

COUDERSPORT BOROUGH COUNCIL

REGULAR MONTHLY MEETING

FRIDAY, June 17, 2022

5:45 PM

The Coudersport Borough Council held their regular monthly meeting on Friday, June 17, 2022 at the Coudersport Borough Maintenance Facility on Damascus Road.

The meeting was called to order at 5:45 pm by Council President Wayne Hathaway who led all in the pledge of allegiance.

MEMBERS PRESENT

Present were Council members Wayne Hathaway, George Hults, Todd Husson, Jesse Minor, Jack Keifer. Member Marty Fry via phone.

Also present were Manager Beverly Morris, Chief Curt McClain, Solicitor Dan Glassmire, Junior Council member Adia Grinnell, Recording Secretary Georgeanna DeCarlo, Attorney Pat Larson, Tom Majot, Teresa Kisiel, Tom Kisiel, Todd Brown, Wayne Wentzel, Potter Leader-Enterprise reporter Marilyn McCann.

PUBLIC HEARING

Majot Intermunicipal Liquor License

Attorney Pat Larson representing Tom Majot presented Majot's request for transfer of Intermunicipal Liquor License from the former Ox Yoke Inn in Galeton to Majot's building at 208 South Main Street, former Sheetz location. Attorney Larson said that Majot, through his business agreement relevant to the sale of the Ox Yoke Inn in Galeton, obtained the liquor license. He explained that since the Liquor Control Board (LCB) does not have a mechanism in which the license can be kept in "safe keeping," the LCB requests that a potential site be named for the license, and that once the site is pre-approved, the transfer can be effectuated without ever opening the site and the license can remain in safe keeping.

Attorney Larson said that he will be doing an application for pre approval of the site, that at the time being the license will not be utilized at the site, Sheetz has the property under lease yet for one year and one month. He said that they will be presenting plans to LCB for when the license comes out of safe keeping; what the building would look like after it's remodeled in order for it to be approved for a site. First step of the process, Larson said, in order for an Intermunicipal Transfer, there must first be a resolution from the municipality that it will accept the license into the municipality. He said that while a license can be transferred within the county, each municipality has a quota license per 3,000, and basically most municipalities are over their

quota. In order for the Liquor License to move to Coudersport, the Borough would have to adopt the resolution that they would allow it to move to Coudersport from Galeton. After that, he would be submitting plans to the LCB for the transfer.

Solicitor Glassmire asked Council President Hathaway for permission to ask questions and Hathaway obliged. Solicitor Glassmire asked if Attorney Larson could tell the borough what this means in the sense of whether this is a discretionary decision of the Council, is it subject to any review, is it non-discretion, administrative decision? Attorney Larson said that the decision is entirely up to the Council and that he does not think that it is appealable. Solicitor Glassmire said that the Council could say yes, and not have to give anybody any reason, and conversely, they could say no, and not have to give any reason. Attorney Larson said, yes, that was accurate. Solicitor Glassmire asked that hypothetically, if the Council were to say yes, and adopt a resolution, that there's no mechanism for someone, a citizen, taxpayer or possibly a business competitor - there's no appeal that they could make. He said he was concerned about whether the borough would be getting into any expenses. Attorney Larson said, no, this is the first step in the LCB process, his client still has to go through the application process. The site would still have to be posted, Attorney Larson said, and during that period any interested party can object, so the objection would be made to the LCB. Solicitor Glassmire clarified that the Borough would have no obligation to defend its action. Attorney Larson said that was correct, that anyone could come today and voice their concerns over this, but if the borough approves this, it doesn't mean that the license transfers. Solicitor Glassmire said that it does constitute an act by the Borough. Attorney Larson said that the LCB's position is that without a resolution, the process can't be started. Solicitor Glassmire asked whether there was any "deemed approval," whether there was any time constraint. Attorney Larson said that there is a requirement that a hearing be held within 45 days of the request for a hearing.

Solicitor Glassmire asked whether Attorney Larson had reviewed what Manager Morris and the borough had done so far, and whether in his opinion the borough is in compliance. Attorney Larson said yes, that the hearing is being held within the time frame, probably within 15 days of the request. Solicitor Glassmire asked whether Attorney Larson had seen the publication of the hearing notice, and whether the borough was in compliance with the number of times to publish and how soon to publish before the hearing. Attorney Larson said, yes. Solicitor Glassmire asked that now that the hearing is being held, does that start a clock, or whether Attorney Larson had any reason to believe, and he was not suggesting that the Borough approve or disapprove the request, that if the Council does not act tonight, or the next meeting, or the meeting after that, that it robs Council of its power to make a decision? Attorney Larson said that the receiving municipality shall within 45 days of request for approval render a decision by ordinance or resolution to approve or disapprove the applicant's request.

