

PAXTANG BOROUGH
Regular Business Meeting
3423 Derry Street
January 17, 2023

President Bloss called to order the monthly meeting of the Paxtang Borough Council at 7:03 p.m. with the Pledge of Allegiance led by Mayor Martin.

President Bloss announced that an Executive Session was held prior to the start of this evening's meeting to discuss potential litigation, seeking the advice of the Borough Solicitor as well as to discuss personnel matters. The session commenced at 6:01 p.m. and was attended by Borough Council, Borough Manager, Borough Solicitor with Mayor Martin joining at 6:43 p.m. The Executive Session concluded at 6:56 p.m.

COUNCIL MEMBERS PRESENT

Council President	Kathleen Bloss
Council Vice-President	Christopher Spackman
Council President Pro Tempore	Jack Thomas

Councilman Wingert
Councilwoman Britten
Councilman Bower
Councilman Fillman

Mayor	Nathan Martin
-------	---------------

BOROUGH OFFICIALS

Borough Manager	Keldeen Stambaugh
Borough Solicitor	Joshua Bonn
Borough Engineer	Jeremy Smith
Borough EMA	Robin Bloss

President Bloss presented an opportunity for residents and taxpayers to voice their opinions on matters of public concern. Borough Council would listen to speakers and should not interrupt or engage speakers in debate. Public comment is not a question and answer session. Questions raised will be referred to the appropriate committee or to the Borough Manager. Three minutes per speaker for general public comment would be allotted. Comments would begin with Paxtang Borough residents, businesses, or property owners and then proceed with comments from other individuals.

AUDIENCE PARTICIPATION

Donald Follett, 3625 Brisban Street, Paxtang voiced his concerns with the Paxtang Fire Company No. 1 being removed from all Paxtang Borough and Swatara Township fire call boxes, noted Matthew Lemmon has resigned from the Paxtang Fire Company No. 1, charges against Mr. Lemmon emanated from Mr. Lemmon's business, not from the Fire Company, is asking for the opportunity to run calls in Paxtang and will make a request to Swatara Township for reinstatement.

Lorraine Spangler, 203 North 31st Street, Paxtang inquired as to why the Zoning Board was not included in conversation regarding a zoning matter as noted on this evening's agenda. Solicitor Bonn stated someone would contact Ms. Spangler on this matter.

James Capp, 115 Park Terrace, Paxtang voiced his concern with the Paxtang Fire Company not having authorization to run calls in the Borough, would like Council to reevaluate their decision regarding the Paxtang Fire Company, and reinstate their use of the municipal building.

Ethel Straining, 3166 Brookwood Street, Paxtang stated she was hopeful Council would reconsider their decision and allow the Fire Company to provide fire services to the Borough.

David Albright, 3606 Brisban Street, Paxtang was concerned that Council would not be responding to questions from audience members, was of the belief that Council made decisions based on political motivations with regard to Mr. Lemmon and their refusal to permit the Fire Company to provide services to Paxtang.

Gavin Ford, 3731 Rutherford Street, Swatara Township, introduced himself as the Vice-President of the Paxtang Fire Company noting he would like to be able to provide fire service to the Borough.

MUNICIPAL SEPARATE STORMWATER SEWER SYSTEM PROGRAM (MS-4)

President Bloss opened the floor for anyone wishing to share comments. Hearing none, President Bloss proceeded with the meeting.

President Bloss announced the order of the Agenda would be altered to enable a discussion on the Paxtang Fire Company No. 1 Occupancy of the Municipal Building and invited Solicitor Bonn to provide an update.

OCCUPANCY OF THE MUNICIPAL BUILDING – PAXTANG FIRE COMPANY NO. 1

Solicitor Bonn stated on January 12, 2023, the Borough received a communication from PennPRIME Insurance Trust stating they reviewed a Certificate of Insurance from the Fire Company but noted the certificate did not list the Borough as an Additional Insured. Since July 30, 2022, the Borough had been informally requesting that the Fire Company provide evidence of adequate insurance. A formal demand was made on November 4, 2022, to the Fire Company's legal counsel. To date, proper documentation showing adequate insurance has not been provided which is of immediate public concern that the Fire Company is occupying the building without adequate insurance. The attorney for the Fire Company reached out to Solicitor Bonn but with no assurance that the Fire Company would be providing adequate insurance.

