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COUNCIL FOR THE BOROUGH OF DUNMORE

HELD:

Monday, October 14, 2019

TIME:

7:00 P.M.

LOCATION:

DUNMORE COMMUNITY CENTER
1414 Monroe Avenue
Dunmore, Pennsylvania

C O U N C I L M E M B E R S :

MICHAEL DEMPSEY, President

THOMAS HALLINAN, Vice President

MICHAEL MCHALE - absent

CAROL SCRIMALLI - absent

VINCE AMICO

THOMAS EHNOT - absent

MICHAEL HAYES

THOMAS P. CUMMINGS, Esquire, Solicitor

TIMOTHY BURKE, Mayor

MARIA McCOOL, RPR
OFFICIAL COURT REPORTER

1 (Pledge of Allegiance.)

2

3

4 ATTY. CUMMINGS: Mr. Amico.

5 MR. AMICO: Here.

6 ATTY. CUMMINGS: Mr. Dempsey.

7 MR. DEMPSEY: Here.

8 ATTY. CUMMINGS: Mr. Ehnot. Mr.

9 Hallinan.

10 MR. HALLINAN: Here.

11 ATTY. CUMMINGS: Mr. Hayes.

12 MR. HAYES: Here.

13 ATTY. CUMMINGS: Mr. McHale. Mrs.

14 Scrimalli. Mr. Burke.

15 MAYOR BURKE: Here.

16 ATTY. CUMMINGS: Public Comment on
17 agenda items.

18 MR. DEMPSEY: Anyone from the public
19 like to address any of the agenda items?

20 MS. CUFF: So I'm not sure if this
21 is proper procedure or not but I'm actually
22 questioning something that's not on the agenda
23 that I would expect to be on the agenda.

24 I'm just wondering about the
25 amendment if that should be on the agenda to be

1 signed by yourself and by the Mayor tonight?

2 MR. DEMPSEY: I don't know if that
3 is an agenda item.

4 ATTY. CUMMINGS: It's not.

5 MR. DEMPSEY: I never signed an
6 ordinance from September -- the September
7 meeting. I assume that's what you are
8 referencing.

9 MS. CUFF: I am, yes.

10 ATTY. CUMMINGS: To my knowledge,
11 it's not an agenda item.

12 MR. DEMPSEY: Okay.

13 MAYOR BURKE: Sharon, I'll be
14 bringing up -- once you step down I'll speak on
15 that if it's all right with Council.

16 MS. CUFF: Okay.

17 MR. DEMPSEY: That's fine, Mayor
18 Burke.

19 MAYOR BURKE: As of last meeting
20 anyway when the vote came to I haven't received
21 any letter -- registered letter on the vote.
22 But anyway just to -- this is just when I do
23 receive it I will veto it. On September 19th,
24 2019, the Dunmore Borough voted on the proposed
25 zoning amendment identified as Ordinance No.

1 02 of 2019.

2 MR. DEMPSEY: Tim, I don't mean to
3 interrupt you but I know I can't hear you and
4 I'm sure --

5 MAYOR BURKE: Oh, I'm sorry. On
6 September 19th, 2019, the Dunmore Borough
7 Council voted on a proposed zoning amendment
8 identified as Ordinance No. 02 of 2019, which
9 was proposed by Keystone Sanitary Landfill.

10 This proposed zoning amendment would
11 change the definition of sanitary landfill to
12 specifically state sanitary landfill shall
13 neither be considered nor subject to regulation
14 as structures for purposes of this ordinance.

15 Tonight I am invoking my authority
16 as Mayor to veto this proposed legislation. As
17 a right of Mayor according to Borough Code,
18 every ordinance enacted by Council should be
19 presented to the Mayor for the Mayor's approval
20 though I have not been formally presented with
21 a copy of this ordinance which was voted on. I
22 obtained a copy of the ordinance and I am right
23 now or upon formal presentation exercising my
24 right to veto the ordinance.

25 My objection to the ordinance is and

1 my reasons for vetoing are below. But I would
2 like the record to reflect I was never properly
3 presented with an ordinance as required by the
4 Borough Code.

5 However, the Borough Code also
6 states that my veto and objections must be
7 given to Council and entered upon the minutes
8 to Council at the next scheduled meeting
9 occurring at least 10 days after the meeting at
10 which the ordinance was enacted by Council.

11 Today's meeting October 14th, 2019
12 is the next scheduled meeting after the
13 September 19th, 2019 meeting. And, therefore,
14 I am presenting my objections tonight. The
15 reasons I am exercising my veto rights are
16 according to the following objections.

17 Number one, this matter is currently
18 being litigated and change to the zoning code
19 at this juncture in time are designed to
20 circumvent the legal process already in motion.

21 Number two, the proposed ordinance
22 was not recommended to be adopted by the
23 Lackawanna County Regional Planning Commission
24 due to unsettled law pending litigation.

25 Number three, the controlling case

1 law on the Commonwealth Court level makes it
2 clear that modern landfills like Keystone
3 Sanitary Landfill claims to be are structures.

4 This amendment is designed to
5 benefit one and only one entity at the expense
6 of the community at large. The amendment
7 removes or greatly diminishes the Borough's
8 ability to protect the citizens by enforcing
9 the Borough's zoning codes.

10 MR. DEMPSEY: Thank you. Do we take
11 any action on that, Tom, at this moment right
12 now in public comment on agenda items?

13 ATTY. CUMMINGS: No, I mean, you
14 could accept it.

15 MR. DEMPSEY: Accept his --

16 ATTY. CUMMINGS: Yeah.

17 MR. DEMPSEY: Okay.

18 ATTY. CUMMINGS: Accept the
19 statement.

20 MR. DEMPSEY: Yeah, we'll accept
21 your statement and I assume he wants to veto it
22 as well.

23 ATTY. CUMMINGS: It becomes part of
24 the record. What's that?

25 MR. DEMPSEY: Does he have the -- he

1 wants to veto the ordinance that we --

2 ATTY. CUMMINGS: I'll issue an
3 opinion on that once I review the objections
4 and the document.

5 MR. DEMPSEY: Okay. You'll issue a
6 written opinion to Borough Council?

7 ATTY. CUMMINGS: At your direction,
8 yes.

9 MR. DEMPSEY: Yes, we would like
10 one.

11 ATTY. CUMMINGS: Okay. Item number
12 four is a motion to approve the minutes.

13 MR. DEMPSEY: I'm sorry. Does
14 anybody else have any public comment on the
15 agenda items only?

16 (No response.)

17 MR. DEMPSEY: Okay. Seeing none.

18 ATTY. CUMMINGS: Item number four is
19 a motion to approve the minutes.

20 MR. DEMPSEY: I'll look for a
21 motion.

22 MR. HALLINAN: I'll make a motion to
23 approve the minutes.

24 MR. AMICO: I'll second that.

25 MR. DEMPSEY: We have a motion and a

1 second. Anyone on the question?

2 (No response.)

3 MR. DEMPSEY: All those in favor
4 signify by saying aye.

5 ALL MEMBERS: Aye.

6 MR. DEMPSEY: Opposed?

7 (No response.)

8 MR. DEMPSEY: The ayes have it and
9 so moved.

10 ATTY. CUMMINGS: Item number five is
11 a motion to approve and pay the open bills.

12 MR. DEMPSEY: I'll look for a
13 motion.

14 MR. HAYES: I'll make that motion.

15 MR. DEMPSEY: Second?

16 MR. AMICO: I'll second it.

17 MR. DEMPSEY: I have a motion and a
18 second. Anyone on the question?

19 (No response.)

20 MR. DEMPSEY: All those in favor
21 signify by saying aye.

22 ALL MEMBERS: Aye.

23 MR. DEMPSEY: Opposed?

24 (No response.)

25 MR. DEMPSEY: Ayes have it and so

1 moved.

2 ATTY. CUMMINGS: Item number six is
3 a motion to approve Dunmore Warehouse
4 Investors, LP, 100 Keystone Industrial Park
5 Road, Dunmore, PA 18512, for a commercial land
6 development.

