

## COLUMBIA BOROUGH COUNCIL – REGULAR MEETING

June 25, 2019 | 7:00 PM

Paul W. Myers Council Chambers

### MINUTES

1. Council President Murphy called the meeting to order at 7:12 PM.

**Councilpersons present:** Berntheizel, Burgard, Fitzgerald, Murphy, Novak and Williams. Mayor Lutz was also present.

**Junior Councilpersons present:** Absent

President Murphy requested phones be silenced or turned off and reviewed proper meeting protocol. He also announced the meeting is being live streamed on social media.

2. An invocation was provided by Pastor Rick Christopher from “The Well” and the Columbia Ministerium.
  3. Councilperson Novak lead the pledge to the flag.
  4. Public Hearing on Ordinance 912-2019 regarding a proposed amendment to the Borough of Columbia Zoning Ordinance: An Ordinance of the Borough Council of the Borough of Columbia, Lancaster Count, Pennsylvania, amending Chapter 220 of the Code of the Borough of Columbia – Zoning, to authorize, under specified conditions, short-term rental dwelling uses and defining the use; providing for repeal of inconsistent ordinances; providing for the severability of the ordinance; and providing that the ordinance shall take effect in accordance with Pennsylvania law.
    - 1) Council President Murphy opened the hearing at 7:15 PM and invited Solicitor to conduct the hearing.
    - 2) Borough Solicitor Neil Albert made introductory remarks.
    - 3) The hearing proceedings were being captured through a court reporter.
    - 4) Rebecca Denlinger was sworn in to testify as to the advertisement of the hearing, the posting of the Notice of Hearing, and the Proof of Publication all of which were marked and submitted into evidence as Borough Exhibit No. 1.
    - 5) Borough Solicitor Neil Albert summarized the comments from the Lancaster County Planning Commission and submitted the document into evidence as Borough Exhibit No. 2.
    - 6) The hearing was opened for citizens comments. A summary of the comments are incorporated at the end of these Borough Council meeting minutes
    - 7) The hearing was closed at 7:48 PM.
  5. Council President Murphy announced the following executive and information sessions:
    - a. Council President Murphy announced two changes to the agenda. The addition of a presentation by Darlene Graham of KPETS and moving item 15.a. Solicitor Comments, to after the first Citizens Comments on Agenda Items only.
    - b. On June 18, 2019 at 6:00 PM Borough Council held an executive session to discuss matters of ongoing litigation with the Borough Solicitor
    - c. On June 25, 2019 at 6:00 PM Borough Council held and information session to receive information only items from its Borough Manager and Borough Solicitor.
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6. Citizen Comments on Agenda Items Only are incorporated at the end of these minutes.

7. Presentation

Councilperson Burgard introduced Darlene Graham of KPETS (Keystone Pet Enhanced Therapy Services) along with her puppy Corrina, they are a therapy team, provided by KPETS, a nonprofit network of volunteer pet therapy teams. She shared an overview of their organization and announced the organization will be holding their annual volunteer recognition banquet at Columbia Crossing on September 21, 2019. This banquet will be sponsored by K T Graham a new business in the Borough located on South Front Street.

8. Solicitor

Borough Solicitor Neil Albert provided comments. A summary of the statement follows here:

*The Borough's Special Labor Counsel, Mr. Miller and I have been asked to address a claim that the Borough violated the Sunshine Act by interviewing a potential provider of professional services. From our perspective, that allegation is mistaken, and the Borough did not violate the Sunshine Act.*

*The Sunshine Act which, in general, requires that Council act publicly when it deliberates policy or takes action, has some very specific exceptions. One of those exceptions is the personnel exception which permits a Council to "discuss any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of performance, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the agency, or former public officer or employee."*

*The Sunshine Act has this clear exception to allow executive session because the drafters recognized that no government employer should be forced to discuss their thoughts, hopes and concerns about individual employees or groups of employees publicly. That would neither be fair to the employees nor the employer. It is not the way that private businesses work. Similarly, a conversation regarding the terms and conditions of a new job would not be something that anyone would expect their employer to discuss publicly. This is the reason for the exception.*

*In this case, Council discussed whether or not to hire an individual to assist with labor and employment matters. In so doing, they discussed with that individual the specific terms of her potential engagement as well as the Borough's specific employment issues. The discussion of the Borough's current challenges regarding its employees as well as any future plans it may have for its workforce is one of central reasons that the Pennsylvania General Assembly specifically allowed those discussions to happen in Executive Session.*

9. Motion to approve Borough Council Meeting Minutes for June 11, 2019.

Motion by:	Second by:	Voice Vote:
J. Novak	T. Burgard	All Favored – Motion Carried

10. Mayor Lutz

Presented a plaque to Council President Murphy from the Pennsylvania State Borough's Association recognizing Mr. Murphy for 10 or more years of dedicated service.

