

**Mount Pocono Borough Council
Regular Meeting Minutes,
Tuesday, August 1, 2023, 6:30 P.M.**

The Mount Pocono Borough Council meeting held on Tuesday, August 1, 2023, called to order at 6:35 P.M. by President D. Struckle and who stated that an Executive Session was held earlier this evening at 6:00 P.M. ending at 6:30 P.M., which dealt with personnel.

Roll Call: Councilman Norman DeLano, present; Councilwoman Debra Fulton, present by phone; Councilwoman Ann Marie Harris, present; Vice President Lori Noonan, present; Councilwoman Ella Santiago, arrived at 6:40 P.M.; President Donald Struckle, present; Councilwoman Claudette Williams present; and, Mayor R. Altemose, present.

In Attendance: James Fareri, Solicitor; M. Duffy, Borough Manager; and, Borough Treasurer D. Hewitt were present.

Approval of Minutes – Councilman N. DeLano moved to accept the Regular Meeting minutes of July 5, 2023, with minor corrections. Councilwoman C. Williams seconded. Motion carried unanimously.

Presentations – Marshall Aleksich introduced himself as a Boy Scout member of Troop 89. He presented his Boy Scout Eagle Project of developing a trail with markers of the foliage on the trail. This would include some benches on the proposed trail. He is looking on starting in October of this year. He noted that to continue with his project he would need approval and signatures from Borough Council. Councilwoman D. Fulton stated that this project was presented to the Parks and Recreation Committee and were in favor of it. Mayor r. Altemose suggested that the Borough Council be kept informed on the progress of the project as it moves forward.

Councilwoman C. Williams moved to approve the Boy Scout Eagle Project as presented. Councilman N. DeLano seconded. Motion carried unanimously.

Councilwoman D. Fulton left the meeting at 7:00 P.M.

Public Comment (agenda items only) – None

Unfinished Business

Consider adopting the Resale Use and Occupancy Ordinance

Vice President L. Noonan moved to adopt the Ordinance 6 of 2023, the Resale Use and Occupancy as follows:

ORDINANCE NO. 6 of 2023

AN ORDINANCE ESTABLISHING CHAPTER 191, USE AND OCCUPANCY OF REAL PROPERTY

§191-010 – Purpose

The purpose of this Chapter is to regulate the use and occupancy of leased properties and properties in which title of ownership is transferred, in order to prevent use and occupancy of said properties from adversely affecting the public health, safety or welfare of any individual or the community as a whole.

§191-020 – Definitions

Where the following words are used in this chapter, they shall be defined as follows:

BUILDING INSPECTOR – Any of the following person or persons, either singly or in combination, who shall serve at the pleasure of the Borough Council to make the inspections, and issue certificates, under this Ordinance:

- A. *The Building Inspector of Mount Pocono Borough,*
- B. *The Building Code Official,*
- C. *Zoning Officer, or*
- D. *Any other person that the Borough Council, by resolution, may designate from time to time.*

BUSINESS – Occupancy of a building, in whole or in part, for any for-profit or non-profit business activity, commerce, industry, professional services or other services for hire.

RESIDENTIAL – Occupancy of a building for non-business dwelling purposes such as personal living, sleeping, cooking and eating purposes.

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BUILDING – Any building, building structure, temporary building or temporary building structure, intended for human occupation, either for residential or business purposes located in Mount Pocono Borough.

OWNER – Any person, who alone, or jointly with others, holds legal or equitable title to any building.

PERSON – Any individual, firm, corporation, association, partnership or other legal entity, including without limitation any executor, administrator, guardian, or representative of a deceased or incompetent individual.

SUBSTANTIAL VIOLATION – A violation of an adopted building, housing, property maintenance code, fire code, or maintenance, health or safety nuisance ordinance that makes a building, structure or any part thereof unfit for human habitation and is discovered during the course of a municipal inspection of a property.

TEMPORARY ACCESS CERTIFICATE – A certificate issued as a result of the municipal inspection of a property that identifies at least one substantial violation, and the purpose of the certificate is to authorize access to the property for the purpose of correcting substantial violations pursuant to the maintenance and repair provisions of this Ordinance. No person may occupy a property during the term of a temporary access certificate, but the owner shall be permitted to store personal item that is related to the proposed use or occupancy of the property or is needed to repair the substantial violations during the time of the temporary access certificate.