7 Proposed addition is 100,200 square
8 feet, M-1 zone to the existing manufacturing
9 use. Preliminarily and final development plans
10 have been approved by the Lackawanna County
11 Planning Commission, the Dunmore Planning
12 Commission and the Borough Engineer.

13 MR. DEMPSEY: I will look for a
14 motion.

15 MR. HALLINAN: I'll make that
16 motion.

17 MR. DEMPSEY: Second?

18 MR. AMICO: I'll second it.

19 MR. DEMPSEY: I have a motion and
20 second. Anyone on the question? Vito, do you
21 have anything on the question about this?

22 MR. RUGGIERO: It's addition to
23 their existing building I believe, sir, if you
24 want to speak about it. It's addition to the
25 old Supermarket Services Building?

1 MR. DEMPSEY: Please identify
2 yourself and address for the record.

3 ATTY. SUHR: Good evening. My name
4 is Charlie Suhr, S-U-H-R. I'm an Attorney with
5 Stevens and Lee in Harrisburg. I represent
6 Dunmore Warehouse Investors. Yeah, this is
7 a -- addition to the existing warehouse
8 distribution building.

9 MR. DEMPSEY: Okay. Anybody have
10 any questions for the attorney?

11 (No response.)

12 MR. DEMPSEY: Seeing none, all those
13 in favor signify by saying aye.

14 ALL MEMBERS: Aye.

15 MR. DEMPSEY: Opposed?

16 (No response.)

17 MR. DEMPSEY: Ayes have it and so
18 moved.

19 ATTY. SUHR: Thank you.

20 ATTY. CUMMINGS: Item number seven
21 is a motion to adopt and cooperate with
22 Lackawanna County in preparing the 2020
23 five-year update of the Lackawanna County
24 Hazard Mitigation Plan.

25 MR. DEMPSEY: I'll look for a

1 motion.

2 MR. AMICO: I'll make that motion.

3 MR. DEMPSEY: Can I have a second?

4 MR. HAZE: I'll second that.

5 MR. DEMPSEY: I have a motion and a
6 second. Anyone on the question? Vito, do you
7 want --

8 MR. RUGGIERO: On the question, this
9 plan by Lackawanna County is prepared every
10 five years. And each municipality cooperates
11 and adopts that plan on behalf of the county.
12 We did it in 2014.

13 MR. DEMPSEY: All right. Anyone
14 else on the question?

15 (No response.)

16 MR. DEMPSEY: All those in favor
17 signify by saying aye.

18 ALL MEMBERS: Aye.

19 MR. DEMPSEY: Opposed?

20 (No response.)

21 MR. DEMPSEY: Ayes have it and so
22 moved. Personnel matters.

23 ATTY. CUMMINGS: Number eight
24 personnel matter.

25 MR. RUGGIERO: The personnel matter

1 is to hire firefighter David Price who is the
2 next individual on the civil service list that
3 will exhaust that list. Contractually we're
4 obligated on a 30-day window once a firefighter
5 retires or goes on disability to replace that
6 individual. I'm sure Councilman Amico will
7 want to speak on it as well.

8 MR. DEMPSEY: Yep. I'll look for a
9 motion.

10 MR. AMICO: I'll make that motion.

11 MR. HAYES: I'll second it.

12 MR. DEMPSEY: I have a motion and a
13 second. On the question? Mr. Amico?

14 MR. AMICO: On the question,
15 Mr. Price has been a part timer for a number of
16 years in the borough. And he's number one on
17 our civil service list as of now which is
18 exhausted. So tonights the night we have to
19 replaced firefighter that retired and we're
20 doing that tonight with Mr. Price. Thank you.

21 MR. DEMPSEY: Thank you. Anyone
22 else on the question?

23 (No response.)

24 MR. DEMPSEY: All those in favor
25 signify by saying aye.

1 ALL MEMBERS: Aye.

2 MR. DEMPSEY: Opposed?

3 (No response.)

4 MR. DEMPSEY: Ayes have it and so
5 moved.

6 ATTY. CUMMINGS: Item number nine is
7 public comment on nonagenda items.

8 MR. DEMPSEY: Mr. Duncan.

9 MR. DUNCAN: 117 Barton Street,
10 Dunmore, Pennsylvania. Just a couple things.
11 I know the folks that are here everybody got
12 the minutes, the copy of everything from last
13 month's Neighborhood Watch Meeting. We will be
14 having our monthly neighborhood watch meeting a
15 week tonight, 7:00. Certainly everybody that's
16 here is always welcome.

17 Also next week, October is Fire
18 Safety Month. For the last six years that
19 we've had the neighborhood watch, the Dunmore
20 Fire Department have -- actually we can't thank
21 them enough. They come out every year. They
22 do an outstanding job with their presentation
23 on fire safety for the month.

24 And thankfully year in and year out
25 they come down and they provide smoke detectors

1 for the residents of the Borough. This
2 particular year -- and I spoke with Chief
3 DeNaples who is here tonight if he wants to add
4 to it certainly; but the smoke detectors that
5 we have will be installed by the members of the
6 fire department.

7 So those that need simply if you can
8 get us the addresses and then the members of
9 the fire department could get out and install
10 those for the members of the community. I
11 think that's a wonderful asset. So thank you
12 very much, Chief, and tell the members of your
13 department we appreciate that.

14 MR. DEMPSEY: Thank you very much,
15 Council. Anyone else? Yes, sir.

16 MR. FAATZ: Good evening. My name
17 is Ed Faatz. I'm Vice President of Friends of
18 the Forgotten, Incorporated, Northeast wing.
19 I'm also present of Valhalla Veterans Services
20 and a member of several other organizations
21 throughout the area.

22 I'd like to point out that we have
23 some members -- some veteran members from all
24 over this area, Archbald, Clarks Summit,
25 Scranton, etc. I would like to talk to you

1 tonight about the Dunmore Tank Memorial.

2 Friends of the Forgotten sent a
3 letter to the Mayor asking to address Council
4 for permission to clean and repaint the tank
5 and to create a memorial with the names of all
6 of those that gave the supreme sacrifice from
7 Lackawanna County during the Korean conflict.

8 A statute atop the memorial and nine
9 flagpoles for all branches of the armed forces
10 as well as the American flag, the state flag
11 and POW and MIA flags. In November of 2013, at
12 that time Council offered to help defray some
13 of the expense of the project by supplying the
14 equipment and manpower for excavations as well
15 as concrete for the foundations and Council
16 gave its approval.

17 With this approval we contacted
18 Marywood College for assistance from the Art
19 Department to design a memorial to honor the
20 Korean War veterans in May of 2014.

21 (Inaudible) provided us with a design that we
22 approved and he went through the work involved
23 to get the sculpture cast.

24 We also contacted the Parise
25 Monument to create the base for the memorial.

1 We completed the cleaning and painting of the
2 tank in August of 2014. We received a grant
3 from Lackawanna County for partial cost of the
4 Lackawanna County Korean memorial in March of
5 2015.

6 And along with donations from many
7 veterans, families and others, we were able to
8 complete and dedicate the memorial on May 30th
9 of 2015. Friends of the Forgotten purchased
10 nine flagpoles and flags in September of 2015.
11 Please remember that was four years ago.

12 Since that time, the Dunmore Rotary
13 has erected a beautiful World War I memorial.
14 The Borough has moved the war memorial from in
15 front of the Borough Building to in front of
16 the tank and the Boy Scouts have done a
17 wonderful job cleaning in front of the tank.

18 It's heartwarming to see that the
19 community has shown an interest in the
20 memorializing our veterans. Now, we have been
21 in contact with the Borough numerous times
22 every month in the past four years. We have
23 received one excuse after another for not
24 putting the flagpoles in.

25 We have even changed the proposed

1 location of these poles twice. Earlier this
2 year the Borough did remove the pavement where
3 these nine flagpoles are to go. But it is
4 stopped there. Can we please get another
5 commitment from Council to get the job done as
6 soon as possible without another four year
7 delay?