Councilman Husson asked if the Council decides not to approve the request, can the applicant resubmit a request multiple times. Attorney Larson said that he isn't aware of an inability to return and request another hearing, it's his understanding that the decision of the board is not one that can be appealed. Solicitor Glassmire said that, it's his understanding that if the Council does not act in one way or the other in 45 days, it may have a consequence, and if the Council acts to deny, that doesn't prejudice the applicant to reapply later. Solicitor Glassmire asked

Attorney Larson if he was aware of any requirement that there be anything in addition to a vote of yes or no, and if the Council is under any obligation to give a reason. Attorney Larson said that he is not aware of there being any terms that if the answer is no, how that needs to be framed, but that the LCB provided him with the specific language that they need in a resolution, and that's what he has furnished to Manager Morris. Attorney Larson said that he has already processed two applications that have been brought into the borough; both OIP and Olga's came from outside the borough. He said that OIP's license came from Big Moore's Run Lodge, that was intermunicipal, and Olga's was originally from the Caz Bar, or Scoreboard, that went to the Brick House in Galeton where it was never utilized and then that license was sold to Olga's.

Solicitor Glassmire asked Attorney Larson to relate the strengths and benefits that would come to the community by granting the license, and conversely any major points that a legitimate legislative body such as the Borough would want to be cognizant of when they're making a decision. Attorney Larson said, promotion of business, promotion of tourism, and that Majot would be utilizing a site that is currently not being utilized, that there is a greater chance than not, that that would be the place where the license would land, but that there are other sites in the borough. Solicitor Glassmire said that once the license is approved for the borough, could it go to a different spot? Attorney Larson said yes, once it's in the borough, it could be utilized at another approved site within the borough but the building would have to be built, pass health inspections. Solicitor Glassmire said, or remodeled, and asked what kind of license exactly this was, whether it was a license for just serving beer. Attorney Larson said this is a retail license, with an R status - a restaurant, so there would have to be food service and seating for 30. Solicitor Glassmire asked for confirmation that regardless of how the borough acted in the past, the borough was completely able to act within its own discretion. Attorney Larson concurred. Solicitor Glassmire yielded the floor to whoever else wished to speak.

Councilman Hults asked Attorney Larson what exactly he was requesting. Attorney Larson said that the request is permission from the Borough Council that a license be capable of being transferred from Galeton to Coudersport so that Coudersport would have another restaurant with a liquor license. Attorney Larson asked Manager Morris whether she had a copy of the resolution that he'd given to her. She did. She read it out loud (as recorded as follows in the passed resolution). Solicitor Glassmire said the language sounded perfect, and asked Attorney Larson whether it should be made in the form of a resolution. Attorney Larson said, yes, that is what LCB requested, but that the decision can be made by ordinance or resolution. Solicitor Glassmire said that a resolution is easier and less expensive. Solicitor Glassmire said that the wording was good, but it is also malleable, and asked Manager Morris to note that where it says, "may be transferred," that could, hypothetically, if a motion was made to use that exact wording to change it to say "may not be transferred." He said that Council could vote either way just by making that clear in the motion whether the council is for or against it. If there is a motion made for it, so that it may be seconded, and it gets a roll call vote that supports it, that Resolution is adopted. If the desire of Council is to deny it, the motion could be made that the word "not" be inserted between the words "may" and "be" and if that's seconded, and that could pass by Resolution. He said Council has the ability to act either way, and that's why Council has the power as elected officials, to do what it wants.

Councilman Husson asked Majot whether he has any other lots that would hold up to 30 potential cars or space for 30 potential tables that he could utilize in the borough, other than the Sheetz location. Majot said that his plans are to put it there eventually, he just wants to put it in safe keeping for now, that there aren't many licenses to be had, he had the opportunity to get one and it puts him on a fair, level playing field with other businesses. Council President Hathaway asked whether Majot could have the license as long as he wants to, without utilizing it, that he doesn't have to use the liquor license this year. Attorney Larson said he would not be able to use it this year, unless he were to build another site. Majot clarified that he still couldn't use it because of the current contract he has with Sheetz, but that the LCB charges a penalty for holding the license without assigning it to a site, and that the penalty continues to increase, running into thousands of dollars. Attorney Larson said that the state wants liquor sales, so they don't want people holding a liquor license and not utilizing it. Council President Hathaway said that his personal opinion is that if a person wants to open a business in town, and meets all the requirements, that they should be allowed to do so.

