intervened and has successfully taken care of this problem. The Mayor stated that the work of the Municipality’s Resource Officer often goes unnoticed and wanted to take this time to acknowledge him.

COMMENTS BY THE CHIEF ADMINISTRATOR:

Mr. Barrett provided an update for the Evans Road water project. A meeting was held on January 30, 2008 with the residents of Evans Road. There was an opportunity for discussion and questions from the residents and Mr. Barrett felt this meeting was positive, and will be followed up with a meeting with the Municipal (Water) Authority of Westmoreland County. A letter will then be mailed to the residents of Evans Road, which will hopefully answer any remaining questions they may have. Staff will remain in contact with Council as to the progress of this project. The goal is to attain 100 percent participation in this project from the residents of Evans Road.

Mr. Barrett reported that he attended a meeting with PennDOT to discuss the School Road South bridge repair work. Considerations regarding possible closures and detours were discussed and these will come before Council in the future.

Mr. Barrett reported to Council that they should now have in their possession the 2008 projects and work schedule for the Public Works Department.

Mr. Barrett also reported to Council that he has available, a drawing requested by Council, that depicts the renovations which will be done in the Municipal offices in the near future.

In regards to these renovations, Mrs. Kearns requested that “painters tape” be placed on the proposed section of wall where a door will be constructed. Mr. Barrett answered that would be done immediately.

LIAISON AND COMMITTEE REPORTS:

Mr. Pavlik attended the Planning Commission meeting and reported that a discussion arose regarding parcels where private roads were being built. Normally, such homes agree to “maintenance sharing,” and Mr. Pavlik contended that this is often an area of much disagreement. He suggested that possibly a stronger agreement would be beneficial to these homeowners. Mr. Pavlik said he is not implying that the Municipality dictate such an agreement, but rather, that there should be something more substantial in place. It was suggested that Mr. Pavlik meet with Chris Rearick, Director of Community Development, to further discuss this issue.

Mr. Synan attended the Medic One meeting and reported that he made the Board aware of the discussion which took place at the December 19, 2007 Council meeting regarding donations to Medic One, and that this organization should be prepared to discuss this issue in the future.

Mrs. Kacin attended the Environmental Advisory Council meeting in place of Mr. van de Venne (who was out of town), and reported that Fred Baldassare and Gary McClosky were both sworn in, and the group set their goals for 2008. The Bianca Rose Plan of Lots was reviewed. The Environmental Advisory Council also reviewed two other smaller subdivisions: Kahosek Court and Eagles Lane.

Mrs. Kacin attended the Personnel Board Meeting and reported that this group set their 2008 goals, reinstated that their meetings will take place on the third Monday of every month at 7:30 p.m., and are continuing to review Chapter 47-Personnel Policies.

ADMINISTRATION:

9A. CONSIDER AWARD OF A THREE YEAR CONTRACT FOR EMPLOYEE DRUG TESTING SERVICES TO ONE SOURCE DRUG TESTING, MOBILE HEALTH SERVICES, INC. Mr. Nicolette moved to approve. Mrs. Kearns seconded. All present voted aye. Motion approved.

9B. CONSIDER AUTHORIZATION TO ADVERTISE ORDINANCE NO. 762-08, SARDIS VOLUNTEER FIRE DEPARTMENT-PEMA LOAN. Mrs. Kearns moved to approve. Mr. Synan seconded. All present voted aye. Motion approved.

9C. CONSIDER AUTHORIZATION TO ADVERTISE ORDINANCE NO. 763-08, WHITE VALLEY VOLUNTEER FIRE DEPARTMENT-PEMA LOAN. Mrs. Kearns moved to approve. Mr. Synan seconded. All present voted aye. Motion approved.

9D. CONSIDER AUTHORIZATION TO ADVERTISE ORDINANCE NO. 764-08, WHITE VALLEY VOLUNTEER FIRE DEPARTMENT-PEMA LOAN. Mr. Franke moved to approve. Mrs. Kearns seconded. All present voted aye. Motion approved.