TEMPORARY USE AND OCCUPANCY CERTIFICATE – A certificate issued as a result of the municipal inspection of a property that reveals a violation but no substantial violation, and the purpose of the certificate is to authorize the purchaser or tenant to fully utilize or reside in the property while correcting violations pursuant to the maintenance and repair provisions of this Chapter.

UNFIT FOR HUMAN HABITATION – A condition which renders a building or structure, or any part thereof, dangerous or injurious to the health, safety or physical welfare of an occupant or the occupants of neighboring dwellings. The condition may include substantial violations of a property that show evidence of: a significant increase to the hazards of fire or accident; inadequate sanitary facilities; vermin infestation; or a condition of disrepair, dilapidation or structural defects such that the cost of rehabilitation and repair would exceed one-half of the agreed-upon purchase price of the property.

USE AND OCCUPANCY CERTIFICATE – A certificate issued stipulating that the property meets all ordinances and codes and may be used or occupied as intended.

VIOLATION – A violation of a properly adopted building, housing, property maintenance code, fire code, or maintenance, health or safety nuisance ordinance that does not rise to the level of a substantial violation and is discovered during the course of a municipal inspection of a property.

§191-030 — Use and Occupancy certificate required prior to lease or sale

- A. *If the Owner of a Business or Residential Building desires to lease or sell the Building, or portion thereof, the Owner shall apply for and obtain, no later than fifteen (15) days prior to leasing or sale, a Use and Occupancy Certificate from the Building Inspector of the Mount Pocono Borough. The application for a Use and Occupancy Certificate may be made by an agent of the person or persons whose responsibility it is to obtain the Use and Occupancy Certificate.*
- B. *The application shall be on the Borough's form, and the applicant shall pay any required fee at the time of application, which fee may be set by the Borough Council, from time to time, by resolution. If more than one inspection is required because the property does not pass occupancy requirements, the applicant shall be responsible for the costs of all subsequent inspections, unless the application is withdrawn, and may be required to pay a fee or reasonable deposit in advance.*
- C. *Any issued Use and Occupancy Certificate for a Building, or portion thereof being sold or leased, shall only be valid for a leasing or sale occurring within thirty (30) days after the date of issuance of the Certificate.*
- D. *An applicant for a Use and Occupancy Certificate shall inform the renter, lessee, or buyer of said property of the result of the inspection, prior to the lease, rental, or sale.*
- E. *A Use and Occupancy Certificate shall be issued in the following manner:*
 - 1. *If the municipal inspection reveals no Violations.*
 - 2. *If the municipal inspection reveals at least one Violation, but no Substantial Violations, a Temporary Use and Occupancy Certificate shall be issued. Once corrections have been made and subsequent inspections show the property to be in compliance, a Use and Occupancy Certificate shall be issued.*
 - 3. *If the municipal inspection reveals at least one Substantial Violation, a Temporary Access Certificate shall be issued to allow access to the property for the purpose of correcting Substantial Violations that are specifically noted on the inspection report. Once corrections have been made and subsequent inspections show the property to be in compliance, a Use and Occupancy Certificate shall be issued.*

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- F. *Use and occupancy of a Building without a required Use and Occupancy Certificate is illegal, and shall constitute a violation of this Chapter, unless permitted pursuant to a validly issued Temporary Use and Occupancy Certificate or Temporary Access Certificate.*

§191-040 — Temporary Certificates

- A. *Where a Temporary Use and Occupancy Certificate or Temporary Access Certificate has been issued, the Owner, at its option, shall either:*
- a. *Correct any Violations and/or Substantial Violations that are specifically noted on the inspection report within the following time frames:*
 - i. *where the municipal inspection occurred prior to a purchase, within twelve (12) months of the date of purchase; or*
 - ii. *where the municipal inspection occurred prior to lease of the property, within ninety (90) days of the date the Certificate was issued.*
 - b. *Demolish the Building in accordance with law.*
- B. *All necessary permits required to complete any type of corrections to bring the property into compliance must be applied for and obtained in compliance with building, property maintenance, fire codes or other health or safety codes.*
- C. *Failure to comply with the requirements of Subsection A. shall result in:*
- i. *Revocation of the temporary certificate;*
 - ii. *The Owner being subject to any existing Borough ordinances or codes relating to the occupation of a property without a use and occupancy certificate.*
 - iii. *Violation of this Chapter*