RESOLUTION 2022-9: "And now this 17th day of June, 2022 after public hearing held at above noted date and after notice of said hearing of the proposed intermunicipal retail license transfer having been duly advertised on the third day of June, 2022 the Coudersport Borough Council hereby resolves that liquor license R-1171 may be transferred by the current licee 2848 Main LLC of 29 US Highway 6 West, Galeton PA, 16922 to Thomas A. Majot of 361 Bark Shanty Road, Austin, PA 16720, for utilization at proposed site to be licensed that is located at 208 South Main Street, Coudersport, PA 16915 provided the retail license transfer is approved by the Pennsylvania Liquor Control Board." Councilman Husson made the motion to adopt Resolution 2022-9 as presented. Seconded by Councilman Keifer. Roll call vote taken: Councilman Keifer, Yes; Councilman Husson, Yes; Councilman Minor, Yes; Councilman Fry, Yes; Councilman Hults, Yes and Councilman Hathaway, Yes. Motion carried unanimous: 6 Yes, 0 No.

VISITOR'S REQUESTS AND COMMENTS

EAST SEVENTH STREET PROPERTY UPDATE

Tom and Theresa Kisiel were present to give an update about the situation with their neighbor's property. Theresa said there was a hearing on May 24th and that their neighbor was found guilty of citations. She understood that he had to clean up his yard immediately or be cited again, but when she spoke with the borough police, they said that the defendant had 30 days. She asked Solicitor Glassmire what his understanding was about the order the Judge made. Solicitor Glassmire said he heard several things, but nothing definitive. He said he believed that since the Judge found him guilty, that the Judge was trying to negotiate good conduct from the defendant, and that he would not be happy to see the defendant cited everyday, that he was encouraging the man to make a good, sincere effort. Chief McClain confirmed that he believed that the defendant would have 30 days to appeal the Judge's decision. Solicitor Glassmire said that it is a police department decision, and that it's the police department's discretion if they want to wait and see what the defendant does, and whether he will appeal, and that citing someone daily may not achieve the desired result. Chief McClain said that he agreed with

Solicitor Glassmire. Solicitor Glassmire said that he feels that it is important for citizens to voice their complaints, and show up so that it's clear that the public has an issue, that it is a community concern. He said that in his opinion, it is up to the Mayor and the Police Chief to decide how to handle these issues, and that they should be open to hearing suggestions and advice, be receptive to comments but that no one should have power over any of the officials. Theresa Kisiel said that recently the neighbor had moved out loads of tires, and some garbage. Tom Kisiel said that it's been an ongoing problem for four or five years. He said he was not aware that there was a 30 day appeal period. Theresa Kisiel said that the 30 days to appeal would end the following week.

Council held discussion noting that the problem at the property has been a longstanding issue, asked Solicitor Glassmire for particulars about who would be making determinations about the property assessment. Solicitor Glassmire said that it is up to the police officer, that it should be the same officer making visits, that it is not a Council decision, it is a police officer decision. Theresa Kisiel said that she believes that Coudersport needs a code enforcement officer assigned specifically for this purpose, maybe just a couple days a week, that there are enough properties to support this, and that would take the burden off the police officers. Council held discussion regarding the hiring of two officers, and that one was to be assigned specifically to code enforcement. Chief McClain said that there are regular visual assessments of the property being made. Solicitor Glassmire noted photos from the hearing, and said that the Kisiels can continue to take pictures of the property noting the date and time.

APPROVAL OF THE MINUTES

It was motioned by Councilman Hults, seconded by Councilman Minor to approve the minutes of the May 20, 2022 meeting as presented. Motion unanimously carried. Roll call vote taken: Councilman Keifer, Yes; Councilman Husson, Yes; Councilman Minor, Yes; Councilman Fry, Yes; Councilman Hults, Yes and Councilman Hathaway, Yes. Motion carried: 6 Yes, 0 No.

