

**SHAMOKIN DAM BOROUGH COUNCIL
COUNCIL MEETING
MARCH 5, 2018**

The regular monthly meeting of the Shamokin Dam Borough Council was held on Monday, March 5, 2018 in the municipal building located at 42 West 8th Avenue, Shamokin Dam beginning at 7:00 P.M. President Musser presided.

MEMBERS PRESENT:

David Sauers, Andrew Bickhart, Robert Lockcuff, Mark Benner, Kyle Jessick, Domenico Barillaro, and Don Musser were present.

OTHERS PRESENT:

Manager Ed Hovenstine, Solicitor Robert Slivinski, Secretary LaDawn Leitzel, Mayor Joseph McGranaghan, Police Chief Bremigen, Chyvonne Jessick, Kerry Bingaman, Charles Bingaman, Frank Witt, Glenn Hooks, Chet Telatovich, Joshua Herb, Debrah Brosious, and Randy Brosious were present.

The meeting was opened with the “Pledge of Allegiance”.

PREVIOUS MEETING MINUTES:

A motion was made by Councilman Benner to approve the minutes of the February 5, 2018 as presented, seconded by Councilman Lockcuff, and approved by all.

VISITORS:

Glenn Hooks – Glenn Hooks read correspondence written to the Borough Manager dated September 12, 2017: October 1964, I moved into my current residence at 30 Chestnut Street, Shamokin Dam. When I moved in, the property had no lawn or shrubs. I employed a landscape contractor, John Rhorer of Sunbury. King Avenue extension was full of weeds and briars which I paid to have removed. I also paid for topsoil and grass seed to be planted on the right of way bordering my property. Never once has the borough maintained this property. I have mowed and maintained this extension for over fifty years. Since the construction of the Weatherfield Development, this right of way cannot be used. It is my wish to have this 50 feet wide extension bordering my property annexed to my deed. At the next Borough Council meeting, will you kindly present my desire to own this property that I have maintained since 1964? I look forward to your favorable reply.

Solicitor Slivinski responded with correspondence dated November 16, 2017: Ed Hovenstine gave me your letter of September 12, 2017, to try to answer your request. King Avenue extension was laid out by the Gunters as part of their development. It was offered to the Borough as a public street. Since it did not go anywhere the Borough did not accept the offer. It never became a public street, and Shamokin Dam has no ownership rights, nor responsibilities to it. In such cases, the general law would apply. Since it was laid out as a street, all residents in the development would have the right to use it as a street, but not the general public. Such private rights can be lost by non-use. I suspect from your letter that that might be the case, but it would be a general finding of fact. If the Borough never accepted it as a public street (and according to its records it did not), and it has been shut off to private individuals in the development for more than 21 years, then the rights to use it as a street may have terminated. In such a case the area of the street reverts to the adjoining land owners, one half to each side of the street. Per the

foregoing, you may already own half the street. I suggest you consult with your attorney about what you can do to establish all of the above on the record at the Courthouse, so that future owners of your lot would be able to prove they also own the street.

Mr. Hooks attended the December 2017 Council meeting to discuss his request and state that the Borough has ownership of the right of way.

Solicitor Slivinski researched King Avenue extension and sent correspondence to Mr. Hooks on January 22, 2018 with his findings: 1. The land that includes the King Avenue extension was acquired by William F. Gunter by Deed from Margaret Bassler Neidig in 1948. 2. Other than appearing on the subdivision maps as an extension of King Avenue, I could find no conveyance by Mr. Gunter for this specific piece of real estate. I could find no dedication to the Borough nor acceptance by it as a public street. 3. William F. Gunter died on March 17, 1974, leaving a will dated October 6, 1971, that was duly probated in Snyder County. 4. According to that will, Mr. Gunter left 50% of his adjusted gross estate to his wife, Maude S. Gunter, and the residue of his estate to his three children, Robert L. Gunter, William T. Gunter, and Frances L. Hofmeister. 5. Maude S. Gunter died on December 16, 1978, leaving a will dated November 21, 1974, duly probated in Snyder County. 6. In her will, Mrs. Gunter left the residue of her estate to William T. Gunter. 7. William T. Gunter died on August 4, 1981, leaving his will dated July 30, 1981, duly probated in Snyder County. 8. In his will, Mr. Gunter left the residue of his estate to the Borough of Shamokin Dam. 9. I find no estate proceeding for Robert L. Gunter or Frances L. Hofmeister. 10. Section 1201.1 of the PA Borough Code allows a Borough to sell real estate upon approval by resolution of the Borough Council, and if in excess of \$1,500.00, only to the highest bidder after due advertising. 11. One cannot gain ownership of land from a municipal government by adverse possession. Based upon the above, I believe that the Borough may be the owner of a two-thirds interest in the land in question, the other one-third being owned by Robert L. Gunter and Frances M. Hofmeister or their heirs. Also, based upon the above, if the Borough does indeed own a 2/3 interest in the land, that interest may be worth more than \$1,500.00, and such would require due advertising and open bidding to the highest bidder. I will discuss with the Borough council what it would like to do about the above, and get back to you.