§191-050 — Inspections

- A. *Prior to issuing a Use and Occupancy Certificate, the Building Inspector shall inspect the Business or Residential Building, or portion thereof to be sold or leased, to determine whether or not it complies with the requirements as set forth in this Ordinance.*
- B. *Any Person or Persons authorized to make occupancy inspection, as defined in §191-020 as the Building Inspector, shall enjoy all privileges, rights and immunities which would inure to the Building Inspector of Mount Pocono Borough.*

§191-060 — Violations and penalties

Any person who shall violate any provision of this Chapter shall, upon conviction thereof in any action brought in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine of not less than three hundred dollars (\$300.00) and not more than one thousand dollars (\$1,000.00) plus costs of prosecution, including without limitation the Borough's reasonable attorney's fees in the enforcement proceeding. Each day that a violation of this Chapter continues, and each section of this Chapter which shall be found to have been violated, shall constitute a separate offense.

§191-70 — Interpretation

This Ordinance is intended to be consistent with, shall be interpreted, and construed, in accordance with the Municipal Code and Ordinance Compliance Act, 68 P.S. Sec. 1081, et seq, and as it amended from time to time. In the event conflict between this Chapter and Municipal Code and Ordinance Compliance Act, or any other applicable State statute, such State statute shall govern.

§191-80 — Applicability

- A. *Except as set forth in subsection (b), this act shall not apply to, and a municipality may not require, a certificate of occupancy, a temporary use and occupancy certificate or a temporary access certificate for a real estate transfer, including a residential or nonresidential transfer, as provided under 68 Pa.C.S. § 7103(b)(2) (relating to application of part), to any of the following which take title to property for the purpose of holding the property for sale to offset losses incurred on a loan or other obligation in default secured by a mortgage, deed of trust or other lien on the property:*
- (1) *Bank.*
 - (2) *Savings association.*
 - (3) *Credit union.*
 - (4) *Mortgage lender.*
 - (5) *Financial institution similar to an institution listed in paragraphs (1) through (4).*
 - (6) *Subsidiary of a financial institution listed in paragraphs (1) through (5).*
- B. *A financial institution not subject to this Chapter under subsection A. may be required by the Township to correct a substantial violation.*
- C. *This Chapter shall not apply to residential rentals less than thirty (30) days in length, provided that the Owner of the Building has applied for and received a Use and Occupancy Certificate within one year of the rental.*

Adopted and ordained this 1st day of August, 2023.

Councilwoman A. Harris seconded. Motion carried unanimously.

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New Business

Consider PennDOT Special Event Permit Application Submission Approval – It was explained that this application is for the Harvest Fest on Saturday, September 23, 2023, requesting that part of Fairview Avenue would be closed to traffic. Vice President L. Noonan moved to authorize the Borough Manager to submit the PennDOT Special Event Permit Application to close part of Fairview Avenue for the Harvest Fest event on September 23, 2023. Councilwoman A. Harris seconded. Motion carried unanimously.

Consider Options of Gateway Concept Plans – Vice President L. Noonan moved to table the Gateway Concept Plans and to discuss this further at the August 15th, work session. Councilwoman E. Santiago seconded. Motion carried unanimously.

Consider Utility Truck Purchase for Road Crew Fleet - \$60,550.00, 2022 Ford Super Duty FXL 4 WD – Vice President L. Noonan moved to approve the purchase of the 2022 Ford Super Duty FXL 4WD utility truck for the road crew fleet in the amount of \$60,550.00. Councilwoman C. Williams seconded. Motion carried unanimously.