8 MR. DEMPSEY: Sure. Well, what we
9 had going on, I know we had -- did we send
10 those plans to the water company?

11 MR. RUGGIERO: That's what we're
12 waiting on. They didn't finalize their plans
13 yet. They are putting a pump station in on
14 Cherry Street on the back side of that tank.
15 They're going to run new lines down Cherry
16 Street.

17 They don't know where those lines
18 are going. They might impede on this side of
19 the tank. So until that plan is finalized, we
20 don't know where we're going to -- I spoke to
21 our code officer the other day after I got off
22 the phone with you. And he said they still
23 haven't come with the plans yet because it
24 might impede -- they're putting in, I believe,
25 a 24 or 36 inch waterline.

1 they're going to go on the back side of that
2 tank coming off the Meade Street side, Blakely
3 Street because they're going to tie all those
4 lines together and put in into the pump station
5 that's there. As soon as they make the plans
6 we'll accommodate you in any way we can.

7 MR. DEMPSEY: No one is against
8 doing it. We just don't want to dig and put
9 the poles in and find out that they have to be
10 moved. So we can't guess as to where they are
11 going to do the digging.

12 MR. FAATZ: They were going along
13 side of the tank.

14 MR. DEMPSEY: They don't even know
15 where they're going yet. And we don't know
16 where they're going yet. But they have our
17 plans.

18 MR. FAATZ: Do you think that they
19 would move the tank in order to dig?

20 MR. DEMPSEY: I don't know. I would
21 hope not. But they may go along the back side
22 of the tank.

23 MR. FAATZ: We've been waiting four
24 years. Put the flagpoles in. If the water
25 company decides that's where they're going to

1 do it, let them do it. And then they have to
2 put the flagpoles back up.

3 MR. DEMPSEY: We'll discuss that.
4 That's fine.

5 MR. RUGGIERO: Sure. Sure.

6 MR. FAATZ: I mean, let's do it and
7 get it done. We put bought nine flagpoles for
8 thousands of dollars and they've been in
9 storage for four years.

10 MR. RUGGIERO: Sir, do you have the
11 concrete and everything secured already so then
12 we could just set the flags and put the
13 concrete in?

14 MR. FAATZ: The Borough said that
15 they would do the manpower and take care of the
16 concrete, not us. That was back in 2013.

17 MR. DEMPSEY: Was it at a meeting?

18 MR. FAATZ: That's why I'm so upset
19 about this.

20 MR. DEMPSEY: None of us were here
21 in 2013 so that's --

22 MR. FAATZ: Obviously.

23 MR. DEMPSEY: Was it at a public
24 meeting?

25 MR. FAATZ: Council is Council no

1 matter who's on it.

2 MR. DEMPSEY: Understand. But was
3 it at --

4 MR. FAATZ: I just want the job
5 done.

6 MR. DEMPSEY: Was it at a public
7 meeting; do you remember? Do you recall?

8 MR. FAATZ: A public meeting?

9 MR. DEMPSEY: Yeah. No one is
10 against doing --

11 MR. FAATZ: Let's get it done.

12 MR. DEMPSEY: Fair enough.

13 MR. HALLINAN: Fair enough.

14 MR. FAATZ: Thank you very much.

15 MR. DEMPSEY: Thank you. Yes, sir.

16 MR. HOULIHAN: My name is Mike
17 Houlihan. I live on 107 Mortimer Street,
18 Dunmore. It's a one-way off of Chestnut
19 going -- most people know the old La Cucina's.
20 I've been living there since 2001. My wife and
21 I bought the house.

22 Franny Kranick lives across from me.
23 The neighbor next to me 111 was a man named
24 John Denoia and his wife Millie and his brother
25 Mike lived upstairs. So the house is always

1 considered family, single dwelling as of last
2 night still listed.

3 New owners have since taken over
4 this twice now as far as I'm -- I know a guy
5 named Joseph Foley was the past one. Now it's
6 under Chestnut Residential Group, which I don't
7 know how to get in touch with anybody from
8 there.

9 But I spoke to Joe Lorince twice now
10 about the parking arrangements in front of this
11 apartment. When John Emili{sic} owned it there
12 was a patch of grass and two entrances into the
13 house, the downstairs and the upstairs. Since
14 then the owner both now and past have created
15 two parking spots in the front.

16 And I do have photos. Again, this
17 might be more zoning but for safety reasons I
18 talked to Didge and Didge seen this firsthand.
19 And I do have some photos of the property if
20 you don't mind looking -- and also, this is
21 the deed, single dwelling.

22 But I don't know how legally we're
23 renting a single dwelling -- this is the front
24 of the house, sorry. That's someone who keeps
25 parking on my property. That's another reason

1 I'm here with signs up.

2 I don't know how we're legally
3 renting a double house in a single dwelling
4 apartment. And Joe Lorince argued with me a
5 little bit about it. But I know old man Denoia
6 owned the house, his son Michael. And John
7 took the house over.

8 And Mike used to actually park in my
9 property because the Occultos were related.
10 But I have been there long enough to search the
11 history. I know the family because I used to
12 cut that little patch of grass in front of
13 their house and shovel for Mr. Denoia because
14 he was an elderly guy. Being the new neighbor
15 I tried to help him out.

16 So I don't know how Joe Lorince -- I
17 talked to him about zoning and asked him to
18 give me the definition of a parking spot. And
19 this is 2000s which is the one I got. I know
20 we're working on a new zoning from what I
21 understand.

22 But this clearly states in here
23 under 5-39 5.711: No off street parking shall
24 be located in the front yard of any residential
25 lot. It's clear. So -- and for safety reasons

1 of Didge, you see those photos. There's no way
2 a fire truck, an ambulance or someone is going
3 up that alley.

4 I have called the Dunmore Police.
5 They have come up once in a while and adjust
6 the parking. But it's continuous. There's no
7 way to get around this and stop it because the
8 owners can't police it. They're not there
9 every day.

10 And I could call the Dunmore Police
11 a hundred times. And I know there's a three
12 nuisance law. I have been there with the old
13 tenant. I had him thrown out. I had him at
14 Judge Ware's for a hearing. This is an ongoing
15 thing that I don't know how to control. So I'm
16 going to start here with Council.

17 And I have -- if I have to bring it
18 upon zoning in front of everyone and not just
19 Joe Lorince on the phone, I'd like a little
20 help through what should happen here. I mean,
21 if last night at I think 5:40 I printed that
22 single dwelling. And he's telling me it's not.

23 Any one of us in here could search a
24 deed. It's very easy. So if you guys have an
25 opinion for me I sure would like to take it

1 from here and move on. To me, just on the
2 public borough part it's a big safety issue.

3 MR. DEMPSEY: Is Chief Marchese
4 here?

5 MR. RUGGIERO: He's not.

6 MR. HOULIHAN: I have had Dave
7 Aronica up there personally. He lives adjacent
8 behind me. And he's seen it firsthand. I've
9 had people call me coming up my street and say
10 who is this person because you can't get by
11 them. It's like --

12 MR. HAYES: Mike, I'm sorry. That's
13 the vehicle there.

14 MR. HOULIHAN: That was when the new
15 tenants just moved in. They keep parking
16 there. And this is the original patch of
17 grass. And this is the entrance to the two
18 houses right here. I don't know if it's a fire
19 safety of getting in and out of the house.

20 And they're not legal parking spots.
21 I believe in Dunmore it's two spots per
22 apartment. Some say 1.5 parking spots per
23 vehicle. It's tough to define in this book. I
24 have to break it down. But I don't know if you
25 guys could speak to zoning?

1 MR. DEMPSEY: What I need to do
2 because I'm obviously, you know, this is the
3 first time I'm hearing about it or any of us is
4 to meet with Joe.

5 MR. HOULIHAN: Right. Well, it got
6 to the point where I had to come here. I was
7 hoping Joe Lorince could take care of it but
8 it's not being taken care of.

9 MR. DEMPSEY: What we need to do is,
10 you know, meet with Joe, see exactly what's
11 going on and sort of get a game plan because it
12 isn't -- it's not safe.

13 MR. HOULIHAN: You could see clearly
14 in the photos. And I probably could take a
15 hundred more. That's just -- I have video
16 cameras on my house. So it alerts me every
17 time someone either pulls in my driveway and
18 they're sitting there looking at me. I'm like
19 it's posted private. Please move your vehicle.

