

BOROUGH OF HOMESTEAD
MINUTES FOR THE COUNCIL MEETING OF
June 11, 2020
6:00 P.M.

President Benton called the meeting to order at 6:20 p.m.

Pledge of Allegiance led by Mayor

Roll Call- Those present for roll call were Mr. Borcik via telephone, Ms. Burwell, Min. Burwell, Mr. Cunningham, Mr. Dais, Ms. Nesby and President Benton. Also present for the meeting were Mayor Esper, Chief DeSimone, Manager Zang, Solicitor Heminger and present via telephone were Building Inspector Hankins, Fire Chief Eads, Engineer Gilliland and Public Works Foreman Moody.

1. A motion was made by Mr. Borcik and seconded by Ms. Nesby to approve the minutes from the May 2020 meetings. Upon a roll call vote those in favor were Mr. Borcik, Min. Burwell, Mr. Cunningham, Mr. Dais, Ms. Nesby and President Benton; opposed was Ms. Burwell; motion carries 6:1. After roll call Ms. Burwell asked to change her vote to yes. As per Solicitor Heminger, Ms. Burwell's vote could not be changed, but the record would reflect her request to change her vote.
2. Department Reports- Please keep to **3 minutes** or less
President of Council- Provided oral report, Learn and Earn Program is accepting applications.
Borough Solicitor- nothing to report
Borough Engineer- read written report submitted to Council.
Mayor Esper- provided oral report on events in community and update since pandemic.
Fire Department- read written report, advised Council discussion regarding the possibility of a merger between Homestead and West Homestead's Fire Departments. Also, advised Council a new ladder truck is needed and would like to see in the next year's budget.
Chief of Police- read written report submitted to Council.
Code Enforcement- Dan Hankins read written report submitted to Council.
Public Works- Ed Moody reported on what the department is currently working on and asked to be more informed of what is going on.
Manager- read highlights from report submitted to Council.
Tax Collector- submitted report
3. Citizen Participation- **Agenda Items Only** (sign in)
4. Motions
 - a. A motion was made by Mr. Cunningham and seconded by Ms. Burwell to pay the bills as per the bill list dated June 3, 2020 in the amount of \$134,236.56. Upon a roll call vote those in favor were Mr. Borcik, Ms. Burwell, Min. Burwell, Mr. Cunningham, Mr. Dais and President Benton; Ms. Nesby was opposed, motion carries 6:1.

- b. A motion was made by Mr. Borcik and seconded by Mr. Cunningham to ratify the phone vote taken on April 16, 2020 to pay the bills as per the bill list dated April 15, 2020 in the amount of \$596,266.86 with amount not including payment to AW Construction in the amount of \$11,275.00. Upon a roll call vote those in favor were Mr. Borcik, Ms. Burwell, Min. Burwell, Mr. Cunningham, Mr. Dais and Ms. Nesby; President Benton abstained from the motion; motion carries 6:1 (abstain).
- c. A motion was made by Ms. Nesby and seconded by Min. Burwell to authorize the Solicitor to commence suit on behalf of the Borough of Homestead to have any contract or contracts relating to work performed by AW Construction, LLC declared void. Upon a roll call vote those in favor were Min. Burwell, Mr. Cunningham, Mr. Dais and Ms. Nesby; Mr. Borcik, Ms. Burwell and President Benton abstained from the motion; motion carries 4:3 (abstain).
Ms. Cheryl Chapman from the audience asked if this could be explained. Solicitor Heminger responded there were issues with the contract.
- d. A motion was made by Min. Burwell and seconded by Ms. Nesby to ratify the vote taken at the Monday, June 8, 2020 meeting authorizing the change order to Maple Street paving contract to remove one block of Maple Street from the paving schedule and substitute it with E. 13th Avenue between Glenn Street to Ann Street. Upon a roll call vote those in favor were Mr. Borcik, Min. Burwell, Mr. Cunningham, Mr. Dais, Ms. Nesby and President Benton; opposed was Ms. Burwell; motion carries 6:1.
- e. A motion was made by Mr. Borcik and seconded by Mr. Cunningham to advertise an ordinance of the Borough of Homestead, Allegheny County, Pennsylvania, amending Chapter 240-05 of the Code of the Borough of Homestead to prohibit vehicle parking at all times upon highways in the Borough of Homestead known as Joseph Street, Rose Way, Spruce Way, Stone Way, Tamnay Way, Water Way and Water Works Alley and repealing all sections, subsections or provisions of ordinances or resolutions inconsistent herewith. Upon a roll call vote all were in favor, motion carries 7:0.
- f. A motion was made by Mr. Borcik and seconded by Ms. Nesby to advertise an ordinance of the Borough of Homestead, Allegheny County, Pennsylvania, amending Chapter VIII of the Borough of Homestead Code to provide for limited residential permit parking upon alleyways in the Borough of Homestead known as Hickory Way, Laurel Way, Locust Way, Oak Way, Park Way, Pine Way, Pink Way, Plum Way, Ridge Way and Walnut Way and repealing all sections, subsections or provisions of ordinances or resolutions inconsistent herewith. Upon a roll call vote all were in favor, motion carries 7:0.
Mr. John Burwell from audience asked for clarification on who the ordinance would apply to.
Chief- police will enforce
Notice to be given to residents that this may impact and proper signage.
- g. A motion was made by Min. Burwell and seconded by Ms. Nesby to advertise an ordinance of the Borough of Homestead, Allegheny County, Pennsylvania, amending