Discussed recent news articles he read on drones and the PA Drone Associations as well as Lancaster County Tourism.

11. Legislation

- a. Motion to approve Ordinance No. 912-2019 amending Chapter 220 of the Code of the Borough of Columbia – Zoning, regarding short term rentals.

Original Motion by:	Second by:	Voice Vote:
J. Novak	T. Burgard	

Borough Council discussion included a reading of the first paragraph of the ordinance by Councilperson Novak. Council President Murphy recognized that the comments from Lancaster County Planning Commission, as agreed to by the Columbia Borough Planning Commission, do not require any substantive changes to the Ordinance as presented. Borough Council discussed the comments made during the Public Hearing.

Based on the discussion, Borough Solicitor Neil Albert advised that the Ordinance could be amended as follows:

- In Section 3 and Section 4.13.E. to reflect Council’s desire to clarify the recreational vehicle language from, “Recreational vehicles, campers, and tents are prohibited” to state “The use of recreational vehicles, campers, or tents for occupancy is prohibited.”
- In Section 3 and Section 4.13.K. to remove “as well as the name, telephone number, and other contact information of the person in charge of the entity renting the unit” from the Ordinance. So that the Ordinance will read: “Before each new occupancy, the property owner or his agent shall email or fax the Borough of Columbia with a list of the number of tenants contracted to occupy the dwelling.”

Motion to amend:	Second by:	Voice Vote:
J. Novak	T. Burgard	All Favored – Motion Carried

Original Motion to adopt as amended:	Second by:	Voice Vote:
J. Novak	T. Burgard	All Favored – Motion Carried

- b. Motion to approve revision to Chapter 27 of the Code of the Borough of Columbia – Fire Inspector, regarding fire safety inspections.

Motion by:	Second by:	Voice Vote:
J. Novak	C. Berntheizel	All Favored – Motion Carried

- c. Motion to approve revision to Chapter 112 of the Code of the Borough of Columbia – Existing Structures, Property Maintenance and Fire Prevention, regarding smoke detectors.

Councilperson Novak provided clarification as to what situations a private residence would be inspected under this regulation, to include, sale of property, if a complaint is received, and in the case of a fire at the property where a replacement is shown to be needed.

Motion by:	Second by:	Voice Vote:
J. Novak	T. Burgard	All Favored – Motion Carried

12. Personnel

Motion to table the consideration of filling the vacant Coordinator of Services position in the Columbia Borough Police Department.

Motion by:	Second by:	Voice Vote:
M. Kress-Hartman	J. Novak	All Favored – Motion Carried

13. Community Development

- a. Councilperson Berntheizel gave an update on the Land Bank project at 209-210 Locust Street provided by the Lancaster County Housing and Redevelopment Authority (LCHRA). LCHRA will continue to monitor the project until it is completed.

14. Finance

- a. Motion to approve May 2019 Finance Report.

Motion by:	Second by:	Voice Vote:
C. Berntheizel	J. Novak	All Favored – Motion Carried

- b. It was announced that the decision to make changes to Fund 19, the Highway Capital Improvement Fund, will be discussed at the July 2, 2019 work session.
- c. Council President Murphy opened the review of Ordinance 897 Economic Development Revolving Loan Fund by reading the following statement:

*This evening council will be discussing and hopefully making a decision on the future of the Economic Development Revolving Loan Fund, Ordinance 897, and our partnership with Community First Fund in managing the fund on behalf of Columbia Borough.*

*During meetings with our solicitor as regards this ordinance and the current legal action undertaken, four different options or paths forward were presented for discussion.*

*From the time that council first considered undertaking this program through and including the inception of the program, it was always my intention, along with that of our borough manager at the time, that funding for this program would come from the General Obligation Fund of 2016.*

*During planning discussions with bond counsel and our bond managers, the \$1.5 million amount was booked into the total amount of projects being considered at that time and it was out understanding that the program could be funded using bond proceeds. The first instance that here was any indication that this could not be done was from an opinion given by the Borough Auditor, Sager/Swisher, during our 2018 audit.*

*This led to our Finance Director at the time to switch the funding source for the loan program over to our General Fund based on this decision.*

*Through continued discussions about and investigation into the loan program over the past many months, we have received guidance from our legal counsel (who authored the ordinance on our behalf), from the state attorney general's office, as well as from our bond counsel that while there are only a few entities in the state operating such programs, it is not illegal to take such action.*

*However, as our bond counsel also reminded us, the second part of the equation deals with whether the funds to capitalize the loan program could be legally taken from the general obligation bond proceeds.*

*They have been researching this on our behalf and we remained hopeful that we would get that approval.*