20 They look at me like I'm an idiot.
21 I didn't pave part of my driveway for other
22 people to park there. It's just -- none of us
23 would do that. And I would not pull in your
24 apartment, Vince, and park in your driveway
25 going to your neighbor's house.

1 And that's what's constantly
2 happening. Because there is no off-street
3 parking. And I don't know if the landlords
4 aren't telling the tenants, you know, there's
5 very little parking here you got to make sure
6 your people come and visit park Chestnut or
7 Apple Street.

8 MR. DEMPSEY: Right.

9 MR. HOULIHAN: Never mind family,
10 you know, and right now the people that live
11 upstairs it's two parents and five children.
12 And downstairs is two parents and one children.
13 So you could imagine the traffic in Dunmore
14 going up a one-way street constantly pulling in
15 my property or constantly double parking in
16 that alley or parking in some of the photos
17 that you guys are seeing.

18 MR. HAYES: Can we get signs that
19 say no parking this side of the street since
20 they're both --

21 MR. DEMPSEY: Yeah, do you have
22 them?

23 MR. JUDGE: There are signs, right,
24 on the fence?

25 MR. HOULIHAN: There's parking -- I

1 put that on my fence, my personal fence.

2 MR. JUDGE: You want them on poles?

3 MR. HOULIHAN: If you're going to do
4 that, that means that they can't park in front
5 of the house. And I'm great with that because
6 that helps you as the Borough --

7 MR. JUDGE: Mike, I'm there once a
8 week just to get our trucks. So if our trucks
9 can't get -- I know a fire truck can't -- you
10 know what I mean? He does have a problem.

11 MR. DEMPSEY: I understand. I just
12 want to make sure we go about it the right way.

13 MR. HOULIHAN: Absolutely. That's
14 why I'm here.

15 MR. DEMPSEY: So what we'd like to
16 do is let me meet with Joe Lorince and some of
17 us meet with Joe, see what the issue is, see
18 how we can rectify it. If you can leave us
19 your name and phone number here tonight before
20 you leave.

21 MR. HOULIHAN: Absolutely. I'll
22 leave you the photos. Pass them onto Joe.
23 That's just a few.

24 MR. HAYES: I can get them back to
25 you.

1 MR. HOULIHAN: Thanks.

2 MR. DEMPSEY: We'll follow up with
3 you when we have more information and what
4 we're able to do, okay?

5 MR. HOULIHAN: Absolutely. Thank
6 you.

7 MR. DEMPSEY: You're welcome. Who
8 else?

9 MS. ZANGARDI: Beth McDonald
10 Zangardi. I came here tonight to clarify a few
11 questions I have about the sewer problem with
12 Scranton and now Dunmore. And my one request
13 is out of the 50 lawyers that were hired to do
14 this, does anybody know how many represented
15 Dunmore?

16 MR. DEMPSEY: Yes.

17 MS. ZANGARDI: How many?

18 MR. DEMPSEY: Mr. Cummings, one.

19 MS. ZANGARDI: One, one lawyer
20 represented Dunmore. So Dunmore is only going
21 to get 20 percent out of the substantial amount
22 of money if we have any left over with the
23 easements, correct?

24 MR. DEMPSEY: We already received 20
25 percent. Are you talking about the money that

1 was set aside?

2 MS. ZANGARDI: The leftover money.

3 MR. DEMPSEY: Yes.

4 MS. ZANGARDI: The 17 percent coming
5 back. We get 20 percent of that, correct?

6 MR. DEMPSEY: Correct.

7 MS. ZANGARDI: Do we know -- now I
8 know with the escrow and it's all in
9 litigation. However, with the escrow money and
10 the easements, it's up to over 600 easements.
11 Is there -- well, here's my real question. Let
12 me just cut to the chase.

13 Mrs. Dempsey of Scranton Council
14 requested a meeting with Shrive and a couple
15 other lawyers. I'm asking our Council if they
16 would do the same to look into lines, how long
17 it's going to take, you know, the progress
18 line, if it's going to be a year, how long do
19 we have to wait for this money.

20 And my real concern is that money is
21 a lot of money to move forward with our
22 community. It could pay for roads, stop signs,
23 you know, upkeep on Borough buildings and
24 properties. So I really am requesting that
25 Council move forward and also meet with

1 Scranton Council like Mrs. Dempsey requested
2 with Shrive -- Attorney Shrive to get something
3 concrete for us so we have answers and we don't
4 lose this money.

5 MR. DEMPSEY: I'm on the Sewer
6 Authority. It has been requested. I've had
7 numerous conversations with Jason as well as
8 Attorney Cummings has. That is forthcoming.
9 And we have a meeting with the Sewer Authority
10 this -- well, I have a Sewer Authority meeting
11 Thursday. And I will make that request again.

12 And Jason has told me that there is
13 no problem if Borough Council representatives
14 attend the meeting as well. So we will have
15 updated numbers.

16 MS. ZANGARDI: If Borough Council
17 members meet in that meeting as well? Is that
18 what you said?

19 MR. DEMPSEY: Sure.

20 MS. ZANGARDI: Secondly, what are --
21 what is the -- how much in danger are we of
22 losing all of this money or any of it?

23 MR. DEMPSEY: I don't want to
24 speculate. But the attorneys are very well
25 aware of that issue and are working to --

1 actively working to resolve it. I don't want
2 to give just because it's in litigation, I
3 don't want to say anything that I'm not
4 supposed to. But they're well aware of the
5 issue. And it's being actively worked on.
6 It's not going to --

7 MS. ZANGARDI: Is there a specific
8 deadline when we lose this money? Is there a
9 specific date when this money gets lost?

10 MR. DEMPSEY: I haven't seen the
11 actual addendum agreement. Tom, do you want to
12 address that because I think it's December
13 31st.

14 ATTY. CUMMINGS: There were two
15 dates. One was if we did nothing then in two
16 years it terminated. And the -- my
17 recollection is that Pennsylvania American
18 Water would then have the right to stand in the
19 stead of the Sewer Authority and utilize the
20 money to acquire the easements.

21 A class action was approved, a class
22 declared and that extended that date. Offhand
23 right now I can't tell you what that extension
24 date was or is. But I did call Jason Shrive
25 today again. The Sewer Authority office was

1 closed.

2 So I got nothing there. He is going
3 to provide an update to Mr. Dempsey and I this
4 week. There is a lot of things that cannot be
5 discussed at a public meeting because it would
6 jeopardize our good position. At the end of
7 the day though I think -- I would suggest that
8 we prepare a spreadsheet so that everyone would
9 understand the risk and benefits that went
10 through the process that it was good judgment
11 and we are in safe position.

12 MS. ZANGARDI: Safe position as in
13 not losing the money safe position?

14 ATTY. CUMMINGS: Correct and
15 minimizing the exposure while at the same time
16 making sure that those who had lost property
17 and were never compensated received their just
18 compensation with the balance coming back to
19 the City of Scranton and the Borough of Dunmore
20 and their proportionate shares of 80/20.

21 MS. ZANGARDI: Okay. Just two other
22 things. One is for the current Sewer Authority
23 office staff, who's paying them for their
24 services? Is it Pennsylvania American Water or
25 is the Borough and the City of Scranton? Does

1 anybody know? Because they don't work for us
2 anymore. It's dissolved according to -- and
3 I'm going by reading the newspaper articles.

4 According to the newspaper, the
5 Scranton Sewer Authority is now dissolved. So
6 do we have any idea where the salaries are
7 coming from? It really shouldn't be coming
8 from the backs of the taxpayers of Dunmore or
9 Scranton.

10 ATTY. CUMMINGS: I can't speak
11 for -- with certitude but my recollection was
12 that there was a fund set up to continue the
13 operation of the Sewer Authority until all
14 matters were concluded. The two matters that I
15 know about are the easement litigation.