Article III, Chapter 240, Section 240-27 of the Homestead Borough Code to add vehicle parking restrictions applicable to both sides of East 10th Avenue that runs along the front of Propel School and repealing all sections, subsections or provisions of ordinances or resolutions inconsistent herewith. Upon a roll call vote all were in favor of the motion, motion carries 7:0.

- h. A motion was made by Ms. Nesby and seconded by Min. Burwell to authorize a resolution of the Borough of Homestead, Allegheny County, Pennsylvania, adopting and implementing COVID-19 related CDC guidelines and the Commonwealth's reopening guidelines relevant to safely conducting Borough operations and meetings. Upon a roll call vote all were in favor, motion carries 7:0.
- i. A motion was made by Mr. Borcik and seconded by Ms. Nesby to authorize a resolution of the Borough of Homestead, Allegheny County, Pennsylvania providing for the installation of a parking barrier system in the areas of the 200 block of East 9th Avenue in front of the Borough of Homestead Volunteer Fire Department. Upon a roll call vote all were in favor, motion carries 7:0.
- j. A motion was made by Ms. Nesby and seconded by Mr. Cunningham to authorize a reimbursement of \$1,002.14 to Alice Paylor-Dais, Tax Collector for the purchase of tax software and charges incurred for faxing during the time period when the administrative fax machine was out of service. Upon a roll call vote those in favor were Mr. Borcik, Ms. Burwell, Min. Burwell, Mr. Cunningham, Ms. Nesby and President Benton; Mr. Dais abstained from the motion; motion carries 6:1 (abstain).
- k. A motion was made by Mr. Borcik and seconded by Ms. Nesby to cancel the Homestead Borough Community Day for 2020 due to the COVID-19 Pandemic. Upon a roll call vote those in favor were Mr. Borcik, Min. Burwell, Mr. Cunningham, Mr. Dais, Ms. Nesby and President Benton; opposed was Ms. Burwell; motion carries 6:1.
- l. A motion was made by Mr. Cunningham and seconded by Ms. Nesby to award the Luptak Grievance dated April 2, 2020 in favor of Corporal Luptak, returning 10 days of sick time to him. Upon a roll call vote all were in favor, motion carries 7:0.
- m. A motion was made by Mr. Borcik and seconded by Mr. Cunningham to uphold the suspension given to Officer Festa by Mayor Esper that was grieved on May 3, 2020. Upon a roll call vote all were in favor, motion carries 7:0.
- n. President Benton removed from agenda- Motion to name the property located at 216 E. 9th Avenue.
- o. A motion was put on the floor by Ms. Nesby to remove the President of this Council for misappropriation of funds as well as Drew because he was dragged into it and did not know due to his disability.

Solicitor Heminger stated to do each motion separately because it is regarding 2 different people. Ms. Nesby stated it is necessary to do so until ethics comes back with a decision.

- p. A motion was put on the floor by Ms. Nesby to remove President Benton and Vice President Drew Borcik from office for misappropriation of tax dollars and for them not to be allowed to hold any office for the duration of their terms and to be replaced by former President, Lloyd Cunningham and Don Dais as Vice President due to the misappropriation of funds until the Ethics Committee comes back with a decision.

Solicitor Heminger stated each motion should be done separately because it is regarding 2 different people.

President Benton stated that due to the ethics law you cannot remove her from office.

Ms. Nesby clarified not removing from office but to remove as President of Council for misappropriation of funds as well as Drew.

A motion was put on the floor by Ms. Nesby and seconded by Mr. Dais to remove Rev. Benton as President of Council due to misappropriation of funds.

Solicitor Heminger advised Rev. Benton she should abstain from the vote since the vote pertains to her on this issue.

