

Madam President,

I'm a great believer in employing cooperation over confrontation. But that doesn't always work, and the Borough finds itself with a choice between taking action or not taking it.

We've gotten here because of failure to resolve our ongoing conflict with Paxtang Fire Company.

Notably, it wasn't always this way.

If we look back in history we once had a spirit of cooperation, but no longer.

The relationship between the Fire Company and the Borough began over 90 years ago, and was memorialized in 1931, when the Fire Company and the Borough were both civil in their dealings with one another, and happy with their partnership.

Sadly, that's not the case today.

The relationship began when the Borough granted to the Fire Company "the privilege" of occupying the building "in consideration of the service rendered [to] the Borough in the protection of life and property of its citizens against fire hazard.

These are not our words, they're the words recorded in the minutes of the Fire Company from October 14, 1931, which includes language that evidences "the Rules and Regulations agreed upon by the Borough Council on August 27th, 1931, and by the Fire Company on August 20th, 1931.

That was the Agreement; that was the material term in this relationship... the privilege of occupying the building in exchange for being the Borough's official fire service provider.

And that relationship changed last year when the Council voted to outsource Fire Services with Swatara Township.

That material term was extinguished when Council enacted Ordinance No. 2022-584, repealing Paxtang Fire's Certification as the Borough's official fire service provider, in favor of contracting with Swatara Township.

The Fire Company's continued occupation of the Borough Building has long been contingent upon the agreement that was made in 1931. But the terms of that agreement have been changed by this Council.

We have listened to many public allegations that this change came from political motivations. But we believe that's not true.

They've been changed out of sheer fiscal necessity... the very fact that Paxtang has had only 1 tax increase in the last 8 years speaks to the stewardship that Council embraces week in, week out, year in, year out. We are volunteers as well, vested with making the difficult task, year

after year, of how to best utilize the taxpayer's money, by providing better than adequate services for our residents, which we all are too.

We've done this for other services as well.

When Council began our street sweeping program, just about 10 years ago, we did so because the Commonwealth was placing unfunded mandates on its municipalities, for environmental clean-up. And for those who did not comply, devastating financial sanctions were made on municipalities just like us. A little over 5 years ago, one municipality got hit with a \$177,000 fine ... if that were Paxtang, that would derail our operating budget and likely force an immediate tax increase. We avoided that with responsible action in favor of the greater good both environmentally and fiscally.

When Council voted to outsource our police services in 2014, a little over 7 years ago, we did the same thing. We made an informed decision based on how best to utilize the limited resources that were available to the Borough. We saw our public safety costs rising every year in a way that would soon become unsustainable. We made a fiscally correct decision that had a painful consequence for some... and personally, I had great regret over those consequences because they affected a friend; but we did what was fiscally responsible. We made a responsible decision. And 7 years later, as back then, I remain convinced we did the right thing.

When Council voted to outsource its fire services, we did the same thing again... we figured out how best to utilize the limited resources that are available to the Borough, and to spend wisely. Again, our public safety costs are rising. But here, we are dealing with an entity that asks us for our financial assistance when equipment is needed, or when vehicles need to be repaired, and so what we budget *does not* always reflect what we spend. And so, in choosing to outsource fire services, we made a judgement call. And we thought it necessary to ensure the long-term fiscal well-being of this Borough.

But there's a more troubling matter at hand... one that we tried to rectify at least 4 months ago, maybe longer.

We asked the Fire Department to provide for adequate insurance to indemnify the Borough from the conduct of the Fire Company's members. We understand and appreciate their desire to serve. Their very job is to rush. And despite everyone's attempt to be careful while rushing, accidents can happen. One simple slip-and-fall event could cause a huge risk of liability to the Borough. Because of this, we asked the Fire Company to indemnify the Borough as part of its insurance policy.

The Company has declined to do this, but rather will only agree to make the change IF they get a formal contract for services, or a formal lease.

Last September (19th), when the Borough attempted to formalize our relationship. We ASKED the Fire Company to sign a formal "Facilities Use Agreement." – which, by the way, would have allowed the Fire Company to continue to occupy the building free of charge.

It was two weeks later, on October 4th, that the Fire Company informed the Borough that it would not sign this document.

Due to the rapid deterioration of the relationship between Borough and Fire Company, the Borough made no further attempt to meet to discuss the Facilities Use Agreement.

Instead, on November 4, 2022, the Borough, through our Solicitor, asked the Fire Company for proof of adequate insurance to indemnify the Borough from liability risks associated with the Fire Company's activities.

We heard nothing for two weeks.

On November 17, 2022, we reiterated the request.

Again, we heard nothing for an entire month.

On December 15, 2022 for the third time, we again reiterated the request.

Up to and including the day of our January 17, 2023 regular meeting we received no adequate response to our repeated request, Council understood that we were at an impasse.

The Fire Company is not carrying adequate insurance to properly indemnify the Borough from the actions of its volunteers. Any speculation as to why, is immaterial... because the reality is that the fiscal implication for this Borough is unbearable. By failing to provide the adequate insurance, the taxpayers of the Borough, will bear the financial risks associated with the Fire Company's continued occupancy of the building.

On January 11th of this year, just one week ago, the Borough's Insurer again reached out to the Fire Company's insurance broker *directly* to demand proof of adequate insurance.

We were provided with the same Certificate of Insurance as last August which specified that the Borough's status as an "additional insured" would be dependent on a formal contract a contract. Such contract does not exist. Therefore, we, the Borough, are *underinsured* due to the inaction of the Fire Company.

The Fire Company's coverage is wholly inadequate to protect the Borough. This represents an immediate and ongoing risk of great proportion to the Borough AND to the taxpayers for potential liability. One single event could change our entire fiscal health by breaking our budget.

Council feels this is too great a risk for the Borough to bear.

Our fiscal responsibility to the taxpayers has guided, and must continue to guide our actions.

As we have already made our choice to go with Swatara Township for our primary fire services, we now suffer a real, ongoing risk of financial liability as long as the Fire Company remains in the building and the Borough is not fully indemnified.

We have chosen to outsource our fire services with a neighboring jurisdiction with 68 active service members who operate out of 3 working firehouses.

We have amended our Ordinances appropriately to do so.

We are not required to execute an additional contract that would provide for an unnecessary duplication of services.

We refer all of our taxpayers, again, to the fiscal necessity of these decisions.

12 years ago, several Townships in the Midstate were hit collectively with about \$120k in MS4 fines... Lancaster Online reported that four mid-state communities -- Manor Township, Swatara Township, Lebanon and York -- were fined a combined \$128,608 in 2010 for violations related to stormwater management regulations.

Then later as MS4 ramped up in the middle of the decade, Lancaster County's Manor Township was again hit with an MS4 fine of over \$170,000 – but this time, just on them.

At that time, Lower Swatara Township's public works superintendent was quoted in the news as saying this:

"Our approach has been, we don't like it, whether we agree with it or don't, this is what we have to do because we definitely don't want to have to spend taxpayer money on a fine or penalty.... We try to embrace it as best we can and move forward."

His difficult, but well-chosen words aptly fit our unfortunate position today.

We don't like it. And we definitely don't want to have to spend the taxpayer's money on a financial liability that could result from being less than adequately insured.

We, the Borough, have tried to fix this for many months. We've been told no.

The relationship between Borough and Fire Company to be irretrievably broken. The Borough Council has executed a reasonable alternative in contracting with Swatara Township as our primary fire service provider, and has done so, as it has with our police services and codes enforcement, to protect the long-term fiscal health of the Borough.

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