

**STOCKERTOWN BOROUGH COUNCIL
MEETING MINUTES OF SEPTEMBER 12, 2022**

THE BOROUGH OF STOCKERTOWN HELD A COUNCIL SPECIAL COUNCIL MEETING
ON MONDAY, SEPTEMBER 12, 2022 AT 7:30 PM AT BOROUGH HALL.

Attendance

- Council Members present were: Council President Amy Richard, Vice President, Kathleen Zdonowski, Cindy Hower, Joe Gosnell, Renee Cantwell and Katie Santiago. Pam Davis was absent.
- Solicitor Gary Asteak and Mayor Rosemarie Wenzelberger were present
- Minutes were taken by Katie Santiago.

The Meeting was called to order by Council President, Amy Richard, at 7:30 PM

Pledge of Allegiance

AGENDA APPROVAL

Secretary / Treasurer Report

- **Motion** by Joe Gosnell, Seconded by Renee Cantwell to approve Council Meeting Minutes of August 30, 2022, as written. Motion carried unopposed.

- **Motion** by Cindy Hower, Seconded by Joe Gosnell to approve accounts payable for the General Fund and Sewer Fund through September 12, 2022. Motion carried unopposed.

Mayor Report

- Mayor Wenzelberger stated that there was a Written Statement of Charges served on Chief Eric Schwab.
- Amy Richard stated that there was a Loudermill Hearing scheduled for tonight but Chief Schwab has decided to resign. Ms. Richard read aloud Mr. Schwab's resignation letter which stated as follows:
 - "I, Eric Schwab, currently Chief of Police with the Borough of Stockertown, do hereby voluntarily resign from all positions with the Borough of Stockertown Police Department, effective immediately. It has been my honor to serve the residents of the Borough for these past several years. I greatly appreciate the opportunity to protect and serve this community. However, it appears the injury to my thumb will preclude me from performing my full duty with the Department for the foreseeable future. Therefore, I believe it is in the best interest of all involved, including, most importantly, the residents of the Borough, to step down at this time". Sincerely, Eric K. Schwab

- Kathleen Zdonowski asked for permission to speak which was granted. She stated that, "you have heard here tonight that Chief Schwab resigned. She wants everyone to know that by allowing Chief Schwab to resign he was able to circumvent

disciplinary charges written for numerous events of conduct unbecoming an officer. These charges would have terminated Chief Schwab's employment with the Borough; however, the Borough attorney made a deal with Mr. Leo Jackson who is the attorney for the plaintiff to allow him to resign. Based on the Chief's Contract with the Borough, initiated and signed by the Chief, Provision 15 provided that in the event the Chief resigns voluntarily before the expiration of the terms of the agreement, he shall be required to give the Borough thirty (30) days written notice in advance unless the parties otherwise agree in writing which council did not comply with. Provided such notice is given, the Chief will be entitled to receive pay for any accrued but unused vacation. If no such notice is given, then the Chief shall forfeit any accrued vacation time. This resignation was not the Borough's choice. Council did not condone this resignation because if the Loudermill Hearing was heard, the Chief would have been terminated this evening. That is the reason for this Special Meeting." Ms. Zdonowski stated that "conduct unbecoming" does not come close to covering what the Chief did.

- Joe Gosnell stated that the Chief's resignation was apparently written by someone with far more intellectual grammar capacity and was not given for the benefit of the residents of the Borough, but to avoid several charges under the umbrella of "unbecoming an officer" levied against him after an extensive investigation which would have led to termination. Mr. Gosnell stated that he was back to work after three weeks when he injured his ribs and the Chief has been out 6 months with his thumb injury.
- Amy Richard stated that in addition, the "fluff" that he has written regarding his thumb plays into his worker's compensation claim which is ongoing. Chief Schwab has appealed the denial of his claim with the Borough's Worker's Comp. Insurance Co. The resignation due to his thumb will play into his attempt to collect full disability since he claims he cannot serve the Borough effectively.

Solicitor

- Solicitor Asteak reported the procedural background of Chief Schwab's written charges. He stated that there was evidence of misconduct on the part of Chief Schwab. That misconduct was investigated by a private detective who was hired by Borough Council to assist the mayor who has supervisory power of the Police Department. The private detective in conjunction with private council, that was secured by Borough Council, to assist the mayor and the private detective conducted a thorough investigation. This investigation has been ongoing for months and has uncovered a variety of misconducts on the part of the Chief which have resulted in the service on him on September 2, 2022 of a Loudermill Notice which was, in fact, a Notice of Charges under the Police Tenure Act which is the Act in which disciplinary action for police officer are to be adjudicated. He received notice of all of the charges and was given five days in which to request a public hearing. He requested a hearing which was advertised for this evening meeting. On Friday, September 9th a letter of resignation was received. Attorney Asteak stated that under the Police Tenure Act the Borough cannot proceed with the hearing if the employee has already resigned. He stated that the Borough had no choice. Attorney Asteak assured residents that Chief Schwab's personnel file will have the results of the investigation and the full investigative report. MPOETC, the police

licensing agency, has been notified of his resignation and will be provided with all the details. Attorney Asteak brought up the controversies over the past couple of years where several police officers resigned from the Borough due to the Chief and went on to other police departments. The Police Chief's personnel file is available and open for inspection by any perspective police agency. As of this moment the Borough has no police department. Attorney Asteak stated that he has notified the District Attorney's office of the situation.