16 And there is also an escrow account.
17 I don't know because I haven't been there. I
18 don't know if it's cleared or if it's still
19 pending. There was an interest-bearing escrow
20 account set up for a quote, trueing up was the
21 phrase that they had used that at closing
22 certain representations were made regarding
23 amounts due, amounts payable, different
24 obligations and all of that was calculated into
25 the final closing amount. And then there was a

1 set-aside to protect both sides as a cap that
2 if, in fact, you know if eight months out it
3 turned out that this was not a receivable, this
4 was not a payable that a project was not at the
5 status it was represented that anybody that
6 should draw on it would be made whole out of
7 that escrow.

8 I have not seen a draw on that
9 escrow. And my recollection is that it would
10 require both the Sewer Authority and
11 Pennsylvania American Water to agree to
12 distribute funds out of that escrow account.
13 It was nowhere near the amount that was set
14 aside for the easements. But it was -- the
15 accountants that worked for I think Ingersoll,
16 is it?

17 MR. DEMPSEY: Buchanan.

18 ATTY. CUMMINGS: Yeah, Buchanan
19 Ingersoll, they had set it up where it was an
20 appropriate amount to protect both sides to
21 allow the closing to go through on 12/31 of
22 that year. Also, today I asked Jason Shrive
23 for a copy and status of that.

24 And I haven't been involved in two
25 years. But when Mr. Dempsey called me, you

1 know, he and I had talked about three months
2 ago that especially the trueing up one we
3 should be at the closing date of that. And if
4 it hadn't occurred it should occur shortly.

5 And then the easement we just have
6 to be careful. You don't want to make a
7 mistake where you lose another a million
8 dollars or you shortchange a property owner who
9 has been harmed. And, you know, the easement
10 is not where the sewer line comes into your
11 property.

12 But in -- like July and August of
13 the closing year, the ones I was familiar with
14 were in Dunmore where just the Sewer Authority
15 took over the lines in 1968. But there were
16 lines that went all the way back to the turn of
17 the century.

18 So at the time they didn't have the
19 sophistication of the different pumping
20 stations or grinder pumps. And basically to
21 get rid of outhouses and cesspools and septic
22 tanks that were probably at that time because
23 of small lot size, they just put lines wherever
24 they reasonably could.

25 So there's a lot of people -- I know

1 everybody would be made whole. We did offer
2 prior to closing to split it up, like, we would
3 take the responsibility for the Dunmore
4 easements. And Scranton would take
5 responsibility for the Scranton easements.

6 But since we only had one of five
7 votes that never really went anywhere. So it's
8 still being handled by the Sewer Authority.
9 And it is coming to either an agreed closure or
10 more court action and -- go ahead.

11 MS. ZANGARDI: The Dunmore one is
12 coming to -- our Dunmore easements are coming
13 to a closure. Is that what you mean?

14 ATTY. CUMMINGS: No, the whole
15 matter should be wrapped up if the class
16 settles out. But I'm not involved in that. So
17 I don't want to speak to it.

18 MS. ZANGARDI: Right. Right. So
19 you did mention the fund from the PA American
20 Water, the sale is what's paying the salaries;
21 am I correct on the --

22 ATTY. CUMMINGS: No, I think there
23 was a reserve fund maintained by the Sewer
24 Authority to continue operation in the Sewer
25 Authority.

1 MS. ZANGARDI: Correct. Did that
2 money come from the sale or is that money still
3 coming from the taxpayers; do we know?

4 ATTY. CUMMINGS: My recollection is
5 it was a bank out of the sale that was not
6 distributed to municipalities. But I'm not
7 sure. That's my recollection. But these are
8 things that within the next week we can check.

9 MS. ZANGARDI: Okay. So can I come
10 back the next meeting and ask?

11 ATTY. CUMMINGS: Oh, sure.

12 MS. ZANGARDI: Great.

13 ATTY. CUMMINGS: Well, at the
14 discretion of Council. I didn't mean to
15 misspeak, yeah.

16 MR. DEMPSEY: Absolutely, yeah.

17 MS. ZANGARDI: Okay. All right.
18 Thank you.

19 MR. DEMPSEY: You're welcome.

20 MR. CLARK: Pat Clark, Jefferson
21 Avenue in Dunmore. My first question is
22 regarding going back to Miss Cuff's question
23 about the ordinance. What is the Borough's
24 standard process for presenting ordinances for
25 signature to properly enter an ordinance? What

1 is our standard process?

2 MR. DEMPSEY: Tom, standard process
3 for --

4 ATTY. CUMMINGS: Historically and
5 preceding me and currently it would be
6 presented for signature after the meeting. And
7 then within 30 days signed and put into the
8 Borough ordinance book which makes it valid.

9 MR. CLARK: So we're at 25 days or
10 so now from the last one. Was it planned to
11 present it within the next five days I assume?
12 These are all (inaudible) was it planned within
13 the next five days to --

14 MR. RUGGIERO: Do you know what the
15 problem is, we can't hear with that going.

16 ATTY. CUMMINGS: Chris, can you turn
17 that off?

18 MR. DEMPSEY: Yeah, I believe --
19 I've asked Vito and I think Vito had posed the
20 question to Tom as to whether or not this
21 ordinance needed to be sent to Mayor Burke
22 for -- based on the Borough Code. I don't know
23 what the answer to that is.

24 ATTY. CUMMINGS: And I already said
25 I would give you a written opinion on the veto

1 and everything that was presented this evening.

2 MR. DEMPSEY: Okay.

3 MR. CLARK: I'm going before the
4 veto. The standard proces has to be that an
5 ordinance has to be presented to both Council
6 and the Mayor, correct?

7 ATTY. CUMMINGS: I don't know that.

8 MR. AMICO: On a normal ordinance is
9 what he's saying.

10 MR. CLARK: On any ordinance.

11 MR. AMICO: What's the procedure on
12 a normal ordinance if we're going to enact an
13 ordinance tonight Pat's asking essentially
14 what's our procedure? What's the process?

15 ATTY. CUMMINGS: Historically it's
16 just been voted on and then at the Borough
17 Building the President of Council, the Borough
18 Secretary and the Mayor stop in and sign it. I
19 don't know that there is a formal procedure.

20 MR. CLARK: It's all in the Borough
21 Code very clearly that it has to be presented
22 to the Mayor either by hand delivery or in
23 person, via mail to his last known address for
24 every ordinance in the Borough. So we don't do
25 that. We haven't done that.

1 ATTY. CUMMINGS: Have I done that?

2 MR. CLARK: What's the Borough's
3 process legally? What do we do?

4 ATTY. CUMMINGS: Well, I just said
5 historically it's been -- it's voted on at the
6 meeting. Everybody has a copy at the meeting.
7 And then during the course over a 30-day period
8 those who are obliged to sign it sign it.

9 MR. CLARK: Okay. So in the next
10 four days or so we should get the ordinance
11 that was voted on presented to both Council and
12 then the Mayor for their signature.

13 ATTY. CUMMINGS: I haven't written
14 an opinion on whether or not the Mayor's
15 signature is required or if the veto is
16 enforceable.

17 MR. CLARK: So the veto is separate
18 from presentation of ordinances. Every
19 ordinance has to be presented to the Council
20 and Mayor. Is that -- is that --

21 ATTY. CUMMINGS: I don't know. I'll
22 research that also.

23 MR. CLARK: What do we do with other
24 ordinances?

25 ATTY. CUMMINGS: I think I told you.

1 MR. CLARK: So we don't present
2 them.

3 ATTY. CUMMINGS: I'm sorry?

4 MR. CLARK: We have not presented
5 them historically?

6 ATTY. CUMMINGS: Not to my
7 knowledge, no.

8 MR. CLARK: Okay. So you mentioned
9 you're going to research an opinion. What
10 exactly do you think we're going to be
11 researching --

12 ATTY. CUMMINGS: I'm sorry. I can't
13 hear you.

14 MR. CLARK: What exactly would we be
15 researching for the opinion?

16 ATTY. CUMMINGS: Whether the -- what
17 the format of the presentation should be or
18 should have been and whether or not the Mayor
19 should have been presented with a certified
20 mail copy as opposed to hand at the last
21 meeting and whether or not the veto is
22 effective.