*Approximately a week ago, however, we did receive from our bond counsel what we consider to be a final determination on the request. That is... that the bond proceeds cannot be use for the purposes of the revolving loan fund.*

*For this reason, it is my opinion that council strongly consider taking the necessary actions to void Ordinance 897 and the Revolving Loan Fund and would ask that a council member consider such a motion.*

*At this time, I would also like to remind all that single current loan approved for the improvements to Hinkle's Restaurant property is legally in place and will continue in force until such time that the loan is paid in full according to the terms of the loan agreement.*

*I would also suggest that the Borough should actively investigate the possibility of resurrecting the Revolving Loan Fund program at some point in the future should the possibility of funding such an initiative become available through legislative grants or other resources.*

*On a closely related matter, Borough council is aware of the affect that this action could have on the Columbia Home Improvement and Home Loan Program...what we refer to as the CHHL Program. This program is an ongoing partnership with the Lancaster Housing Opportunity Program (LHOP) that has been used by over 25 new homeowners to date. Borough Council will need to discuss and come to a decision on this program as well in the near future.*

**Motion to take the necessary actions to repeal Ordinance 897 Economic Development Revolving Loan Program.**

<b>Motion by:</b>	<b>Second by:</b>	<b>Roll Call Vote:</b>
J. Novak	C. Berntheizal	All Favored – Motion Carried

#### **15. Public Safety**

- a. Councilperson Burgard lead a discussion of HB432 PTSD Presumption. Councilperson Williams noted that the PA State Association is not supporting this legislation.

Motion to direct the Borough Manager to draft a letter in opposition to PA House Bill 432 to be sent to our state representatives.

<b>Motion by:</b>	<b>Second by:</b>	<b>Roll Call Vote:</b>
T. Burgard	P. Williams	All Favored – Motion Carried

- b. Motion to appoint Steven Henry, Jr. to the Columbia Board of Health.

<b>Motion by:</b>	<b>Second by:</b>	<b>Roll Call Vote:</b>
T. Burgard	J. Novak	6 Yes 1 No (Novak) – Motion Carried

16. Public Works & Property

- a. Announced June 24, 2019 bid opening results for the Borough Recycling Facility Project.
- b. Motion to award the Borough Recycling Facility Pole Building Project to B & B Pole Buildings at a cost of \$83,348.

Councilperson Novak commented on the earlier citizen question regarding the timing of the bid opening and award, noting that the matter had been duly announced at an earlier public meeting of Borough Council.

Motion by:	Second by:	Voice Vote:
F. Fitzgerald	J. Novak	All Favored – Motion Carried

- c. Consider License Agreement with Pyramid Construction for use of 400 Locust Street. Councilpersons Novak and Berntheizel, as well as Council President Murphy, addressed earlier citizen questions and comments regarding the timing of the fence being put up in advance of the license agreement coming before Council.

Motion by:	Second by:	Voice Vote:
F. Fitzgerald	J. Novak	All Favored – Motion Carried

17. Reports, Comments, and Announcements

- a. Secretary/Treasurer – None
- b. Boards and Commissions

Mary Wickenheiser questioned the inaccurate time posted for the Columbia River Park Advisory Committee meeting. Borough Manager Denlinger responded.

- c. Council Members

Councilperson Berntheizel commented on Solicitor Albert’s statement made earlier. He asked to read into the record the final portion of the written comments, as follows:

*“While the Borough had the right to discuss certain items in executive session, it did introduce the hiring of Ms. McCool on its public agenda, members of the public were able to comment on her potential retention, and her hiring was subject to a public vote.*

*Members of the public should know and understand that while the right to debate the wisdom of the Borough’s action is both respected and observed by Council, the Borough obeyed the terms of the Sunshine Act and did not act improperly.”*

18. Citizen Comments on Non-Agenda Items Only are incorporated at the end of these minutes

- a. Announcement of next meeting. At 6:00 PM on July 2, 2019 Columbia Borough Council will hold a Work Session.

19. Motion to adjourn the meeting at 10:20 PM.

Motion by:	Second by:	Voice Vote:
P. Williams	C. Berntheizel	All Favored – Motion Carried

MOTIONED AND APPROVED this 9<sup>th</sup> day of July 2019, by the Borough Council of the Borough of Columbia, Lancaster County, Pennsylvania, in lawful session duly assembled.

**BOROUGH OF COLUMBIA, LANCASTER COUNTY, PENNSYLVANIA**

**By:**

  
\_\_\_\_\_  
Kelly Murphy, Council President

**ATTEST:**

  
\_\_\_\_\_  
Rebecca S. Denlinger, Secretary/Treasurer

BOROUGH COUNCIL MEETING

June 25, 2019

CITIZENS COMMENTS

**Public Hearing regarding Ordinance 912-2019**

*\*The citizens providing comments during the Public Hearing were sworn in before providing testimony as part of the proceedings. The comments provided here are summarized.*

**Thomas Lawson III – 1111 Locust Street, Columbia PA**

Gave testimony on his opinion and concerns on short-term rentals (AirBNB's) in his low-density residential neighborhood. Also shared concerns of other rentals in operation in other parts of the Borough.