VOUCHER LIST

It was motioned by Councilman Fry, seconded by Councilman Husson to approve the voucher list as presented in the following amounts: General Fund, \$35,300; Water Operating Fund, \$18,886.49; Sewer Operating Fund, \$25,526.39; Street Lighting Fund, \$3,529.14; Fire Protection Fund, \$27,495.55; Recreation Fund, \$9,406.63; Library Fund, \$63.00. No discussion. Roll call vote taken: Councilman Keifer, Yes; Councilman Husson, Yes; Councilman Minor, Yes; Councilman Fry, Yes; Councilman Hults, Yes and Councilman Hathaway, Yes. Motion carried: 6 Yes, 0 No.

REPORTS RECEIVED

Manager Morris asked for confirmation from Council members that everyone had received their packets containing meeting notes, fund balances, treasurer's report, and police report. Everyone had. No one had questions.

OLD BUSINESS

PAVING BIDS SPECIAL MEETING

Manager Morris asked Council for authorization of scheduling a brief special meeting on July 29th at 4 pm to open paving bids. She said they could make it at the borough office, if it was more convenient. Motion made by Councilman Hults. Seconded by Councilman Keifer. Roll call vote taken: Councilman Keifer, Yes; Councilman Husson, Yes; Councilman Minor, Yes; Councilman Fry, Yes; Councilman Hults, Yes and Councilman Hathaway, Yes. Motion carried: 6 Yes, 0 No.

Solicitor Glassmire asked whether the meeting would be open to include any, and all business. Manager Morris affirmed. Council agreed. Motion made by Councilman Husson to include the amendment that the meeting could include any and all business. Seconded by Keifer. Roll call vote taken: Councilman Keifer, Yes; Councilman Husson, Yes; Councilman Minor, Yes; Councilman Fry, Yes; Councilman Hults, Yes and Councilman Hathaway, Yes. Motion carried: 6 Yes, 0 No.

NEW BUSINESS

STREET CLOSING June 23

Manager Morris said that there has been a request from the property owners of the former Art Dubois property on North Main Street- they're having an Open House for Mr. Art Dubois' estate on June 23 from 4 pm-6pm, and are requesting that Fourth Street Main to North West streets be closed during that time. Motion made by Councilman Fry, seconded by Councilman Hults to accept the request. Roll call vote taken: Councilman Keifer, Yes; Councilman Husson, Yes; Councilman Minor, Yes; Councilman Fry, Yes; Councilman Hults, Yes and Councilman Hathaway, Yes. Motion carried: 6 Yes, 0 No.

RESOLUTION 2022-8 County Aid

Manager Morris said this is an annual application for county aid, in the amount of \$4,514.23 to be used for winter maintenance materials. Motion made by Councilman Keifer to approve. Seconded by George Hults. Roll call vote taken: Councilman Keifer, Yes; Councilman Husson, Yes; Councilman Minor, Yes; Councilman Fry, Yes; Councilman Hults, Yes and Councilman Hathaway, Yes. Motion carried: 6 Yes, 0 No.

DUCK RACE

Manager Morris said that she has a request from the Blackforest Falcon Trapshoot Team to again hold their Duck Race on Aug. 13th. She said that they begin at 1 pm and expect to be out of the CARP pavilion by 5 pm. She said that the previous year that Council had approved not charging the team for use of the pavilion. She asked the Council if they would like to do that again this year. Motion made by Councilman Hults to accept the request. Seconded by Keifer. Roll call vote taken: Councilman Keifer, Yes; Councilman Husson, Yes; Councilman Minor, Yes; Councilman Fry, Yes; Councilman Hults, Yes and Councilman Hathaway, Yes. Motion carried: 6 Yes, 0 No.

MANAGER'S REPORT

Manager Morris said that the Coudersport Borough Water Authority held their meeting the previous night, June 16 at 6:30 pm, and that the Coudersport Area Municipal Authority will hold their next meeting on June 27 at the Wastewater Treatment Facility at 6:30 pm. Coudersport Borough will be holding the McKean Warren Potter Elk and Cameron counties (McWaPEC) borough association meeting on Thursday, June 23, 2022 at the Coudersport Volunteer Fire Department's meeting room. She has reservations for most of Council, any Councilman who has not responded and would like to attend should let her know. Speakers will be from North Central Regional Planning to discuss grant opportunities, and a representative from Wreaths Across America.

Manager Morris reminded Council about the Memorial Service being held for Mark Peet the next day.