- Amy Richard stated that she wants on the record that she is offended and totally disappointed that neither her nor council were brought into this negotiation with his resignation. Attorney Asteak said that there was no negotiation. Kathleen Zdonowski added that he violated his own contract and that he cannot just quit because he has a signed contract.
- Amy Richard informed Attorney Asteak that he himself stated that the Chief's attorney was trying to negotiate. Attorney Asteak stated that he was trying to negotiate a continuance and that she told him no, a hearing has been scheduled.
- Joe Gosnell wanted to clarify Attorney Asteak's statement regarding the police department. Mr. Gosnell stated that the Borough still does have a police department but it currently does not have any employees. He stated that we have to work diligently to vet and find qualified officers to restaff the existing police department. The fact that the Borough has its own police department is very important to everyone. Mr. Gosnell stated that the voices of the good officers that left will not go unheard. Those officers who were not in the "big boys' club" and did not agree with the corruption that allegedly took place, were intimidated into either quitting or were let go for petty reasons by the gentleman that we have been talking about tonight. Amy Richard added that these officers are still being harassed by him even after they left the department. It was reiterated that council will not leave the Borough unprotected.

Public Comment

- Danielle Rizzo asked what the charges were against Chief Schwab? Gary Asteak stated that the charges all fall within the Police Tenure Act of conduct unbecoming a police officer. There was a variety of separate incidents. Each of the allegations in and of themselves would have justified council to terminate him. That is what the hearing would have determined.
- Kathleen Zdonowski stated that house had to be cleaned before we could re-establish a legitimate police department. This hearing would have been the final piece.

- Joe Gosnell received clearance by the Borough Solicitor to read the charges which were served on Chief Schwab without going into detail.
 - Threat to Borough Resident
 - Unlawful dissemination of confidential secure police records
 - Fraudulent timecard/payroll records
 - Dereliction of Sworn Administrative Duties
 - Misuse and mismanagement of department computer terminal regulated by the Pennsylvania State Police
 - Ongoing Insubordination

- Amy Richard stated that now we can all see the reason why Chief Schwab chose to resign. She stated that “he didn’t want to face the charges because he is a coward”.

- Tonya Dipierdomenico of Main Street asked if the Chief returned his equipment to Stockertown. Attorney Asteak stated that the contract explicitly provides what the penalties are for violating the contract. He stated that arrangements were made for the turnover of his equipment immediately. Amy Richard added that arrangements have not been made because the Chief thinks he is coming into the police office for an hour to obtain items that he wants. Council agreed that he is getting nothing without receipts for proof of ownership. Tonya stated that the Solicitor mentioned that council wanted to air his dirty laundry. She expressed her concern of what the Chief did to the residents who live in the Borough. She said “there are residents like myself who would have loved to sit here and watch his trial”. Attorney Asteak claimed to understand the anger in the room and of many of the residents. He is aware that there was damage done over the last few years, but reiterated that the law does not allow anything other than what has occurred here.

- Kathleen Zdonowski asked if the Borough can sue Schwab for breach of contract? Attorney Asteak confirmed that council could sue for damages. Joe Gosnell stated the Schwab has cost the Borough residents Tens of Thousands of Dollars in fees which residents are entitled to have returned. Amy Richard informed everyone that to date, the Schwab issue has cost the Borough over \$58,000.00.

- Private Investigator, Dan Monek introduced himself and stated that he is the investigator that the Borough retained to look into the police department. He stated that he is a retired police officer and that when he sees misconduct by another police officer it infuriates him and he takes it very seriously. Mr. Monek stated that he has conducted a very methodical process and followed the letters of the law. He has worked with council every step of the way and has built a case of pure misconduct and illegal activities. Mr. Monek stated that he will not let this community suffer because of Chief Schwab’s actions. He will see that the Borough has a legitimate new police department that can be trusted and puts the Borough’s interest first. Council all thanked him for his dedication and hard work.

- **Motion** by Joe Gosnell, Seconded by Cindy Hower to enter into executive session at 8:03 PM for personnel matter. Motion carried unopposed.
- **Motion** by Renee Cantwell, Seconded by Joe Gosnell to exit executive session and enter back into regular session at 9:10 PM. Motion carried unopposed.
- **Motion** by Renee Cantwell, Seconded by Cindy Hower to increase the salary of Public Work's Director, Ken Zemencsik, by One Dollard and Fifty Cents. Motion carried unopposed.

Adjournment

- **Motion** by Renee Cantwell, Seconded by Cindy Hower to adjourn the Council Meeting at 9:17 PM. Motion carried unopposed.

The next regular meeting of Borough Council will be held on October 3, 2022

The foregoing was approved the **3rd** day of **October, 2022**.

President of Council

Attest: _____