The Solicitor reviewed this correspondence and finding at the February Council meeting. At the February Council meeting, Glenn Hooks requested that a meeting be held between the Borough Manager, Council President, and the Solicitor and himself. President Musser recommended that Mr. Hooks attend with a family member or an attorney present.

Solicitor Slivinski stated that the request was originally presented as an unaccepted street on a map, which was the response dated November 22, 2017; then Mr. Hooks presented William T. Gunter's will, which was the response dated January 22, 2018. The Solicitor questioned whether Glenn Hooks received a copy of letter from the law offices of Thomas E. Boop. Mr. Hooks responded that the letter is between him and Attorney Boop.

President Musser strongly suggested that this discussion be directed to a meeting with Mr. Hook, Attorney Boop, Solicitor Slivinski, Manager Hovenstine and himself.

Solicitor Slivinski listed the Borough's choices in this matter: 1. Do nothing, 2. Can advertise the property for sale, and 3. Have the property appraised and deal with whatever the appraisal

amount is. Councilman Sauers questioned whether the property would need appraised to have it advertised. The Solicitor answered no. Mayor McGranaghan questioned whether the property could be sold without an appraisal. The Solicitor stated that any real estate has to be advertised for bid, if a bid would be for \$1,500.00 or less then the real estate would need appraised; however if the bid would be more than \$1,500.00 then the Borough could except bids without appraisal. Mayor McGranaghan mentioned that the Borough does not have full ownership of the strip of land.

Solicitor Slivinski received correspondence from the law offices of Thomas E. Boop referencing King Avenue Extension: I write to advise that Glenn W. Hooks has been in to see me about the above referenced matter. Mr. Hooks is 95 years of age, a retired insurance agent, and a proud veteran who served with General Patton in World War II. As I believe you and Borough Council members are ware, Mr. Hooks would like, before he dies, to obtain title to a 50' X 100' strip of land next to his residence at 30 Chestnut Street; a strip of land that he has maintained since 1964 when he purchased the lot on which his home is built. As far as ownership, it appears, from the notes and documents that I have seen, that William T. Gunter gave his 2/3 interest in the same to the Borough of Shamokin Dam pursuant to his will dated June 30, 1981. Assuming that this is correct, Mr. Hooks appreciates that he cannot claim title by virtue of adverse possession to the 2/3 interest since he only exercised control over the 50'X100' strip of land for 17 years until Mr. Gunter gave his 2/3 interest to the Borough. As for Robert L. Gunter and Frances L Hofmeister, and their 1/3 interest, it appears that he should prevail on the theory of adverse possession. I have read letters that you, as solicitor, have forwarded to Mr. Hooks. If the Borough is willing to advertise and solicit sealed bids for its 2/3 interest as outlined in your letter of January 22, 2018, my client will submit a bid in an amount that should be sufficient to cover the Borough's costs.

President Musser explained that the Borough could advertise to accept bids for the 2/3 interest of real estate. The Borough would need to accept a bid that covers the cost of attorney fees for quit claim deed, advertising, and appraisal if necessary. President Musser instructed Glenn Hooks to set up a meeting involving his attorney, the Borough Solicitor, the Borough Manager, and President of Council.

Debrah Brosious – Debrah Brosious commended Council for the proposed Quality of Life Ordinance with reference to feeding and harboring of the cats.

COMMUNICATIONS:

PENNDOT, Sunbury Road Trees –The Borough received correspondence from PENNDOT that was sent to property owners (Weis Markets and Robert Grayston) on Sunbury Road requiring maintenance of trees on those properties. Manager Hovenstine contacted the property owners, who said that they would be maintaining the trees on their property.