9E. CONSIDER AUTHORIZATION FOR SALE OF A 1986 FIRE TRUCK CURRENTLY OPERATED BY THE SARDIS VOLUNTEER FIRE DEPARTMENT. Mr. Nicolette moved to approve with the condition listed in the Agenda Briefing. Mr. Franke seconded. All present voted aye. Motion approved.

9F. CONSIDER AUTHORIZATION TO ADVERTISE ORDINANCE NO. 760-08, PROVIDING A DEFERRED RETIREMENT OPTION PLAN (DROP) PER THE COLLECTIVE BARGAINING AGREEMENT WITH THE MURRYSVILLE POLICE DEPARTMENT. Mr. Nicolette moved to approve. Mr. Franke seconded. All present voted aye. Motion approved.

9G. CONSIDER AUTHORIZATION TO ADVERTISE RFP NO. 25-08, FOR PENSION INVESTMENT ADVISORY SERVICES. Mrs. Kearns moved to approve. Mr. Synan seconded. All present voted aye. Motion approved.

9H. CONSIDER AUTHORIZATION TO PARTICIPATE IN MEDIATION, AS AUTHORIZED BY SECTION 908.1 OF THE MUNICIPALITIES PLANNING CODE, WITH MANOR DEVELOPMENT GROUP II RELATING TO ITS SUBSTANTIVE CHALLENGE AND VARIANCE REQUEST FILED WITH THE ZONING HEARING BOARD AS CASE # Z-1-08. Mr. van de Venne moved to approve with conditions listed in the Agenda Briefing. Mr. Franke seconded. Following is the discussion regarding this item:

Mr. Synan said that it was stated earlier in this meeting that he had been a member of the Planning Commission when the vote concerning the rezoning request by Manor Development Group II of the Buncher Property arose. He wanted to correct this by saying that he was NOT a member of the Planning Commission at that time.

Mrs. Kearns said that she will not support the process of mediation, stating the issue has already been decided at the December 19, 2007 Council meeting. She said this decision was made with the best interests of the entire Murrysville Community, and there was no reason to open this issue again. She continued by saying that the members of Council who voted against this rezoning were all deeply involved in the comprehensive plan, the zoning ordinances, and the comprehensive rezoning map, and on December 19, 2007 these Council members voted accurately, with all background information necessary.

Mr. Pavlik echoed Mrs. Kearns' sentiments and continued by saying that he believes that mediation is a mistake, this issue has already been voted on, and the claims of Manor Development Group II are very weak.

Mr. van de Venne said that Council has previously voted to work with this developer and that mediation is a means to do this. It is an option that should be explored to find a solution to this issue and to find an acceptable implementation of the site in question.

Mr. Keller (from the audience) commented that the issue is "is the zoning ordinance valid?" He said that, in his opinion, Council should let the Zoning Hearing Board (ZHB) clearly define what the problems with the ordinance are, if any, and get the backing of the ZHB before Council starts

the process of mediation. He continued by saying that mediation could always come after the ZHB renders its decision. Mr. Keller also asked Council, “What are you going to decide? What is going to be mediated?”

Mr. Franke said that before an expensive legal battle with the developer begins, why not try mediation? If mediation fails or is unsuccessful, then the option still exists to go to the Zoning Hearing Board.

Mr. Nicolette concurred with Mr. Franke and continued by saying that there are basically two arguments in this issue: 1) the validity of the original land use ordinance and 2) the guidance of a previous Council or Administration. Mr. Nicolette said it may be beneficial for Council to go into mediation with “ears open.”

The solicitor for the Municipality of Murrysville, George Kotjarapoglus, stated that the fact an ordinance has been approved by past Councils does not absolutely mean it is valid and cannot be challenged. The Zoning Hearing Board has been put in place to hear such a challenge and also to hear variance requests. The second point made by the solicitor regarding contract zoning is that Council should not rely on any promises made by Manor Development Group II in regards to the proposed rezoning. Such promises could not be enforced. But, on the other hand, if mediation were to occur, any decision reached would be enforced by the courts.