23 MR. CLARK: So theoretically handing
24 Mayor Burke one at the last meeting would have
25 sufficed for presentation? Is that --

1 ATTY. CUMMINGS: Historically that's
2 how it's always been done. I don't know if
3 that meets the letter of the Borough Code.
4 I'll research that if Mr. Dempsey directs me
5 to.

6 MR. CLARK: Can we also
7 theoretically consider from the Borough point
8 of view researching whether or not an
9 insufficient delivery of a proposed ordinance
10 impacts or delays or inhibits in any way a
11 Mayor's right to veto an ordinance?

12 ATTY. CUMMINGS: If Council directs
13 me to.

14 MR. DEMPSEY: Yes, I would direct
15 you to do that.

16 MR. CLARK: Solicitor Cummings,
17 have you done any research on this matter at
18 all so far?

19 ATTY. CUMMINGS: I'm sorry?

20 MR. CLARK: Have you done any
21 research on this matter at all so far in terms
22 of a possible veto of an ordinance like we
23 have?

24 ATTY. CUMMINGS: I'm not going to
25 answer that.

1 MR. CLARK: Okay.

2 UNIDENTIFIED WOMAN: Why?

3 MR. CLARK: So does Council have to
4 take -- I guess it's a Council question. Does
5 Council have the ability to not go along with a
6 solicitor's recommendation how to handle
7 something like a veto?

8 MR. DEMPSEY: I would say if we ask
9 for the legal -- a legal opinion from our
10 solicitor, the solicitor provides the legal
11 opinion -- are you asking once we get that
12 legal opinion whether we can --

13 MR. CLARK: Do you have to follow
14 it?

15 MR. DEMPSEY: I don't think you have
16 to do it. I don't think you have to follow it.
17 I think as a lawyer myself -- I'm not sitting
18 up here as a lawyer.

19 MR. CLARK: Right.

20 MR. DEMPSEY: In my personal opinion
21 I would think that if you went against a
22 solicitor's advice and opinion I think that
23 could potentially open you up personally for
24 some sort the litigation against ourselves.

25 I don't know that to be true or a

1 fact. But that would concern me. But I don't
2 know the answer to your question but that's --

3 MR. CLARK: Okay. So let's say
4 hypothetically Solicitor Cummings says that,
5 you know, a Mayor can't veto something in a
6 zoning ordinance because the Municipal Planning
7 Codes tends to trump the State Borough Code.

8 Hypothetically speaking, would the
9 Council be willing to accept a pro bono legal
10 analysis of that point under consideration?

11 MR. DEMPSEY: Of course.

12 MR. CLARK: Okay, good. There is
13 also a point in the Borough Code that --

14 MR. DEMPSEY: As long as --

15 MR. CLARK: Just under consideration
16 just adopting it.

17 MR. DEMPSEY: Under consider --
18 absolutely.

19 MR. CLARK: My big concern is we're
20 going to do an opinion here if the 30-day
21 window is four days from now, are we're going
22 to have an opinion and enough time to act
23 within that because --

24 MR. DEMPSEY: If that's the deadline
25 I would ask to Attorney Cummings to have that

1 opinion to us within that four days.

2 ATTY. CUMMINGS: Sure.

3 MR. CLARK: One last thing I think
4 it's probably worth researching, I believe in
5 the Borough Code as well the Mayor if there is
6 any kind of conflict on things like vetos
7 there's a specific code that allows him to
8 retain counsel with a defined amount of money I
9 think.

10 I think that would be helpful if
11 Council would -- because a veto is obviously --
12 if a Mayor enacts a veto, it's by definition a
13 conflict with Council because they had already
14 voted to do something.

15 I think the Borough would be well
16 served if they knew the answer to that question
17 as well in terms of the research.

18 MR. DEMPSEY: Thank you.

19 MR. CLARK: That's it. Thank you.

20 MR. DEMPSEY: Thank you. Anyone
21 else like to address Council?

22 MR. FAATZ: Good evening again. I
23 live up on East Elm Street. There's a building
24 on the corner of the East Elm and Chestnut. It
25 surrounds the Chestnut Bar or tavern rather.

1 About six months ago construction was being
2 done inside. We had no idea obviously what was
3 going on.

4 We have found out recently that the
5 apartments in there were basically cut in half
6 so that there are almost double the apartments.
7 There is a lot of Section Eight which I have no
8 problem with. But in the last six months we
9 have had police and ambulance responses there
10 numerous times.

11 Just last week there was a case
12 where people were up on the roof of the
13 building because they were using bath salts and
14 were whacked out of their mind. I don't
15 understand all the laws. But I do feel that if
16 any major construction is done on a building it
17 is no longer done under the grandfather clauses
18 of construction. Things have to be brought up
19 to date.

20 There are no fire extinguishers at
21 the building. Can you please have zoning look
22 into it and find out what's going on?

23 MR. DEMPSEY: Yeah. What was that
24 specific address, sir -- okay. Anyone else
25 like to address?

1 MS. DEMPSEY: Michelle Dempsey,
2 property owner in Dunmore. Mr. Cummings, I'd
3 just like to ask a question. When we were
4 sitting here Mr. Clark asked you if you had
5 researched the veto. Why can't you say if you
6 researched the veto?

7 ATTY. CUMMINGS: Because it's still
8 in process. I don't answer the question until
9 it's done and am directed to do so by Council.

10 MS. DEMPSEY: Can you just clarify
11 that? I'm not sure why you can't tell the
12 people essentially --

13 ATTY. CUMMINGS: Because it's still
14 in process. And I don't do it until I'm
15 completed and directed to do so by Council.

16 MS. DEMPSEY: Sir, what does that
17 mean it's still in process? Like, so you can't
18 say right now if you researched the veto
19 question at all?

20 ATTY. CUMMINGS: No, not until it's
21 completed and I submit it and I'm directed to
22 do so by Council.

23 MS. DEMPSEY: Does anybody
24 understand that? I don't. I find that kind of
25 cloudy. So for the record I'm not getting any

1 further clarification on that.

2 ATTY. CUMMINGS: Not from me.

3 MS. DEMPSEY: Okay. Thank you.

4 MR. DEMPSEY: Yes, sir.

5 MR. KRANICK: Francis Kranick, 227
6 Chestnut Street. In light of the conversation
7 that just took place, is it my understanding
8 that Council can overrule Pennsylvania Planning
9 Code should the solicitor advise them to do so?

10 MR. DEMPSEY: Hypothetically?

11 MR. KRANICK: However you want.

12 MR. DEMPSEY: I'm not sure what
13 you're asking.

14 MR. KRANICK: If Mr. Cummings comes
15 back with an opinion for you and you decide to
16 override the veto, accept the veto or not
17 accept the veto which would cause me pause for
18 a second, if you decide on his recommendation
19 to override the veto or not accept the veto
20 and not proceed on the veto per the
21 Pennsylvania Code, would that fly in the face
22 of the Pennsylvania Code?

23 MR. DEMPSEY: I don't know the
24 answer to that. I'm going to have to wait and
25 see what his legal research says. But there's

1 a Municipal Planning Code and then there's a
2 Borough Code. Is that what you're referring
3 to?

4 MR. KRANICK: The Borough Code
5 states that the Mayor has the ability to veto.

6 MR. DEMPSEY: Correct.

7 MR. KRANICK: Mr. Cummings said that
8 if the veto is actionable or I think something
9 to that extent, he can render a recommendation
10 to Council on your next action. So if the --
11 if his recommendation came in and would fly in
12 the face of the Code to render you guys
13 overriding Pennsylvania Code that's what I got
14 out of the conversation. And it seemed to me
15 that might be kind of a slippery slope.

16 MR. DEMPSEY: I think what you're
17 asking is there's a -- the Borough Code
18 basically says that the Mayor can veto an
19 ordinance. Attorney Cummings is going to
20 research whether or not that is, in fact,
21 correct.

