

PAXTANG BOROUGH
Regular Business Meeting
3423 Derry Street
August 20, 2024

President Bloss called to order the monthly meeting of the Paxtang Borough Council at 7:00 p.m. with the Pledge of Allegiance led by Mayor Nathan Martin.

COUNCIL MEMBERS PRESENT

Council President	Kathleen Bloss
Council Vice-President	Eric Fillman
Council President Pro-Tempore	Jack Thomas

Thomas Wingert
Corbin Bower
Matthew Leonard

Mayor	Nathan Martin
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COUNCIL MEMBERS ABSENT Jennifer Britten

BOROUGH OFFICIALS

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

EXECUTIVE SESSION

President Bloss announced that 2 Executive Sessions were held since the July 16, 2024, Council Meeting. Sessions were held on Monday, July 29, 2024, and prior to the start of this evening's meeting, Tuesday August 20, 2024. Invited to attend the above-mentioned meetings were members of Council, Borough Mayor, Borough Manager, and Borough Solicitor. Matters of litigation were discussed at both Executive Sessions.

PUBLIC COMMENT

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

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 this evening's meeting.

MINUTES – JULY 16, REGULAR BUSINESS MEETING

*1) Vice-President Fillman made a motion to dispense with the reading of the Minutes from the July 16, 2024, Regular Business Meeting and to approve the same. Motion seconded by Councilman Thomas. Motion carried.

TREASURER'S REPORT – MONTH ENDED JULY 31, 2024

Secretary Clark read the Report of the Treasurer for the month ending June 30, 2024, as follows:

GENERAL FUND	\$ 754,325.79
SEWER ACCOUNT	\$1,095,655.31
LIQUID FUELS	\$ 136,229.95
SOLID WASTE	\$ 169,779.53
CAPITAL RESERVE	\$ 561,128.04

*2) Vice-President Fillman made a motion to approve the Treasurer's Report as presented. Motion seconded by Councilman Thomas. Motion carried.

PUBLIC SAFETY REPORT

President Bloss, Council members, Borough Mayor, and Borough Officials took this opportunity to extend congratulations and well wishes to Swatara Township Deputy Chief Thomas Stauffer on his newly appointed position as Swatara Township Chief of Police. Police Chief Thomas Stauffer stated 76 calls for service were placed for Paxtang in July. Officers conducted 1 Driving Under the Influence, 4 traffic citations, 3 traffic warnings, 2 parking violations, and 3 foot patrols. Discussion was held that the Report of the Chief would be posted on the Borough website.

COMMUNITY SERVICE REPORT

Community Service Report was made available to members of Council

DRUG DROP BOX

Residents are encouraged to drop off unused and or expired medications at the Swatara Township Municipal Building at 599 Eisenhower Boulevard

CHILD SAFETY SEATS

Officers conducted 2 child passenger safety seat installations and checks

MOTOR CARRIER SAFETY ASSISTANCE PROGRAM (MCSAP)

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

NATIONAL NIGHT OUT

The Swatara Township National Night Out scheduled for Tuesday, August 6, 2024, was cancelled due to adverse weather conditions. "Pop Up" events were conducted in the township where community members were able to meet with Swatara safety personnel. A Labor Day fireworks display is scheduled for Saturday, August 31 at Bishop Park located at 1425 Highland Street. Event will serve as the township's 225 Year Celebration with activities for all to enjoy.

REQUEST FOR HANDICAPPED PARKING – 3630 DERRY STREET

Chief Stauffer received a request for a Handicapped Parking space at 3630 Derry Street. With no objection from Council, Chief Stauffer will have a traffic study carried out.

REPORT OF FIRE SERVICES

Swatara Township Fire Chief Michael Ibberson stated 116 calls were placed for service in the month of July with 15 active members at an average time of 5 minutes and 26 seconds from dispatch to arrival. Nineteen fires, 25 medical incidents, 12 hazardous conditions, 11 service calls, 20 good intent calls, and 27 false alarms were carried out. Staffing hours were 1,676, training hours were 446 with an average of 8.1 responders per incident. A structure fire occurred in Swatara Township at 717 Armory on Derry Street July 27, 2024. Fire escalated to a fourth alarm requiring the efforts of approximately 80 firefighters to control. Mutual Aid was provided 23 times and received 41 times. Various members participated in or attended a flag retirement ceremony at the 40 & 8 Club, fire prevention presentation at U-Gro day care and a "Pop Up" BBQ at Rutherford Elementary School. The collaboration between Swatara Township's emergency services, law enforcement agencies, police, highway, fire, fire police, Emergency Medical Services, and other Local, State and Federal agencies lead to the support and successful completion of a recent presidential detail.

