

UNOFFICIAL UNTIL JUNE 12,2014

Jermyn Borough Council met on Thursday, May 15, 2014 at 7:00 pm. On roll call the following members were present: J.Wilson, J.McDermott, W.Estile, J.Allan and K.Hosie. B.Parks was absent. Attorney Nicholls and Mayor Smallacombe were in attendance.

MINUTES – A motion was made by J.Wilson, seconded by J.Allan to accept the minutes of April 10,2014 .All members were in favor.

FINANCIAL REPORT – W.Estile gave the financial report.

Beginning Balance	– \$98,544.15
Deposits	– \$92,931.70
Expenses	– \$64,069.25
Ending Balance	– \$ 127,406.60

A motion was made by J.McDermott, seconded by J.Wilson to accept the financial report as presented. All members were in favor.

REPORTS FROM ELECTED OFFICERS

MAYOR – The Mayor asked that all come out for our Memorial Day Parade, to support out veterans and the American Legion. He Informed all, that the Mason's will be honoring First Responders at the Masonic Temple on May 21st at 7:30 p.m. The Historical Society had a great presentation about the Civil War Camps, there was a full house. The Events Committee are working on the flower pots, J. Wilson said they need volunteers on Monday night to bring the pots up from downstairs and on Tuesday night to plant. The Mayor said that Chief Arthur, his wife and family are in our prayers after the death of his father-in-law. He said the police department has already had 3,193 incidents this year and are doing a great job. He said the crossing guard has been trained and is in service. The police department had a drug take back day and collected 10 pounds of medicine. Our police department obtained a seat belt grant for \$1,500.00 and will be enforcing it from May 19 to June 8. The Crime Watch will be having a pasta dinner on June 1 from noon to 4:00 and the Crystal Fire Company is having their Chicken Barbecue on May 17 from noon until sold out.

SOLICITOR– Attorney Nicholls said he has a draft of the new alternate parking ordinance and asked Debbie to distribute it at the next work session.

INSURANCE SETTLEMENT – Attorney Nicholls reported that the lawsuit of Robert Flynn, versus all of council at that time and the Mayor, the case has been settled. Mr. Flynn has signed the release and the Borough has to act on it now to make it official. Bottom line is as follow, the insurance company will pay \$5,000.00, the reason for that was it went to the 3rd circuit, in appellate courts and it would cost that much just to do a brief. The case was dismissed by the middle district of Pennsylvania, they took an appeal to the 3rd District. Even though we were successful to that point you never know what would happen at the 3rd District, plus the cost involved. \$5,000.00 is being paid by the insurance company, no admission of liability, which is normal in any release. The only other clause that basically is not boiler plate, is that part of this is in the event that anyone inquires concerning the status of Mr. Flynn, not only Mr.Flynn, but that is built into here. The Borough has that resolution, that anyone inquires about a police officer, will contact the Acting Chief or the Chief of Police, that is the only person, even under the settlement agreement that has the authority to say anything .And all he is going to say basically is that Mr. Flynn is a part time officer for 17 years and as of September 13, 2012, he was no longer employed by the Borough in that capacity, that's' all he's authorized to say. In the event that and this protects the Borough more than anything. In the event that we have any rogue councilman, in their wisdom, that they have to go out and bad mouth or disparage Mr. Flynn in any fashion, they will be individually liable . The Borough, under no circumstances, is responsible and that is built into the release. It has been signed and approved by Mr. Flynn. Attorney Nicholls said he needs a motion by council to accept the settlement and the full and final release.

A motion was made by J.Allan, seconded by W.Estile to accept the settlement and the full and final release in the Flynn lawsuit. All members were in favor.

A motion was made by J.Smith, seconded by J.Wilson to give President Hosie authorization to sign any documents, if they should arise, in the Flynn lawsuit. All members were in favor.

FIRE CHIEF– Chief Rood said there have been problems with the siren going off at the old fire company building. He is asking that the siren box be taken off the pole, the police can go inside and push the button for the nine o'clock siren. A motion was made by W.Estile, seconded by J.McDermott to remove the siren box from the pole at the old Crystal building. All members were in favor.