22 MR. KRANICK: Okay.

23 MR. DEMPSEY: Right?

24 ATTY. CUMMINGS: Yes.

25 MR. DEMPSEY: And if he, in fact,

1 says the Mayor does not have -- his opinion is
2 that a Mayor does not have the right to veto
3 an ordinance and if we follow that advice, does
4 that fly in the face of the Borough Code that
5 says the Mayor can't veto? Is that what your
6 question is?

7 MR. KRANICK: Right.

8 MR. DEMPSEY: Yeah, I think -- yeah,
9 I think obviously it would conflict with the
10 Borough Code. If the Borough Code says the
11 Mayor can veto and his legal search and opinion
12 says he can't, then, yeah, they obviously
13 conflict.

14 MR. KRANICK: Okay. Well, that's as
15 long as it -- it hit me the wrong way.
16 That's --

17 MR. DEMPSEY: Yeah, they obviously
18 conflict if that's the case, yeah.

19 MR. KRANICK: Right. The other
20 question is, I don't know how many ordinances
21 come across your table every year. Have -- I
22 guess past practice, has every ordinance that's
23 come across the table been sent up been signed
24 by everybody who is supposed to be seeing it
25 per the code? Like, has the Mayor been

1 presented that?

2 MR. DEMPSEY: I could speak to this
3 one. I don't know how many -- I have been
4 president for almost two years now. I don't
5 think I signed an ordinance while I was
6 president. I could be wrong.

7 MR. KRANICK: I would imagine it
8 doesn't come up all the time.

9 MR. DEMPSEY: It doesn't. But per
10 Tom historically, I guess what he said to Pat
11 Clark before, you know, you sort of pass the
12 ordinance at the meeting. That obviously
13 doesn't get the type of response that this one
14 did. And normally the ordinance is at the
15 Borough Building.

16 And it would be in Vito's office
17 very informal and you sign the ordinance. I'm
18 not sure if I ever did that as president.
19 Maybe one other time, I don't recall
20 specifically.

21 MR. KRANICK: I understand that.

22 MR. DEMPSEY: It was never like
23 delivered or certified mail or anything like
24 that.

25 MR. KRANICK: I could appreciate

1 that they don't come up all the time. Very
2 good. Thank you.

3 MR. DUNCAN: I've got to ask the
4 question. It's not Borough Code that we're
5 discussing though. This is Pennsylvania
6 Municipal Code; is that correct? I just need
7 that for edification sake. We're using the
8 terminology Borough Code. Isn't this
9 Pennsylvania Municipal Code that we're
10 referring to?

11 ATTY. CUMMINGS: There is two.
12 There's the Borough Code and then there's the
13 Municipal Planning Code.

14 MR. DUNCAN: Which one super --
15 which is the top one? Under Pennsylvania
16 Municipal Code is that the code that spells out
17 the Mayor has the right to veto?

18 ATTY. CUMMINGS: No.

19 MR. DUNCAN: That would be precedent
20 setting -- that would be the precedent setting
21 or not?

22 MR. DEMPSEY: That's what Attorney
23 Cummings is going to be researching.

24 MR. DUNCAN: Okay. And then one
25 last question. How many of the easements that

1 we're discussing for the Scranton Sewer
2 Authority, how many easements are in the
3 Borough of Dunmore? Do we have an idea?

4 ATTY. CUMMINGS: We did. I can't
5 spit the number out now. But there was -- we
6 split them out and we tried to just take care
7 of them ourself. That's in the closing
8 document filed. It's at the Sewer Authority
9 has a list of all the easements.

10 I think there's 600. They're dubbed
11 critical easements that had to be resolved for
12 the final distribution of funds. And they
13 were -- the ones I recall in the Borough, some
14 were on municipal properties we try to resolve.
15 There was Grove Street, Wheeler Avenue and then
16 up on the old neighborhoods near Swinick.
17 They're the ones that I recall.

18 MR. DUNCAN: There's three that
19 we're discussing, right?

20 ATTY. CUMMINGS: Yeah, well, there's
21 a complete list by property number and address
22 of everything that -- of all of them. And then
23 we split the Borough ones out.

24 MR. DUNCAN: Where would we find the
25 easements? I looked everywhere online. I

1 can't find anything that discusses where the
2 easements are based on municipalities.

3 ATTY. CUMMINGS: Well, the recorded
4 easements are at the Recorder of Deeds office.
5 These 600 are the ones that were not recorded.
6 So there is no record of them other than on the
7 GPS mapping at the Sewer Authority a line
8 appears.

9 And then when you go to the
10 courthouse if you take the Duncan property back
11 to 1900, there's no recorded easement to the
12 Sewer Authority or the Borough of Dunmore for a
13 sewer line. So then that would become one of
14 the 600 critical easements that we then had to
15 resolve by filing.

16 So they're all known. I believe
17 every one maybe six months prior to closing got
18 like an offer letter that fell apart. I think
19 it was \$100.

20 MR. DUNCAN: That was the number
21 they quoted.

22 ATTY. CUMMINGS: Yeah.

23 MR. DUNCAN: They said it could
24 escalate.

25 ATTY. CUMMINGS: Yeah, so it could

1 go up depending. And that was the basic. So
2 those letters went out from the list of 600 or
3 so. So at the Sewer Authority either at Mr.
4 Dempsey's request which should suffice, you
5 know, that list could be made available online
6 because it's a public document.

7 MR. DUNCAN: Just a few more if you
8 can bear with me. We're on a clock -- I don't
9 know if it was Mr. Dempsey or Mr. Cummings
10 we're on a clock then for December for the
11 resolution of the Sewer Authority concerns,
12 correct? We have a meeting -- there's a
13 meeting Thursday night at the Scranton Sewer
14 Authority has a meeting scheduled. That's open
15 to the public, correct?

16 MR. DEMPSEY: Correct.

17 MR. DUNCAN: If there's a clock, if
18 there's a deadline on all of this stuff because
19 the Scranton Sewer Authority to the best of my
20 estimation and the things that I've looked at
21 we had numerous meetings cancelled, Sewer
22 Authority meetings. I believe they were
23 cancelled June. I believe July was cancelled.
24 I don't think there was a meeting August.
25 September, nothing.

1 So this will be our first meeting.
2 If it continues to be cancelled, where does
3 that put us then in terms of -- it's ambiguous,
4 correct, it's up in the air? So this meeting
5 Thursday, it's definitely on?

6 MR. DEMPSEY: It's scheduled right
7 now. But what happens is there's five people
8 and now there's four people on it. And a lot
9 of people's schedules conflict. And you don't
10 always have a quorum, especially when there's
11 really -- there's not a lot of business other
12 than, you know, pending litigation which is
13 sort -- was at a standstill.

14 Again, I don't want to comment on
15 the status of litigation because I don't want
16 to risk anything. But we're very -- as I told
17 Miss Zangardi, they're very aware of what the
18 deadlines are and are working to get it
19 resolved. That meeting is Thursday and at
20 5:30, correct?

21 MR. DEMPSEY: Yes.

22 MR. DUNCAN: Okay. That's on the
23 second floor of the municipal building in
24 downtown Scranton, correct?

25 MR. DEMPSEY: Yeah, the Governor's

1 Room I think it's called on the second floor.

2 MR. DUNCAN: I'll see you Thursday.

3 Thank you very much.

4 MR. DEMPSEY: Thank you. Yes, sir.

5 MR. CLARK: I have to go pick up my
6 daughter at soccer. Pat Clark, Dunmore.
7 Solicitor Cummings, a couple years ago during
8 the landfill contract negotiations you recused
9 yourself from that matter. Would you consider
10 recusing yourself from this matter?

11 ATTY. CUMMINGS: I don't recall.

12 MR. CLARK: The contract
13 negotiations. You either recused or withdrew
14 from the negotiations of that contract.

15 ATTY. CUMMINGS: I don't recall ever
16 recusing myself.

17 MR. DEMPSEY: It was 2014.

18 ATTY. CUMMINGS: I don't recall ever
19 recusing --

20 MR. CLARK: That's why Attorney
21 Jones came in.

22 ATTY. CUMMINGS: I don't have a
23 recollection.

24 MR. CLARK: Would you consider doing
25 so in this matter if you feel conflicted on

1 this issue in any way?