**Mary Wickenheiser – Chair of Columbia Borough Planning Commission**

Testified on behalf of the Columbia Borough Planning Commission that the Commission supports the ordinance as presented.

**Joanne Fritz – 1060 Locust Street, Columbia PA**

Testified that her neighborhood is low density residential and she is opposed to this type of venue.

**Frank Doutrich – 1001 Ironville Pike, Columbia PA**

Testified to wanting to know the number of properties that will be grandfathered and excluded from this ordinance.

**Patty McKonly – owner of 1102 Locust Street, Columbia Pa**

Testified as a short-term rental owner and gave her opinion on the value of short-term rentals to the Borough.

**Matthew J. Creme, Jr.- Counsel for Patty McKonly**

Testified, on behalf of the McKonly's, on issues he has with the proposed ordinance and asked Council to reconsider the ordinance based on his comments.

**Michael McKonly – owner of 1102 Locust Street, Columbia Pa**

Testified to his opinion that too much time has been spent on this issue. He sits on the Susquehanna Heritage Board and feels there are so many good things happening in the Borough the time would be better spent on things that can better the community and bring people to the Borough.



BOROUGH COUNCIL MEETING  
June 25, 2019  
CITIZENS COMMENTS

**AGENDA ITEMS ONLY**

**Sharon Lintner – 500 Chestnut Street, Columbia PA**

Questioned agenda item 12.c. Council President Murphy responded.

**Heather Zink – 31 S 9<sup>th</sup> Street, Columbia PA**

Questioned agenda item 9.c. Councilperson Novak responded. Commented on the enforcement of item 9.c. Commented on both item 14.b. regarding award of bid and 14.c. regarding use of 400 Locust Street.

**Frank Doutrich – 1001 Ironville Pike, Columbia PA**

Questioned agenda items 9.c. and 14.c. Council President Murphy responded.

BOROUGH COUNCIL MEETING

June 25, 2019

CITIZENS COMMENTS

**NON-AGENDA ITEMS**

**Sharon Lintner – 500 Chestnut Street, Columbia PA**

Asked for an update on the RACP Grant. Borough Manager Denlinger responded.  
Discussed the statement the Borough Solicitor made.

**Heather Zink – 31 S 9<sup>th</sup> Street, Columbia PA**

Discussed a house in the 900 Block of Locust Street that is allegedly renting out rooms in the home and renting the garage with no utilities as a living space. Council President Murphy, Mayor Lutz, and Borough Manager Denlinger responded.

**Frank Doutrich – 1001 Ironville Pike, Columbia PA**

Asked how many properties that are currently operation as a short-term rental/Air B & B will be grandfathered and exempt from the proposed new ordinance. Council President Murphy responded. Commented on the revolving loan fund and asked for Council to eliminate the line item in the budget and find a way to give the taxpayers of the Borough a break.  
Discussed road repairs in the Borough and the impact of utility work. Council President Murphy responded.  
Asked for clarification on what will happen with the remaining salary of the Property Inspector that resigned. Council President Murphy responded.  
Discussed streaming of Council meetings and the poor sound quality.  
Commented on the absence of the Borough Solicitor at meetings.

**Gina Kuhns – 744 Walnut Street, Columbia PA**

Discussed proposed road work on the 700 Block of Walnut Street. Council President Murphy responded. Discussed her interest in a new tree in front of her property. Borough Manager Denlinger and Mayor Lutz responded.  
Discussed the intersection at N 5<sup>th</sup> and Maple Street. Asked if the “no left turn” signs could be moved. Borough Manger Denlinger and Councilperson Novak responded.  
Discussed the change in direction of traffic on Bethel Street.

**Joanne Fritz – 1060 Locust Street, Columbia PA**

Discussed the existence of a commercial business in a residential area. Council President Murphy, Councilpersons Novak & Berntheizel responded. Discussed a property with high grass and weeds.

**Rock Fitzgerald – 801 Chestnut Street, Columbia PA**

Thanked everyone involved with the recent car show and garden tour held in the Borough, as it allows so many people both inside and outside of Columbia to see the treasures in the community. Encouraged all to keep up the good work.

**Todd Burgard – 854 Chestnut Street, Columbia PA**

Asked to speak as a resident, and shared recent articles in Lancaster Magazine about Ephrata. Will work to invite the magazine to cover Columbia in the same way. Shared concern about ongoing negative commentary about the Borough and encouraged focus on the positive growth and good things happening in the community.