PENNDOT, 2020 Project – The Borough received correspondence stating that PENNDOT proposes to resurface Eleventh Avenue from North Old Trail Road to Park Road, tentatively scheduled for Spring of 2020.

OTHER BUSINESS:

Vice President questioned whether residential properties on the Old Trail Road would be purchased by Panda. Councilman Sauers stated that Panda was going to acquire properties near

the power plant property; however the current land, where the power plant is located, is owned by Sunbury Generation, so that the companies are in discussion on who will purchase property and how many properties. Councilman Sauers stated that the land would be considered a greenway. Vice President stated that if the company would purchase the twenty properties then the land would be an empty baron piece of land. Manager Hovenstine is encouraging Sunbury Generation to rezone the possible vacant property to Commercial, if they would acquire any properties.

MAYORS REPORT:

Mayor McGranaghan and Manager Hovenstine attended a meeting with Matt Beck from PENNDOT regarding neighborhood meetings that will be conducted regarding the CSVT project. It was recommended to Mr. Beck to hold the neighborhood meeting in the Borough at St. Matthews Church recreation building.

Economic Development - Mayor McGranaghan requested a five year history of the business privilege tax paid and reported that an average of \$111,000.00 has been collected. The Mayor reported that Phillips Motel, some areas in Orchard Hills Shopping Center, and some areas in University Park Plaza Corp Shopping Center remain vacant; questioned whether the Borough should continue collecting the business privilege tax. Art Bowen told Mayor McGranaghan that that tax harms the Borough with respect of businesses to open in the Borough. Manager Hovenstine questioned whether Council would want to cut \$111,000.00 out of the budget. Solicitor Slivinski stated that that tax was abolished in one of the past tax overhauls, because the Borough already had this tax, then it would be grandfathered, and if any changes are made to this tax it may be abolished. Mayor McGranaghan changed his mind on changing or discontinuing the business privilege tax.

Mayor McGranaghan reported that the State House Transportation Committee has agreed to hold hearings on radar in the month of April and the State Association of Mayors will be testifying in favor of Senate bill 251, which would allow municipal police to use radar.

Council reviewed the February police report.

Police Chief Bremigen will share presentation at a later time.

Solicitor Slivinski discussed the workshop meeting that reviewed the proposed Quality of Life Ordinance. Debrah Brosious stated that there was a restriction of no pets allowed, if they lived outside of the house when they purchased property in the Borough. Councilman Sauers explained that that would possibly be a deed restriction. Mrs. Brosious questioned whether the deed restriction could be enforced. Mayor McGranaghan stated that the two neighbors would go to court and file. A Workshop will be held on Thursday, March 15, 2018 at 7:00 PM to review the proposed Quality of Life Ordinance.

MANAGERS REPORT:

Keystone Tap Article - Manager Hovenstine distributed a copy of the Keystone Tap winter edition article featuring the Borough water treatment plant. On February 22, 2018 the water plant was given a Water Distribution System Optimization Recognition.

Chapter 94 Report – The calendar year 2017 Chapter 94 Report was submitted and accepted to Gannett Fleming for ESCRA, which reviews the flows and loads of the Borough sewer system.

Verizon Project – The Verizon project will be starting soon; depending on the weather.

Liquid Fuels Confirmation – The liquid fuels tax fund payment in the amount of \$58,870.90 was received, which will be used towards the 2018 streets project.

Debrah Brosious requested an explanation on the leak detection program. Manager Hovenstine stated that the Borough is involved in a program to determine possible water system leaks. Mrs. Brosious discussed a gas leak on their property that was reported to UGI.

COUNCIL WORKSHOP:

A Workshop meeting was held on Thursday, February 15, 2018 at 7:00 PM to discuss the proposed Quality of Life Ordinance. A Workshop will be held on Thursday, March 15, 2018 at 7:00 PM to discuss proposed Quality of Life Ordinance, vehicle purchase, and police presentation.

PAYMENT OF BILLS:

General Fund bills in the amount of \$19,061.25, Water and Sewer Fund bills in the amount of \$82,048.01, and Local Service Tax Fund in the amount of \$303.19, were presented for payment. A motion was made by Councilman Sauers to approve payment of the bills as presented, seconded by Vice President Bickhart, and approved by all.

ADJOURNMENT:

The meeting was adjourned at 8:20 PM.

Respectfully submitted,

LaDawn D. Leitzel
Borough Secretary