There were 2 calls for service in Paxtang. Eighteen calls for service in the Borough have been placed to date with 2 fires, 1 over pressure/ rupture explosion, 2 emergency medical calls, 5 hazardous conditions with no fire, 3 service calls, 3 good intent calls and 2 false alarms.

Mayor Martin expressed his gratitude to the Swatara Township Police and Fire Police for their excellent handling of 2 recent accidents on Derry Street.

President Bloss expressed her gratitude to Swatara Township Fire on the achievement of an average of 8.1 personnel per incident, an excellent average response time, and 55 active volunteers.

Chief Ibberson stated their part time fire fighter program is progressing very well and has aided in keeping response time numbers down.

REPORT OF THE MANAGER

DEMOLITION OF THE 29TH STREET BRIDGE

Manager Stambaugh reported the 29th Street Bridge is scheduled for demolition on Saturday August 24 at 11:00 p.m. Bridge is slated for replacement in the future as part of the I-83 Capital Beltway Project. Information has been posted to Borough social media.

STREET CLEANING

Street cleaning has been rescheduled for September 10 through September 12. Information will be posted on the Borough social media.

PAINTING – CROSSWALK AND CURB

Painting of crosswalks and curbs will take place during the month of September 2024.

LETTER OF SUPPORT – BEACON CLINIC

Paxtang will have no further obligation in regard to the recent agreement to serve as a municipal sponsor for Beacon Clinic. Beacon Clinic has decided to follow through with a letter of support as offered from the City of Harrisburg. Council originally approved the request to serve as a municipal sponsor at the July 16, 2024, Regular Business Meeting.

TENNIS COURTS

Borough Public Works Department is gathering estimates for the building and tennis courts at Saussaman Park. Updated information will be provided at the September 3, 2024, Workshop meeting.

LABOR DAY PICNIC

Borough staff is working on the Labor Day Community Picnic scheduled for Monday, September 2. Picnic is scheduled to take place from 12 noon to 3:00 p.m. at Saussaman Park. Information has been posted to Borough social media.

CODE AND ZONING REPORT

3 Building Permits and 5 Sidewalk Permits were issued in the month of July.

SAUSSAMAN PARK PROJECT

Mayor Nathan Martin organized a group of volunteers from Amazon Technology Company. Employees volunteered to paint the building and pavilion at Saussaman Park, cleared the rain garden, and other areas of vegetation. Project took place on Friday, August 16. Manager Stambaugh thanked Mayor Martin and extended her gratitude to Amazon employees for their willingness to volunteer their time and donation of supplies.

REPORT OF THE MAYOR

Mayor Martin thanked the Public Works Department for their assistance in the beautification project at Saussaman Park, for selecting a paint color scheme, pressure washing, and painting the tops of the picnic tables. Mayor Martin took this opportunity to congratulate Thomas Stauffer on his recent promotion to Chief of Police of Swatara Township.

REPORT OF THE SOLICITOR

Solicitor Bonn presented the following update with regard to the independent fire company litigation and potential new lawsuit against the independent fire company: a settlement offer was made by the Borough of Paxtang to settle the lawsuit with the independent fire company. This would have allowed the independent fire company to keep all their equipment in exchange for leaving the Borough building. Paxtang Borough Council is also asking that Paxtang Fire Company use the word “Independent” in their name so there would be no public confusion that they were a public entity associated with the Borough. The independent fire company rejected that offer stating they wanted to conduct additional discovery. Solicitor Bonn spoke about discovery in a previous report with regard to the expense involved, compelling another party to engage in discovery, and litigation being a way to make that party experience considerable expense. Solicitor Bonn stated discovery did reveal that the Borough is the sole owner of radios and related accessories that the independent fire company received from Dauphin County, EMS. Because the independent fire company rejected the Borough’s attempts to settle the ejectment lawsuit, the lawsuit to repossess the radios is now going to proceed. Contrary to the fire company’s correspondence, the ejectment lawsuit is not going to be dismissed by Judge Dowling prematurely. Judge Dowling has scheduled a trial date for May of 2025. This will allow parties to engage

into discovery, that the fire company wants to engage in, and give the parties significant time to prepare for trial. Because it has been discovered that the Borough is the sole owner of the radios, Solicitor Bonn is recommending that the Borough file a separate lawsuit against the fire company to recover those radios. This will allow the radios to be used by other entities that service Paxtang Borough.