PUBLIC INPUT – A.Whitiak addressed council saying the Windsor Inn seems to be singled out, at least an awful lot of police activity, a lot of traffic stops in that area. I have suggested private meetings, there is always room for compromise. Mr. Whitiak asked Attorney Nicholls if there is coincidence in a court of law? Mr. Nicholls said he does not believe in coincidence. Mr. Whitiak said he has been doing research on coincidences', there are so many things happening , in and around. I know in a court of law, its' law school 101. Attorney Nicholls said I missed that one. There are so many things happening around the Windsor, my family and me. I think the Windsor is being singled out, harassed, discriminated against. Selective enforcement, malicious persecution, I believe that is what is happening. I have asked for meetings and no one gets back to me. The Windsor has been in business for 37 years and is committed to the community. The Windsor Inn has a Pa. Liquor License, Commonwealth Health of Pa., Food and Drug, Pa. Lottery, Lackawanna County Visitors Center, Carbondale Chamber of Commerce, Pa. Taverns' Association , National Restaurant Association, the Lackawanna County Tavern Association. Mr. Whitiak said, I feel all this going on, why would you allow this to happen? It is definitely affecting our business. Please tell me that none of you have been approached about what's' going on in Jermyn, K.Hosie and W.Estile said they have not been approached. K.Hosie said she has not been approached and she knows our police are very conscientious and I don't believe they are singling you out, I really don't. Attorney Nicholls, speaking to Mr. Whitiak said, at this point, if you agree with me or not, I don't care, you have been to see an attorney, you have made allegations against council and the police. At this point, I am advising council that the conversation concerning this ceases. If you want to bring litigation, go bring litigation, but you have threatened council right now. Mr. Whitiak said he doesn't think he threatened. Attorney Nicholls said yes you did, by going to see an attorney who contacted me as to whether council was doing something wrong, you just made allegations that council is deliberately ticketing you. Attorney Nicholls said he is advising council at this point there will be no discussion of this right now. Mr.Whitiak said he

came to the work session, and the only reason he came was his attorney said that you were going to bring up to council that he contacted you and try to see what could be done. Attorney Nicholls said I told your attorney I would mention it to the police department. Attorney Nicholls asked Chief Arthur if he did so and Chief Arthur replied "yes". Attorney Nicholls said this issue has been before council for months, now you basically at this point have taken it to a different level. Mr. Whitiak said I didn't sign any papers. Attorney Nicholls said It doesn't matter, your standing here at a public meeting accusing council of doing something illegally. Mr. Whitiak held his cell phone up and played a voice message, no one could hear it. Attorney Nicholls said I don't know what that is? Mr. Whitiak said that's the problem, you and the Mayor should of known. This phone call took place on June 25, Acting Chief Arthur and another officer were going to have be arrested. You don't know what is going on. Mr. Whitiak passed out a letter to council. I received this as a message, how he got my phone number, I have no clue. So tell me if this is entrapment, that phone call and this thing. I would like to know if Chief Arthur was working that night and if it was a borough phone? K.Hosie said if it was before midnight Chief Arthur works days. Mr. Whitiak said whatever it is, aren't they supposed to be held to a certain protocol? How am I supposed to act? You're the Solicitor and you're the Mayor in charge of the police and he goes behind your back and threatens me. Everything I ever said was made out in public, you just said so yourself. I never did anything behind his back. You just silenced another person.

FINANCE – A motion was made by J.Wilson, seconded by J.McDermott to approve invoices in the amount of \$3,226.40. All members were in favor.

Mr. Estile said he has a request from Chief Perchinsky/Mayfield asking if they could borrow our paint machine. Mr. Estile said himself and B.Parks are agreeable with it. Mayfield needs to paint vascar lines and cross walks, we will send our DPW because it is a new machine. A motion was made by J.Smith seconded by J.McDermott to allow Chief Perchinsky to use the borough's paint machine, with the aid of Jermyn DPW. All members were in favor. Mr. Estile said that DPW has painted cross walks in town and will finish on Friday.

RECREATION– Mr. Allan reported the borough received a County Re-Invest grant in the amount of \$9,987.00 which will be used for playground equipment and the gym floor.