*1) Councilman Bower made a motion to authorize the Borough Solicitor to proceed with the ejection of the Paxtang Fire Company No. 1 from the Borough building. Motion seconded by Councilman Wingert. Discussion was held that while the Fire Company provided information, it was not proof of adequate coverage thus exposing the Borough to financial risk.

Meeting was disrupted by members of the audience becoming verbally confrontational. President Bloss repeatedly stated they were Out of Order.

At this point Councilman Fillman read the following for Council members and those in the audience:

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 is 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 are 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. 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. 2022-684, 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 have 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 have 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.

Twelve 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 do not 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 have been told no.

The relationship between the Borough and Fire Company is 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.

*2) Councilman Bower made a motion that Council authorize the Borough Solicitor to proceed with the ejection of the Paxtang Fire Company No. 1 from Borough property.

President Bloss requested a roll call vote from Secretary Clark as follows:

Councilman Fillman	Aye	President Bloss	Aye	Councilman Bower	Aye
Councilwoman Britten	Aye	Councilman Thomas	Aye		
Vice-President Spackman	Aye	Councilman Wingert	Aye		

Motion carried with a unanimous decision.

MINUTES – DECEMBER 20, 2022, REGULAR BUSINESS MEETING

*3) Vice-President Spackman made a motion to dispense with the reading of the Minutes from the December 20, 2022, Regular Business Meeting and to approve the same. Motion seconded by Councilman Thomas. Motion carried.

MINUTES – JANUARY 3, 2023, WORKSHOP MEETING

*4) Councilman Thomas made a motion to dispense with the reading of the Minutes from the January 3, 2023, Workshop and to approve the same. Motion seconded by Vice-President Spackman. Motion carried.

TREASURER'S REPORT

Secretary Clark read the Treasurer's Report for the month ended December 31, 2022, as follows:

GENERAL FUND	\$412,130.77
SEWER	\$831,722.62
LIQUID FUELS	\$ 40,703.55
SOLID WASTE	\$ 94,836.10
CAPITAL RESERVE	\$485,106.36

*5) Councilman Wingert made a motion to accept the Treasurer's Report for the month ended December 31, 2022. Motion seconded by Councilman Fillman. Motion carried.

REPORT OF THE PUBLIC SAFETY DIRECTOR

Public Safety Director, Darrell Reider stated 77 calls for service were placed for Paxtang Borough for the month of December 2022. Three traffic citations, 7 motor vehicle code violation warnings, 6 parking violations, 1 foot patrol and 7 mobile patrols were carried out.

COMMUNITY SERVICE REPORT

Officers participated in the Swatara annual Christmas Tree lighting ceremony and the Paxtang Christmas Tree lighting ceremony, assisted with the Harrisburg area Police Athletic League annual Shop with a Cop event at the Walmart retail department store, and participated in the Cops, Cars, Coffee, and Canine Christmas Drive at the Colonial Park Mall.

DRUG DROP BOX – UNUSED EXPIRED MEDICATIONS

Borough residents may deposit expired and or unused medications at the drop box located at the Swatara Township Municipal Building, 599 Eisenhower Boulevard.

CHILD PASSENGER SAFETY SEATS

Four child passenger safety seats were installed by officers certified as car seat installation technicians.

MOTOR CARRIER SAFETY ASSISTANCE PROGRAM (MSCAP)

The MCSAP commercial driver vehicle inspection program is ongoing with inspections of commercial motor vehicles.

CITIZENS POLICE ACADEMY

Swatara Township and Paxtang Borough residents may participate in this interactive program where topics relating to the duties of a police officer are presented. Interested persons may contact Swatara Township.