Discussion to Accept Mike Penn's Resignation Letter from the Planning Commission – Upon receipt of the resignation letter from Mike Penn from the Planning, Councilwoman C. Williams moved to accept the letter of resignation from Mike Penn effective immediately. Vice President L. Noonan seconded. Councilwoman A. Harris who is also the Chair of the Planning Commission, asked that it be noted for the record that she felt her reluctance to send some plans to the Brodhead Watershed Authority (BWA) resulted in Mr. Penn's resignation for political reasons. Vice President L. Noonan stated that all the years that she had been involved with the Borough no plans were sent to the BWA for any review. She also noted that Mr. Penn went beyond his scope of his authority and sent the plans to the BWA, after the Planning Commission decided not to send anything to the BWA. It was clarified the reason for removing Mr. Penn from the Planning Commission was that he violated a Borough's Short-Term Rental Ordinance that he indeed assisted in passing. Motion carried unanimously.

Vice President L. Noonan moved to authorize the Borough Manager to advertise the Planning Commission vacancy. Councilwoman A. Harris seconded. Motion carried unanimously.

Officer Reports:

President's Report – President D. Struckle stated that we are current with everything and that next month we will be looking at adopting an amendment to the Sign Ordinance. It was noted that this will be advertised and that a Public Hearing will be held at 6:15 P.M. on September 5, 2023.

Mayor's Report – Mayor R. Altomose spoke about an incident that happened during a downpour which caused the overflow of water down SR 940 and SR 611 from the warehouse construction site. He noted that the Borough is responsible for the inlets on the state roads however the amount of debris that was left, PennDOT assisted in clearing the roadways. He added that PennDOT did a great job with a quick response time. He thanked Borough Manager M. Duffy who contacted the Zoning Officer who then contacted the contractor of the warehouse for the water flow issue. The contractor was made aware of the problem and went out to also assist with the problem by fixing the water flow issue. Vice President L. Noonan also thanked Mayor R. Altomose, Borough Manager M. Duffy and the Zoning Officer with their prompt response, especially that this issue was on a Sunday at approximately 11:30 A.M. She noted that the problem was cleared up in two (2) hours. Mayor R. Altomose thanked the public for attending and supporting this year's carnival. He also thanked Borough Council and employees who volunteered their time at the carnival.

Borough Manager's Report – Borough Manager M. Duffy noted that she has no report. She thanked Borough Council for their continued support with the transition is going well.

Solicitor's Report – Solicitor J. Fareri noted that he is still working on the Lot 28 issue and would probably provide more information by the next meeting.

Treasurer's Report – Borough Treasurer D. Hewitt presented the Cash Report and Borough's bill list. Vice President L. Noonan moved to approve and pay the bills list of Wednesday, July 5, 2023, as outlined:

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Cash Report as of July 31, 2023

NBT General Fund

Beginning Balance	\$ 485,594.45
Deposit	274,495.33
Interest	8.73
Expense	271,454.39
Service Charge	21.82
Ending Balance	<u>\$ 488,622.30</u>

NBT Road Rehab Fund

Beginning Balance	\$ 245,008.91
Deposit	11,414.00
Interest	643.97
Expense	0.00
Ending Balance	<u>\$ 257,066.88</u>

NBT Traffic Signal Maintenance Fun (5 Pts)

Beginning Balance	\$ 101,397.59
Deposit	0.00
Interest	257.81
Expense	439.00
Ending Balance	<u>\$ 101,216.40</u>

NBT Stormwater Fund

Beginning Balance	35,834.09
Deposit	0.00
Interest	82.22
Expense	5,260.70
Ending Balance	<u>\$ 30,655.61</u>

PLGIT General Fund

Beginning Balance	\$ 763,807.94
Deposit	0.00
Deposit (EIT)	6,625.52
Deposit (LST)	1,760.47
Interest	3,227.19
Expense	0.00
Ending Balance	<u>\$ 775,421.12</u>

PLGIT Capital Fund

Beginning Balance	\$101,687.81
Deposit	0.00
Interest	455.67
Expense	0.00
Ending Balance	<u>\$ 102,143.48</u>

NBT Payroll Fund

Beginning Balance	\$ 6,075.53
Deposit	29,576.37
Interest	.13
Expense	31,186.50
Ending Balance	<u>\$ 4,465.53</u>