MAYOR'S REPORT

Mayor Dubots said that he officially swore in Sargent Wenzel.

SOLICITOR'S REPORT

Solicitor Glassmire said that the borough is still receiving inquiries from others and looking into the advisability of pursuing litigation regarding Premiere Pool. He can say publicly that there have been a couple interesting, favorable developments and that he knows that there is another municipality that probably wishes that they were in the borough's position, rather than theirs. Solicitor Glassmire said that he has had conversations with Attorney Karen Cahilly regarding the situation with Eulalia Township involving various borough lines.

Solicitor Glassmire said that he has had many favorable discussions with the attorney who is representing Tractor Supply, which is still under review. In brief, the borough will have to officially vacate Cherry Street because it goes through the lot, and in the language of the formal documents the borough made it clear that it is not abandoning all the public water lines, sewer lines, utility lines. Solicitor Glassmire said that Tractor Supply's attorney has agreed with his concept of the borough having a corner to access utility lines as opposed to locking the borough into a certain number of unchangeable lines. Solicitor Glassmire said that it looks promising, and not necessary for the Council to take any action at this time.

POLICE REPORT

Chief McClain said that there have been reports of speeding to and from the swimming pool. He placed the speed monitoring unit; average speed was 17.45 mph, maximum speed was 34 mph but that was just one car. The Dodge Charger is still at Paul Brown Dodge, and has not been serviced yet.

JUNIOR COUNCIL

No comments, questions.

COMMITTEE REPORTS

PERSONNEL

Manager Morris asked Councilman Fry to comment on personnel interviews for the position of Sewer Operator Trainee. Councilman Fry said that there were five applicants, narrowed down to two prospective individuals before making their decision. Manager Morris said that she made the offer to the applicant, who is excited to accept the position, and he will visit the borough office the following week to review the union contract and benefits for the position. The committee has recommended Troy Schroeder for the position of Sewer Operator Trainee. Solicitor Glassmire suggested Council make a roll call vote to accept the committee's recommendation. Councilman Fry made a motion to hire Mr. Schroeder. Seconded by Councilman Keifer. Roll call vote taken: Councilman Keifer, Yes; Councilman Husson, Yes; Councilman Minor, Yes; Councilman Fry, Yes; Councilman Hults, Yes and Councilman Hathaway, Yes. Motion carried: 6 Yes, 0 No.

UTILITIES, STREETS, BRIDGES, AND TREES

Manager Morris requested Council's approval to obtain quotes for anti-skid, early. Councilman Hults made the motion. Councilman Keifer seconded. Roll call vote taken: Councilman Keifer, Yes; Councilman Husson, Yes; Councilman Minor, Yes; Councilman Fry, Yes; Councilman Hults, Yes and Councilman Hathaway, Yes. Motion carried: 6 Yes, 0 No.

RECREATION/LIBRARY

Manager Morris said that the school had an art contest, and is requesting that student's artwork be painted by a professional painter on the inside of the restrooms at the Little League field. She said that the inside of the restrooms are painted cement blocks, and that the paintings will be an improvement. She said the school named three winners, and one painting will be on the outside of the restrooms. Councilman Fry made a motion that artwork be allowed to be added to the building. Councilman Minor seconded. Roll call vote taken: Councilman Keifer, Yes; Councilman Husson, Yes; Councilman Minor, Yes; Councilman Fry, Yes; Councilman Hults, Yes and Councilman Hathaway, Yes. Motion carried: 6 Yes, 0 No.

Manager Morris said that the amount of Friends of the Pool donations to date that's been pledged for free swim lessons is \$5,500. She said that the hospital and numerous people from the community have been very generous in donating. She said that they're still in the process of notifying people who'd already paid to ask whether they wanted a refund, or wanted to donate the fee that they'd already paid to the Friends of the Pool account. Councilman Minor made a motion to offer a refund, with the option of whether to donate their payment left up to the individual. Seconded by Councilman Keifer. Roll call vote taken: Councilman Keifer, Yes; Councilman Husson, Yes; Councilman Minor, Yes; Councilman Fry, Yes; Councilman Hults, Yes and Councilman Hathaway, Yes. Motion carried: 6 Yes, 0 No.

ADJOURNMENT

President Hathaway asked for comments, questions from the public and council. There were none.

Meeting adjourned at 6:45.

Respectfully submitted,

Georgeanna DeCarlo, recording secretary