Mr. Synan also agreed that mediation is well worth trying and stated that Council owes it to the citizens to try to mediate this issue before going to court.

Mrs. Kearns expressed her concern that this mediation takes place without regard to the Overlay Ordinance which has not yet been reviewed by the current Council.

Mayor Somers concluded the discussion by saying that although she does not have a vote, it is a given fact that something is going to be built on this parcel of land. It is the Mayor’s opinion that she would rather have Council participate in mediation to ensure that whatever is built here is something that is appealing rather than not. For this reason, the Mayor is very much in support of mediation.

Upon a roll call vote: Mr. van de Venne – yes, Mrs. Kacin – yes, Mr. Franke – yes, Mrs. Kearns – no, Mr. Pavlik – no, Mr. Nicolette – yes, Mr. Synan – yes. Motion approved.

9I. CONSIDER APPROVAL OF A SPECIAL MEDIATION COMMITTEE OF COUNCIL TO PARTICIPATE IN MEDIATION, AS AUTHORIZED BY SECTION 908.1 OF THE MUNICIPALITIES PLANNING CODE, WITH MANOR DEVELOPMENT GROUP II RELATING TO ITS SUBSTANTIVE CHALLENGE AND VARIANCE REQUEST FILED WITH THE ZONING HEARING BOARD AS CASE #Z-1-08. Mr. Franke moved to approve. Council members who will serve on this committee include Council President, Mrs. Kacin, Mr. van de Venne, and Mr. Synan. Mr. Nicolette seconded. Upon a roll call vote: Mr. van de Venne – yes, Mrs. Kacin – yes, Mr. Franke – yes, Mrs. Kearns – no, Mr. Pavlik – no, Mr. Nicolette – yes, Mr. Synan – yes. Motion approved.

9J. CONSIDER AUTHORIZATION FOR THE MUNICIPALITY TO RETAIN THE SERVICES OF THOMAS H. AYOUB III AS SPECIAL COUNSEL FOR A DEFENSE OF THE SUBSTANTIVE CHALLENGE AND VARIANCE REQUEST FILED WITH THE ZONING HEARING BOARD AS CASE # Z-1-08. Mr. Franke moved to approve with conditions listing in the Agenda Briefing. Mr. Nicolette seconded. All present voted aye. Motion approved.

ENGINEERING, PUBLIC WORKS, AND PARKS:

10A. CONSIDER SECOND BOND REDUCTION FOR THE ROLLING RIDGE DEVELOPMENT PER ENGINEER'S RECOMMENDATION. Mr. Franke moved to approve the bond reduction in the amount of \$121,772.65. Mr. Nicolette seconded. All present voted aye. Motion approved.

10B. CONSIDER AUTHORIZATION TO APPROVE A CONTRACT WITH JPS LANDSCAPE CONSTRUCTION FOR THE ROUTE 22 MEDIAN LANDSCAPE MAINTENANCE PROJECT, DPW-4-08. Mrs. Kearns moved to approve contract in the amount of \$11,950. Mr. van de Venne seconded. All present voted aye. Motion approved.

10C. CONSIDER AUTHORIZATION TO ADVERTISE THE 2008 OVERLAY PROJECT, DPW-1-08. Mr. Nicolette moved to approve. Mrs. Kearns seconded. All present voted aye. Motion approved.

COMMUNITY DEVELOPMENT:

None

EXECUTIVE SESSION:

Council convened to an Executive Session regarding a personnel issue at 8:20 p.m. and returned at 8:30 p.m. No voting resulted from this Executive Session.

ADJOURNMENT:

Mr. Pavlik moved to adjourn. Mrs. Kearns seconded. All present voted aye. Motion approved.

Time: 8:40 p.m.

JOHN M. BARRETT
CHIEF ADMINISTRATOR

kjb 2/25/08

cc: Mayor
Police
Council
Community Development
Finance

Public Works
Solicitor
Front Office/Library

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Engineering

Recreation