NBT Liquid Fuels Fund

Beginning Balance	\$ 151,942.25
Deposit	0.00
Interest	2.52
Expense	6,021.63
Ending Balance	<u>\$ 145,923.14</u>

NBT Park & Recreation Fund

Beginning Balance	\$ 121,552.48
Deposit	0.00
Interest	300.43
Expense	5,375.00
Ending Balance	<u>\$ 116,477.91</u>

NBT Pine Hill Intersection Fund

Beginning Balance	\$ 353,026.50
Deposit	0.00
Interest	6.00
Expense	0.00
Ending Balance	<u>\$ 353,032.50</u>

NBT Planning Commission Fund

Beginning Balance	\$ 6,075.59
Deposit	0.00
Interest	15.48
Expense	0.00
Ending Balance	<u>\$ 6,091.07</u>

PLGIT Liquid Fuels Fund

Beginning Balance	\$175.35
Deposit	0.00
Interest	.74
Expense	0.00
Ending Balance	<u>\$ 176.09</u>

PLGIT Fund Balance

Beginning Balance	\$101,687.81
Deposit	0.00
Interest	455.67
Expense	0.00
Ending Balance	<u>\$102,143.48</u>

From General Fund to PR

(w/e 7/5/23)	\$8,246.82
(w/e 7/12/23)	\$7,084.74
(w/e 7/19/23)	\$7,112.27
(w/e 7/26/23)	\$7,132.54
Total Payroll	<u>\$29,576.37</u>

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Sparkle Car Wash

Beginning Balance	\$ 5,085.46
Deposit	0.00
Interest	.09
Expense	0.00
Service Charge	<u>9.62</u>
Ending Balance	<u>\$ 5,075.93</u>

PLGIT Park & Rec and Other

Beginning Balance	\$602,310.81
Deposit	0.00
Interest	2,534.96
Expense	<u>0.00</u>
Ending Balance	<u>\$604,845.77</u>

Beautification

Beginning Balance	\$1,210.03
Deposit	0.00
Interest	3.00
Expense	<u>0.00</u>
Ending Balance	<u>\$ 1,213.11</u>

E-Com

Beginning Balance	\$ 67.07
Deposit	120.56
Interest	0.00
Expense	<u>170.82</u>
Ending Balance	<u>\$ 16.81</u>

ESSA Line of Credit - \$103,113.22

BILLS TO BE APPROVED AND PAID 7/1/23 -8/1/23 FROM THE NBT GENERAL FUND ACCOUNT:

ARGS Technology, LLC	(IT Service - Remote Service, Server Update, Cloud, etc.)	\$454.50
Barry Isett & Associates	(Reimb: Popeye's/Harbor Freight/Hirshland/Posh & McDonald's Rebuild)	489.90*
	(Safety: PennDOT Correspondence & Submission)	2,662.50
	(Eng. Maint. Garage Plan & Project Review w/Manager)	813.00
Berkheimer Associates	(Local Service Tax: Operating Commission June)	60.69
Cintas Corporation	(PP: Maintenance Uniforms & Mats/ Rugs)	367.47
DELCOM Graphics	(PP: Digital Sign Expenses)	11,931.94
Donna Kenderdine Reporting	(Reimb: Court Reporter – Franklin Bioscience)	386.30
ESSA	(PP: July Building Loan)	2,309.20
First Net	(PP: Manager iPhone, Road iPhone & Tablet)	123.87
GateHouse Media PA Holdings, Inc.	(Reimb: Ads Zoning Appeals Barone & Mohammed & Conditional Use Franklin Bioscience)	419.69*
Geisinger Health Plan	(PP: July Road Crew & Admin Manager JW Health Plan)	9,237.30
Gotta Go Potties	(P&R: (2) Port of Potties 5/15 – 6/12/23 & 6/12-7/10/23)	350.00
H. Clark Connor	(PC: 5/19-7/11/23 – Review & Respond to Emails)	350.00
Highmark Blue Shield	(PP: July – Road Crew & Admin Manager JW Vision/ Dental)	357.04
Lowe's	(PP: Cold Patch & Flower/Soil)	490.01
Medico Construction Equip. Inc.	(2004 Case Backhoe: Parts & Repairs)	17,265.70
Met Life	(PP: Highway: July – Life and Disability Ins.)	150.90
Miller's Automotive	(2001: #7 GMC Bucket Truck Equipment Repairs)	1,791.59
Nagle Elevator	(Routine Elevator/Lifting Device Re-Inspection)	85.00
NBT Cardmember Service	(PP: Garage/Zoning/Office Miscellaneous)	1,721.06
Newman Williams, Mishkin, Corveleyn	(Reimb: Cond Use Baronov/Shivers Franklin Bioscience Mohammed 17 Old Timber & 22 Brunswick, E-Party 12 Devonshire & Clarius Letter of Credit)	1,844.68*
PA American Water Co.	(PP: Boro & Garage Water, Fire Hydrants)	952.08
Payroll Unlimited	(Payroll: 7/723-7/31/23)	115.70
Pitney Bowes BankInc Purchas Power	(PP: Postage)	150.00
Pocono Mountain Public Library	(Library: RE & Delinquent Taxes)	2,009.54
Pocono Mountain Regional EMS	(EMS: RE & Delinquent Taxes)	1,010.96
Pocono Mountain Regional Police Dept.	(August 2023 Payment)	79,488.68
Pocono Mountain Volunteer Fire Company	(FC: RE & Delinquent Taxes)	2,009.54
PPL Electric Utilities	(PP: 36 Lighting, Boro/Garage Electric, Park & Rec Conc.)	607.58

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Quill Corp	(PP: Office Supplies & Copy Paper)	\$288.95
Ray Price Ford, Inc.	(2022 Ford Super Duty FXL 4WD Truck)	60,550.00
Schadler Yesco	(AC & Portable AC Repairs)	22.97
Schoonover & Vanderhoof, Architects	(Maint. Garage – Field Survey & Documentation)	1,200.00
Scott's Signs & Printing	(Manager nameplate)	27.00
Selective Insurance	(PP: Insurance Down Pmt.& July Monty Pmt.)	11,767.00
SFM Consulting	(Zoning 32 Hours & 6 BC Permits)	7,268.28
Signal Service, Inc.	(Yearly Preventive Maint. Contract 5/123-4/30/24)	1,700.00
Sunoco Universal Fleet	(PP: Maintenance Gas & Oil)	557.71
The Two Shields, LLC	(2009 Peter F550 & 2012 Pete Repairs & Inspections)	2,795.70
TK Elevator Corporation	(Service Date 7/1/23 – 9/30/23)	214.71
Tulpehocken Spring Water	(Bottled Water)	88.24
US Bank	(PP: July Copier Contract)	128.45
GRAND TOTAL:		<u>\$226,615.43</u>

*Reimbursable Items

Councilwoman C. Williams seconded. Councilman N. DeLano abstained. Motion carried 5 – 0.

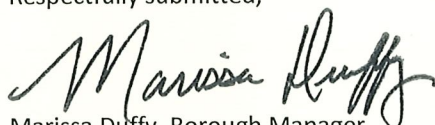
Zoning Officer's Report – Borough Manager M. Duffy gave the Zoning Officer's report for the month of June 2023 regarding Zoning and Code Enforcement issues as presented:

- Six (6) enforcement notices were sent.
- Two (2) paving violations letters were sent.
- One (1) stop order was issued.
- Two (2) properties will go before the magistrate: August 9th, 134 Winona Road; and, August 16th, 56 Pine Hill Road
- Zoning Hearing Board is scheduled for August 22nd, at 6:00 P.M. regarding 113 Ward Avenue, disputing the Zoning Officer's decision.

PUBLIC PARTICIPATION – Hal Harris, Rotary Chair, stated that the Rotary is looking for another place to meet and was hoping to meet in the Borough room, twice a month. He added that he would be available to come to a work session to have more of a discussion regarding a meeting place. He spoke about grants that they apply for.

Meeting adjourned at 7:26 P.M.

Respectfully submitted,


 Marissa Duffy, Borough Manager