2 ATTY. CUMMINGS: I do not.

3 MR. CLARK: Is that a matter that
4 Council could decide on having someone else
5 research this issue?

6 ATTY. CUMMINGS: Council can do
7 whatever they want.

8 MR. CLARK: Okay. Thank you.

9 MR. DEMPSEY: Thanks, Pat.
10 Mrs. Cuff.

11 MS. CUFF: Sharon Cuff, Spring
12 Street, Dunmore. Just really quick. I was
13 just wondering if Council was advised prior to
14 the hearing that was held on the amendment
15 proposed by KSL, were you advised that you
16 never had to have that hearing nor did you have
17 to vote?

18 MR. DEMPSEY: Not to my recollection
19 we weren't. We were at the hearing when I
20 think you brought it up.

21 MS. CUFF: Okay. But prior to that,
22 that was the first you heard of that?

23 MR. DEMPSEY: I believe so, yes.

24 MS. CUFF: Would have you liked to
25 have been advised of that?

1 MR. DEMPSEY: I would have.

2 MS. CUFF: Okay. Thank you.

3 MR. DEMPSEY: Sir?

4 MR. TORBECK: Can I just do it from
5 here? William Torbeck.

6 MR. DEMPSEY: She's the boss not me.

7 MR. TORBECK: Thank you for your
8 time. William Torbeck, Dean Court. I have
9 been living in Dunmore for 15 years now. I
10 just wanted to get an update on where we are
11 with the rain tax. I don't know if I missed
12 anything. I know I came in late. But I want
13 to see where we're at with the rain tax right
14 now where the Borough stands. This would be in
15 the Council's hand if I'm not mistaken?

16 The rain tax? Don't tell me you
17 never heard -- the rain tax that Luzerne County
18 was hit with a rain tax through the EPA and it
19 was a -- the Chesapeake -- we don't know what
20 the rain tax is? Are you kidding me?

21 MR. AMICO: I've heard of the rain
22 tax. It hasn't been --

23 MR. TORBECK: Okay. Would it be in
24 Council's hands? I'm asking a question. Have
25 you heard of it? It's been on the radio. It's

1 been on the --

2 MR. AMICO: I'm trying to answer
3 you. I was in the --

4 MR. TORBECK: So there's been
5 discussions. We know what the rain tax is.
6 Citizens, do we know what the rain tax is?
7 Yes, thank you, the Chesapeake basin. Yes,
8 we're aware of it, yes?

9 MR. AMICO: Correct.

10 MR. TORBECK: What is the latest
11 news on --

12 MR. HALLINAN: I would assume if you
13 don't me interrupting -- the county takes the
14 lead on that. And then it will be handed out
15 or whatever they're going to do. I have no
16 clue. We were not presented with anything
17 about that.

18 MR. TORBECK: I'm surprised I didn't
19 get a better answer.

20 MR. AMICO: Well, you haven't given
21 us a chance to give an answer to be honest with
22 you. You just keep saying rain tax.

23 MR. TORBECK: You never heard of it.

24 MR. AMICO: No, you're saying that
25 we haven't heard of it. I have heard of it. I

1 listen to the radio. I know what you're
2 talking about.

3 MR. TORBECK: And there --

4 MR. AMICO: Again, can I maybe say
5 something? Is that possible?

6 MR. TORBECK: -- I appreciate it.

7 MR. AMICO: Are you sure? Okay,
8 cool. Yes, I've heard -- we've all heard of
9 the rain tax. It has not come in front of
10 Lackawanna County yet. Okay, it's been in the
11 news in Luzerne County. It hasn't come to
12 Lackawanna County yet.

13 We haven't been presented any
14 information on the rain tax yet. So I do see
15 signs up in the Borough, you know, question the
16 rain tax. Again, it's not an issue that's come
17 in front of us as of yet.

18 MR. TORBECK: That's the reason why
19 I'm asking because I'm starting to see signs.

20 MR. AMICO: Correct.

21 MR. TORBECK: That's all. And I
22 know Scranton -- I know that we're all aware of
23 where they're at in Scranton. If they create
24 an authority, then, like, the domino falls that
25 way in this area so I'll leave it at that.

1 Okay. Thank you. I appreciate it. I didn't
2 mean to press it but it's very concerning.

3 MR. AMICO: It's concerning. But
4 when we're asked a question it would be nice to
5 be able to respond.

6 MR. TORBECK: I agree.

7 MR. DEMPSEY: Anybody else like to
8 address Council tonight?

9 (No response.)

10 MR. DEMPSEY: Seeing none.

11 ATTY. CUMMINGS: Public officials.

12 MR. DEMPSEY: Public officials.

13 Mr. Hayes?

14 MR. HAYES: Sure. Thank you, Mr.
15 Chairman. I want to personally thank the
16 Dunmore Fire Department, especially Chief
17 DeNaples. There's been two fires on South
18 Blakely Street in the last week. I was present
19 when the one garage went up and just watching
20 their professionalism, their dedication to
21 getting that resolved, being able to save a
22 nearby apartment unit along with a church. The
23 caretaker's home is there as well.

24 So it's horrible that we have these
25 structure fires in Dunmore. But having watched

1 firsthand the professionalism, the magnitude of
2 which they were able to respond, Chief was on
3 scene as well. I think I tried to walk around
4 and thank all the guys personally for, you
5 know, how fast that they tackled the situation
6 and contained it.

7 But I wanted -- I would be remiss if
8 we didn't talk about the positive as well.
9 Chief, thank you to you guys and your
10 department. That's all I have, Mr. Chairman.

11 MR. DEMPSEY: Thank you. Mr. Amico?

12 MR. AMICO: I just want to
13 congratulate Mr. Price on being the newest
14 member of the Dunmore Fire Department. That's
15 all I have for tonight. Thank you.

16 MR. DEMPSEY: Mr. Hallinan?

17 MR. HALLINAN: Thanks for coming
18 tonight, Chief. I know it was a day off for
19 our Borough employees. But, you know, usually,
20 Mike, Joe's here at every meeting and the
21 Chief. They just weren't here tonight. But
22 usually, you know, 100 percent attendance.

23 So we'll look into that I'm sure.
24 We've had a lot of parking problems. Parking
25 in front lawns on Green Ridge Street is a pet

1 peeve. That's all I have tonight. Thank you.

2 MR. DEMPSEY: Chief DeNaples, do you
3 have anything?

4 CHIEF DENAPLES: I have nothing.
5 Thank you.

6 MR. DEMPSEY: Didge, do you have
7 anything?

8 MR. JUDGE: No.

9 MR. DEMPSEY: Chris?

10 MR. KEARNEY: No.

11 MR. DEMPSEY: Vito?

12 MR. RUGGIERO: No. Just, sir, stop,
13 give me your information and I'll follow up on
14 it.

15 MR. DEMPSEY: Mayor Burke?

16 MAYOR BURKE: Yes, I spoke to
17 American Water two weeks ago. And we have some
18 good news up at the reservoir. Bernie McGurl
19 is going to take control up there along with
20 he's going -- he actually had some volunteers
21 from Dunmore which tried to form a committee
22 and everybody knows Bernie how he is along the
23 waterways. So I was happy to hear that.

24 And Mr. Delvecchio is going to help
25 him out and they're going to try to form a

1 committee and I'll keep people informed on how
2 things are moving on that. But thank you,
3 Bernie and for Mark (inaduable) for allowing --
4 putting somebody in Carl's shoes. Carl did a
5 lot for us. That's all I have tonight. Thank
6 you.

7 MR. DEMPSEY: Attorney Cummings.

8 ATTY. CUMMINGS: Nothing.

9 MR. DEMPSEY: Okay. I don't have
10 anything. So with that being said I'll look
11 for a motion to adjourn.

12 MR. HAYES: I'll make that motion.

13 MR. DEMPSEY: Second?

14 MR. HALLINAN: I'll second it.

15 MR. DEMPSEY: All in favor?

16 ALL MEMBERS: Aye.

17 MR. DEMPSEY: Opposed?

18 (No response.)

19 MR. DEMPSEY: Ayes have it and so
20 moved. We are adjourned.

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