REPORT OF THE ENGINEER
2024 STREET PROJECT

Engineer Smith reported that the 2024 street project has been completed. A walkthrough will be scheduled with the contractor.

REPORT OF COMMITTEES

Administration – No Report from Vice-President Fillman

Highway and Stormwater – No Report from Councilman Leonard

Property, Recreation, and Shade Tree Advisory – No Report from Councilman Bower

Public Safety – No Report from Councilman Wingert

Public Relations and Grants – No Report due to the absence of Councilwoman Britten

Health, Sanitation, and Codes – No Report from Councilman Thomas

NEW BUSINESS

AUTHORIZE SOLICITOR-FILE LAWSUIT AGAINST PAXTANG FIRE COMPANY # 1 TO RECOVER PAXTANG BOROUGH'S RADIOS AND RELATED ACCESSORIES

*3) Vice-President Fillman made a motion to authorize the Borough Solicitor to file a lawsuit against Paxtang Fire Company # 1 for the purpose of recovering Paxtang radios and related accessories. Motion seconded by Councilman Wingert. Vice-President Fillman stated he was disappointed as he was of the belief that a term of settlement was near especially in view of the many good faith offers that were extended by the Borough.

Councilman Wingert echoed the sentiments as offered by Vice-President Fillman. After comments, President Bloss requested Secretary Clark to call the roll resulting in a unanimous vote as follows:

President Bloss - Aye
Vice President Fillman – Aye
Councilman Thomas – Aye

Councilman Wingert – Aye
Councilman Bower – Aye
Councilman Leonard – Aye

USE OF GYM – FREEDOM GUARD DRILL TEAM

Councilman Bower presented a request from Freedom Guard Drill Team for use of the municipal gymnasium Sundays from September 15, 2024, to October 27, 2024, from 1:00 p.m. to 4:00 p.m. and Sundays from November 3, 2024, to April 27, 2025, from 1:00 p.m. to 6:00 p.m. It has been the practice of past Councils to approve a discounted rate of \$25.00 per session.

*4) Councilman Bower made a motion to approve use of the gym at the rate of \$25.00 per session for the dates requested. Motion seconded by Vice-President Fillman. Councilman Wingert stated he was pleased that the organization provided the required Certificate of Insurance. Motion carried after clarification of times requested and acknowledgement that dates were subject to change due to any anticipated Borough events.

TRAFFIC STUDY – STOP SIGNS – WILHELM ROAD AND RUTHERFORD STREET

*5) Vice-President Fillman stated Council was in receipt of a request for a stop sign at Wilhelm Road and Rutherford Street along with a traffic study from Swatara Police. Vice President Fillman made a motion for approval of said stop sign. Discussion was held that a Resolution would be presented at the September 3, 2024, Workshop, current Zoning Ordinance would be revised at a later date, report executed by Patrolman David Ritter was very thorough and well written, intersection is utilized by students traveling to and from Paxtang Elementary School, and Swatara Township would install the stop sign on the northbound side of Wilhelm Road at Rutherford Street. Motion tabled until the September 3, 2024, Workshop Meeting.

AMEND INVOICE – COMPUTER SYSTEM UPGRADES

*6) Councilman Bower made a motion to move \$3,987.00 from the General Fund to the Capital Reserve Account to pay for a one time hardware purchase and that \$3,813.00 would be paid from the Information Technology (IT) line item in the General Fund Budget. Motion seconded by Councilman Thomas. Motion carried. Original invoice number 185839 was for \$7,800.00.

COMMUNICATIONS

No Communications were brought forth

PUBLIC COMMENT

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, business, or property owners and then proceed with comments from other individuals.

Mr. Steven Roth 3642 Derry Street stated the following with regard to fire services: was disappointed with the ongoing issue of litigation and legal actions, solicitor fees, closure of the Paxtang Fire Department, recent closure of a fire company from a nearby municipality, tax dollars for outsourced fire service, fire coverage for Paxtang, action for the return of radios and related accessories, response time due to the temporary closure of the 29th Street Bridge, the Rt 83 construction project, and gridlock of the Norfolk Southern Railway Underpass due to oversized tractor trailers utilizing this area.

PRESENTATION OF BILLS

*7) Vice-President Fillman made a motion that the Borough pay its just and lawful debts. Motion seconded by Councilman Thomas. Motion carried.