REPORT OF FIRE SERVICES

Due to Fire Chief Michael Ibberson attending a County Chief's meeting, Public Safety Director, Mr. Darrell Reider presented the December 2022 report of fire services as follows: 142 calls for service were placed, mutual aid was provided 24 times, and received 25 times. Average response time from dispatch to arrival was 5 minutes and 56 seconds. Members responded to 16 fire incidents, 37 rescue and emergency medical, 9 hazardous conditions, 22 service calls, 17 good intent and 39 false alarms. Calls for Paxtang were 4 with 1 overpressure rupture explosion overheat-no fire, 1 hazardous condition, and 2 service calls. Average turnout per incident was 8 with a total of 69 active responders. Total number of staffing hours were 1,760 and training hours were 237. Two firefighters completed final basic firefighting class at Harrisburg Area Community College. Firefighters escorted Santa throughout Swatara Township and Paxtang Borough along with attending both municipality tree lighting events. Members responded to 1,257 total calls for service in 2022 and 16 in Paxtang Borough since August 1, 2022. Mr. Reider stated Chief Ibberson thanked the community and elected officials for their support throughout the year.

REPORT OF THE BOROUGH MANAGER

DAUPHIN LEBANON COUNTY BOROUGH ASSOCIATION (DLCBA) ANNUAL DINNER

The Capital Region Council of Governments will host their annual dinner on January 24, 2023. Council Members may contact Manager Stambaugh if interested in attending.

CODES AND ZONING

Two building permits were issued in the month of December.

REPORT OF THE MAYOR

Mayor Martin announced the Paxtang Lions Club will host a Pancake Breakfast in the municipal gymnasium on Saturday, February 11 from 6:30 a.m. to 11:30 a.m. Mayor Martin will have the honor of serving along side members of the Lions. Mayor Martin expressed his gratitude to Borough Council on their very difficult decision with regard to the Fire Company, ensuring that their decision was not taken lightly. Mayor Martin thanked Borough Council, Borough Solicitor, and Borough Staff for their support.

REPORT OF THE SOLICITOR

No Report from Solicitor Bonn

REPORT OF THE ENGINEER

No Report from Engineer Smith

REPORT OF COMMITTEES

Administration – Vice President Spackman reported with regret that a life long Borough resident, Mr. Jack Snodgrass recently passed away and extended his sympathy to his wife, Mrs. Bonnie Snodgrass and family. Vice-President Spackman was grateful to have had the chance to know Mr. Snodgrass stating he will be missed by all that knew him.

Highway – No Report from Councilman Bower

Property and Recreation – No Report from Councilman Fillman

Public Safety – Councilman Wingert stated he and his wife were personal friends with Mr. Snodgrass and offered their sympathy and condolences to Mrs. Snodgrass.

Public Relations – No Report from Councilwoman Britten

Health and Sanitation – No Report from Councilman Thomas

NEW BUSINESS

REQUEST PARCEL ADJUSTMENT AND VACATE UNOPENED PORTION OF QUEEN ALLEY – 220 PARK TERRACE AND 3209 PRINCE STREET

Solicitor Bonn stated the Borough has received a Petition to vacate a portion of Queen Alley and a lot line adjustment to adjust the lot between 220 Park Terrace and 3209 Prince Street. Council will need to approve and schedule a Public Hearing for Tuesday, February 7, 2023, at 6:00 p.m. in Council Chambers to vacate a portion of Queen Alley and lot line adjustment for 220 Park Terrace/3209 Prince Street, advertise the Public Hearing and proposed ordinance, and have surrounding properties posted with said Notice.

*6) Vice-President Spackman made a motion to schedule and approve advertisement and notices for a Public Hearing for February 7, 2023, to vacate a portion of Queen Alley and lot line adjustment for 220 Park Terrace/3209 Prince Street and approve preparation to advertise a proposed ordinance to vacate a portion of Queen Alley. Motion seconded by Councilman Bower. After discussion that the portion of Queen Alley in question was that of the unimproved section and not that of the improved section, motion carried.