Upon a roll call vote those in favor were Mr. Cunningham, Mr. Dais and Ms. Nesby; those opposed were Mr. Borcik, Ms. Burwell and Min. Burwell; vote tied 3:3. Mayor to break tie. Mayor voted yes and stated due to bidding process and right is right and wrong is wrong and the chair of the committee did not know anything about it, and she was voting with Ms. Nesby. Motion carries 4:3.

Rev. Benton made statement she will stand on the fact that she did not implement this. Yes, she is President of Council and yes, he is her son and she was aware of it. Mr. Borcik stated in America you are innocent until proven guilty.

- q. A motion was put on the floor by Ms. Nesby and seconded by Mr. Dais to put Lloyd Cunningham in as President. Upon a roll call vote those in favor of the motion were Mr. Cunningham, Mr. Dais and Ms. Nesby; those opposed were Mr. Borcik, Ms. Burwell, Min. Burwell and Rev. Benton; motion fails 4:3.

At this point in the meeting Mayor Esper took over since no president was appointed.

- r. Ms. Nesby put a motion on the floor and seconded by Mr. Dais to remove Drew Borcik from Vice President and replace him with Don Dais because the misappropriation of funds.

Drew stated he was unaware until after that A.W. Construction was Rev. Benton's son. In this country you are innocent until proven guilty.

Upon a roll call vote those in favor were Mr. Cunningham, Mr. Dais and Ms. Nesby; those opposed were Rev. Benton, Mr. Borcik, Ms. Burwell and Min. Burwell; motion fails 4:3.

Mayor Esper asked if everyone knew what was going on.

Mr. John Burwell asked that the first time the motion went around his mother stated "I ain't saying nothing" and should she have been informed that she should have stated yes or no. Solicitor Heminger responded that yes that is correct and asked Manager what did the record reflect. The record reflects that she voted no.

Ms. Robin Guy asked if the work was completed by A.W. Construction and what is the status of it. Ms. Nesby responded the work was completed and the issue was that council never sat down and said what needed to be done and never sent the engineer up there to see what needed to be done and bid out if it was over a certain amount of money. It was almost like you were stealing money from the borough to give to your child. Min. Burwell stated there was a code enforcer that did look over the place. Ms. Nesby stated previously applied for a DCNR Grant to get money to make safety upgrades to building. Min Burwell addressed Lauren and stated that she could come forth with if Dan went up there. Manager Zang responded that Dan was up there, but I will say that I am not comfortable speaking about this since there are outside agencies involved. Min. Burwell stated the Borough Manager was there and Dan. Solicitor Heminger stated this is all being investigated, and this is not the proper time and place to discuss. Alice Paylor- Dais asked if it was being stated that the whole council was unaware of it. Ms. Nesby responded that they were not, and checks were being cut. Solicitor Heminger stated this is all being looked at and this is not the time to be doing this. Solicitor Heminger stated Council had him go to court to declare the contract void under a section of the PA Ethics Act. Solicitor stated this matter is under investigation at this time and this is not the appropriate time to try and determine findings of actions that happened or didn't happen. Alice Paylor-Dais asked if the money had been paid out. Solicitor Heminger stated it was his understanding that some money has been paid out. Solicitor Heminger again recommended that the discussion stop.

Citizen Comments

Mr. Jeffrey Small to inquire about a Homestead Borough Police Review Board- Mr. Small stated he would like to establish a Police Review Board considering recent events. Would like to discuss with Chief and Mayor for their input. Would like to have independent entity with a diverse board.

Mr. John Burwell stated that he has been coming to these meetings for almost a year now and he was also voted in as a member of the Vacancy Board. Mr. Burwell thanked some members of council for their professionalism and stated he had an issue with Mary and how she speaks to them. Mr. Burwell stated the unprofessionalism bothers him and it has been displayed outside of Borough Building. Mr. Burwell discussed an incident that occurred on Election Day at the polls. Discussion continued with Ms. Nesby and Mayor Esper responding.

Areatha Shoulders, Parking Attendant- explained situation with needing to obtain her driver's license in order to keep her job. Solicitor Heminger responded she should contact her union because we are working with them regarding the license.

Mr. Dais addressed audience regarding ethics, training and bid process.

A motion was put on the floor by Rev. Louise Benton to appoint Connie Burwell to be President of Council.

No second and Min. Burwell declined.

MOTION TO ADJOURN

At 8:11 p.m. Ms. Nesby made a motion and was seconded by Mr. Cunningham to adjourn the meeting.

The July Meetings will be held on July 13th at 5 p.m. and July 16th at 6 p.m.

The administrative office will be closed on Friday, July 3, 2020 in observation of the 4th of July holiday.

Street Cleaning will continue the 3rd and 4th Thursday of each month.