CLOSING COMMENTS – VICE-PRESIDENT FILLMAN

Vice-President Fillman stated while he appreciates the opportunity offered for public comment, he realizes that participants may feel frustrated that their remarks go unanswered as Council does not engage in dialogue during public comment. Members of Council are further limited in communicating about some issues due on ongoing litigation. Vice-President Fillman noted he felt it would be helpful to reiterate the Borough's position by offering the following for the record:

Madam President, Members of Council, Residents and Members of the Public:

“I fully appreciate and support our residents and others who engage in public comment. Those who offer their remarks sometimes feel frustrated because rhetorical and substantive questions are asked, but Council does not engage in dialogue during public comment. As we are further limited in communicating about some issues because of ongoing litigation, I've found that periodically it's helpful to reiterate the Borough's position and set a few facts straight, so I will beg your indulgence for a few minutes tonight.

We are a land-locked municipality with a limited, but stable tax base and, fortunately, we are able to provide the municipal services we can – and should – to our community in a highly efficient and cost-effective manner.

As a municipality, we are always concerned with spending our taxpayers' dollars wisely. We do so when we hire our staff of five people – 5 people – who do the work of a dozen. They need to know we're grateful for every hour they spend in honorable public service to our community. Thank you to our Staff!

We're also grateful for the intergovernmental agreements, contracts and working relationships we have with our closest municipal neighbors... most notably Penbrook Borough, the City of Harrisburg, and Swatara Township in particular. It is with their help that we provide those critical municipal services that would be otherwise unaffordable if we had to support all of the infrastructure ourselves. It's why we contract for waste

disposal, for zoning, for police protection and for fire response services. In each of these contracts, we have acted *for* our community and in the most cost-effective manner possible. And in each of these cases, we have been abundantly pleased with the services we are receiving. Thank you to our Municipal Partners!

In contrast with the very good relationships with our cooperative partners, we are also engaged in a legal action to eject the Independent Paxtang Fire Company from our building. We have not entered into this action lightly, but we have done so out of necessity... to exercise our proper legal rights.

We are *very* mindful of our ongoing legal expenses, but we have maintained valid reasons for our ejection lawsuit. Simply put, now that we contract for fire prevention services with another entity, we are not required to support our former service provider any longer. Our pursuit of legal action has never been motivated by any personal vendetta as some have accused... rather, it's a simple matter of cost-effectiveness that I fully explained on the public record *19 months ago*, back in January of 2023.

We are moving forward with the litigation to eject the fire company from the municipal building because they are no longer authorized to provide services to the Borough. We are moving forward with the litigation because they simply won't leave ... but removing them from the building is more complex than just locking doors.

We are not their employer, although we have already terminated their services as no longer required. They just refuse to go.

We are different from a landlord trying to evict a tenant, because a tenant pays rent. The fire company doesn't. We are different from a utility pursuing a shutoff, because a utility customer at least pays for its heat, or electric, or water consumption. The fire company doesn't.

Interestingly, both the Borough and its critics have described us not unlike parties seeking a divorce. Certainly, this is accurate, in part, because the parties cannot reconcile. But frankly, the analogy fails because in Pennsylvania you can get a divorce after 1 year. But now it has been 2 years since we asked the fire company to go; yet they *still* refuse.

We've been told that all Court decisions in our case this far have been in favor of the fire company and against the Borough, but That is Factually Not Correct... and we now have a Facilities Use Agreement in place as proof.

It has been suggested that the Judge in our case has directed the parties to reconcile, but to be clear, that is Factually Not Correct and Legally Not Correct... he has directed the parties to Settle the lawsuit.

Towards that end, more than once, This Borough has made good-faith offers of settlement. Each time the fire company simply refused, but then offered no further substantive discussion.

Notably, the Borough has been the **ONLY** party to make good-faith settlement offers.

IF the Borough *can* find a mutually agreeable settlement, we remain committed to that end. If not, we are left with no alternative but to carry out this litigation to its conclusion. That includes the action to recover any and all property of the Borough, including partition of the trucks and recovery of our radios."

Thank you.

Respectfully Submitted,
Eric S. Fillman

ADJOURNMENT

*8) Councilman Thomas made a motion to adjourn. Motion seconded by Councilman Wingert. Motion carried. Meeting adjourned at 7:45 p.m.

Secretary

- 1.Minutes July 16, 2024, Regular Business Meeting
- 2.Treasurer's Report -Month Ended July 31, 2024
- 3.Solicitor To File Lawsuit – Fire Company – Radios and Related Accessories
- 4.Use of Gym – Freedom Guard
- 5.Traffic Study – Stop Signs Wilhelm Road and Rutherford Street - Tabled
- 6.Amend Invoice – Computer Systems Upgrade
- 7.Presentation of Bills
- 8.Adjourn