2023 MUNICIPAL DOMESTIC ANIMAL PROTECTIVE SERVICES AGREEMENT

President Bloss referred Council to the 2023 Municipal Domestic Animal Protective Services Agreement

*7) Councilman Thomas made a motion to adopt the 2023 Humane Society Domestic Animal Protective Services Agreement. Motion seconded by Councilman Fillman. After a discussion on terms of the Agreement, Motion carried.

PETITION TO AMEND ZONING ORDINANCE – 3607 DERRY STREET - SPECIFIC USE REGULATION

Solicitor Bonn stated the Borough has received a petition for specific use regulations related to multifamily dwellings to eliminate the cap on the total number of dwelling units on a lot and reduce the minimum lot area per unit. Solicitor Bonn advised this is an item to be taken by Council and was not required to be brought before the Zoning Hearing Board. Mr. Ambrose Heinz, attorney for the prospective purchasers of 3607 Derry Street presented an overview to convert the existing commercial building to age based independent living apartments. Discussion was held at the January 3, 2023, Workshop Meeting.

*8) Councilman Fillman made a motion to refer the petition to the Dauphin County Planning Commission, schedule a public hearing, and advertise the proposed ordinance. Motion seconded by Councilman Wingert. After discussion on protocol with regard to any recommendations from the Dauphin County Planning Commission, motion carried.

COMMUNICATIONS

Secretary Clark read a communication from Mr. Ken Carter, Interim Pastor of the Paxton Presbyterian Church expressing his gratitude to the Public Works Department for their assistance with the church's fall leaf raking and pick up.

AUDIENCE PARTICIPATION

Donald Follett, 3625 Brisban Street, Paxtang stated Mrs. Follett has experience in the insurance business and invited Councilman Fillman to contact Mrs. Follett if he so desired.

David Albright, 3606 Brisban Street, Paxtang stated he appreciated the information presented by Councilman Fillman with regard to the Paxtang Fire Company and expressed his gratitude to Councilman Fillman for addressing this issue in such a well spoken manner.

Matthew Lemmon, 2444 Parkway Boulevard, Penbrook Borough, Harrisburg stated he has resigned from Paxtang Fire Company No. 1, provided Manager Stambaugh with an Accord Certificate of Insurance Liability, is of the belief the Borough is not required to be listed as an Additional Insured, stated land held by the Fire Company was conveyed to the Borough for the purpose of erecting a structure for the Fire Company and other borough and civic purposes, and was not aware of the fire company asking for anything

Austin Schrader, 123 Suedberg Road, Pine Grove, PA former resident of Paxtang voiced his concern with the removal of the Paxtang Fire Company No 1 from the Paxtang fire call box, encouraged residents to be involved in municipal elections, and commented that members of the Paxtang Fire Company No. 1 are willing to provide fire services to Paxtang.

Gavin Ford 3731 Rutherford Street, Swatara Township, Harrisburg voiced his concern with regard to a Right To Know Request relating to Borough emails.

PRESENTATION OF BILLS

*9) Vice-President Spackman made a motion that Council pay its just and lawful debts. Motion seconded by Councilman Thomas. Motion carried.

ADJOURNMENT

*10) Councilman Thomas made a motion to adjourn. Motion seconded by Vice-President Spackman. Motion carried.

Meeting adjourned at 8:28 p.m.

Secretary

- 1.Proceed with Ejection of Fire Company from Borough Building (Amend)
- 2.Proceed with ejection of Fire Company from Borough Building – Roll Call
- 3.Minutes – December 20, 2022, Regular Business Meeting
- 4.Minutes – January 3, 2023, Workshop Meeting
- 5.Treasurers Report
- 6.Advertise – Vacate Portion of Queen Alley
- 7.Adopt Humane Society Agreement
- 8.Advertise Amend Zoning 3607 Derry Street
- 9.Pay Bills
- 10.Adjourn