K.Hosie reported that she and J. Wilson attended the Aylesworth Park ribbon cutting ceremony, the park is really nice and an asset to the community.

ROADS COMMITTEE – J.Smith asked J.Esgro- DPW- if the DPW filled in the pot hole on Old Mill Road? Mr. Esgro said yes. Mr. Smith said the road is basically gone.

ZONING OFFICER– He said he has given out a lot of permits for pools, sheds and decks. He said concerning the sign on Madison Avenue, he has been to the home several times, with no response, he will send a certified letter. The Mayor said if there is a violation you can take a police officer with you.

JUNIOR COUNCIL MAN– B.Swatt said perhaps the Boy Scouts, Lions Club and Shade Tree Commission could help clean up Washington Avenue for the Memorial Day Parade. Mrs. Wilson said she knows Mr. Parks contacted the state about the street sweeper but they cannot give a definite date. Mrs. Wilson said we can make up fliers and have the scouts put them in mailboxes on Main Street. A motion was made by J.Wilson, seconded by J.Smith to have J.Wilson organize and help the boy and girl scouts put a memo out to residents on Washington Avenue to clean up . All members were in favor.

RESOLUTION COUNTY IN-VEST GRANT – A motion was made by W.Estile seconded by J.Allan to pass a resolution for the Police Department to participate in applying for a County Re-Invest Grant. All members were in favor.

RESOLUTION SENATE BILL 1340/HOUSE BILL 1272 – K.Hosie asked Chief Arthur if the Enradd System was better? He said it was more accurate. B.Smallacombe said the resolution is to allow them to use it not saying for them to go ahead and buy it. Attorney Nicholls said the resolution puts pressure on the state to allow them to use it. A motion was made by W.Estile, seconded by J.Smith to adopt a resolution in support of Senate Bill 1340 and House Bill 1271 enabling all Municipal Police to use the same motor

vehicle speed-timing equipment as the Pennsylvania State Police. On roll call the motion passed 4 to 2 , with K.Hosie and J.Allan voting no.

LEGAL SEMINAR – A motion was made by W.Estile, seconded by J.Smith to allow K.Hosie, J.Wilson, W.Langman and R.Parry to attend the law seminar at a cost of \$140.00. All members were in favor.

HISTORICAL SOCIETY USE OF MEETING ROOM – A motion was made by J.Wilson, seconded by J.Smith to give the Historical Society permission to use the meeting room on June 1 from 7;30 to 9:30 p.m.. All members were in favor.

RE-APPOINT WILLIAM ARTHUR – A motion was made by J.Smith, seconded by W.Estile to re-appoint W.Arthur as Acting Chief until Daniel Zellers returns or the next council meeting. All members were in favor.

LCAB Dinner – K.Hosie announced the LCAB Dinner will be on June 19, please let Debbie know by June 13.

Mr.Whitiak said he would like to say something, Mrs. Hosie said go ahead. Mr. Whitiak said I know you are not going to answer me, addressing Attorney Nicholls, you said that you talked to the Chief and I thought you would get back to Joe Toczydlowski (Mr.Whitiak’s attorney). Attorney Nicholls said, Joe and I did not leave it at I would get back to him, I was requested to pass your concerns on. Mr.Whitiak said the next day there were four stops in the Windsor parking lot, that I know of. Acting Chief Arthur asked to address this issue, he said he was tired of basically coming in here. He said it was the first day of the crossing guard and he was running traffic... Mr. Whitiak said you can’t stop me from coming in here...Attorney Nicholls said that’s it .

A motion was made to adjourn by J.Smith, seconded by J.Wilson . All members were in favor.

2 Replies to “Council Minutes – May 15 2014”

1.



fzffz

May 28, 2014 at 6:59 pm

In response to the zoning officer,..

You "have been to my home several times without a response"

You could have left a message in my mail box or

you could have called me. I am in the book.

No need for a certified letter, I am responding now.

What seems to be a problem with my sign?

In response to the Mayor,...

Police officer?

Can you explain this?

2.



fzffz

May 30, 2014 at 1:33 pm

waiting on a response from the zoning officer and mayor.

Comments are closed.