

**BOROUGH OF EDGEWOOD  
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**BOROUGH OF EDGEWOOD**  
**MINUTES OF THE COUNCIL MEETING HELD OCTOBER 7, 2019**

President Fuller called the meeting of the Borough of Edgewood to order at 7:30 pm in the Municipal Building.

**ROLL CALL**

Upon roll call, the following responded: Mr. Bright, Mr. Wainright, Mr. O'Donnell, and Mr. Fuller. Councilmembers Wallace and Petrola were absent. Mayor Wilson and Solicitor Tim Barry were present.

**PLEDGE**

The Pledge of Allegiance was recited.

**ITEMS FROM THE FLOOR:**

Solicitor Barry asked that anyone wishing to address council regarding the Square Café's sidewalk café license do so

Stephanie Ulmer of the Borough's Shade Tree Committee addressed borough council. The committee has planted 20 new trees in the past two years and plans 12 more for the November 9, 2019 planting. However, the borough has lost almost 70 trees in the last three years. She requested the borough consider increasing funding for new planting to \$5,000 in 2020 to enable planting 25 new trees. The committee also recommends devoting \$10,000 to preventative pruning to maintain the aging tree canopy.

Melody Farrin (1131 East End Ave) presented a petition requesting a 4 way stop sign at East End Avenue and West Hutchinson.

Wayne Dean (710 Walnut) asked that council support his efforts to renovate Memorial Park in time for Veterans Day and presented several documents outlining the proposed work. Council was generally supportive and said they would review the proposal and answer Mr. Dean promptly.

**AUTHORIZATION TO PAY BILLS**

**M-1** Mr. Wainright moved to authorize the payment of bills, for goods and services received by the Borough, having been reviewed and approved by the General Government Committee, from the General Fund in the amount of \$231,716.91 and from the Sewer Fund in the amount of \$164,227.38 for a total of \$395,944.29.

DISCUSSION: Mr. Wainright stated the monthly bill report included the borough's annual pension contribution and the fire department's annual relief payment.

Upon roll call vote the following responded yes: Mr. Bright, Mr. Wainright, Mr. O'Donnell, and Mr. Fuller  
**Motion carried.**

**COMMITTEE ACTION**

- M-2** Mr. Wainright I moved to appoint Ben Love to fill the vacant seat on borough council created by Patricia Schaefer's resignation and to serve out the remainder of her term which expires December 31, 2019. Second Mr. Bright.

DISCUSSION: none

Upon roll call vote the following responded yes: Mr. Bright, Mr. Wainright, Mr. O'Donnell, and Mr. Fuller **Motion carried.**

Mr. Love took his seat and Mayor Wilson administered his Oath of Office.

- M-3** Mr. O'Donnell moved to accept the resignation of Lindsay Baxter from the borough's Shade Tree Committee effective immediately.

DISCUSSION: None.

Upon roll call vote the following responded yes: Mr. Bright, Mr. Wainright, Mr. O'Donnell, Mr. Love and Mr. Fuller. **Motion carried**

- M-4** Dr. Petrola moved to accept the resignation of Brian Kavalukas from the borough's Shade Tree Committee effective December 31, 2019.

DISCUSSION: None.

Upon roll call vote the following responded yes: Mr. Bright, Mr. Wainright, Mr. O'Donnell, Mr. Love and Mr. Fuller. **Motion carried**

- M-5** Mr. O'Donnell moved to extend the refuse and recycling collection contract with BFI Waste Industries dba Republic Services of Pittsburgh for one year commencing January 1, 2020 and continuing through December 31, 2020 at a rate not to exceed \$17.05 per month per household as defined under the Option Year 2 unit price schedule listed in the BFI Service Agreement. Second Mr. Wainright.

DISCUSSION: Mr. Zahorchak explained that the current agreement contains two option years and this is the most financially prudent option at the time given the current recycling market conditions. Republic is still contractually obligated to take glass which is not the case in practically all new refuse contracts. Mr. Zahorchak will prepare a bid spec in the spring for a new multi-year refuse contract.

Upon roll call vote the following responded yes: Mr. Bright, Mr. Wainright, Mr. O'Donnell, Mr. Love and Mr. Fuller. **Motion carried**

## **BUSINESS MEETING**

**VOLUNTEER FIRE DEPARTMENT** Ms. Annie Hendricks gave the department report which included the ongoing roof leak in the fire department garage.

**WATER AUTHORITY REPORT** Mr. Fuller gave the water authority report.

**RECREATION REPORT** No report given.

**PLANNING COMMISSION** Mr. Zahorchak said the commission did not meet.

**COG REPORT** Mayor Wilson left the meeting due to illness and did not provide a written report.

**SOLICITOR'S REPORT** The solicitor had nothing to report.

**BOROUGH MANAGER'S REPORT** : Mr. Zahorchak provided updates on the 2019 road paving program slated to start October 14; the borough building masonry restoration work; the CDBG funded stair lift to council chambers; the Maple Avenue traffic light replacement; and the roof replacement over the fire garage.

**NEW BUSINESS:** Mr. Fuller announced the 2020 budget meeting on Saturday November 9, 2019 starting at 9 a.m. in council chambers. He also announced a public safety committee meeting on Tuesday, October 8, 2019 at 6:30 p.m.

At 8:30 p.m. Mr. Fuller announced council would hold a hearing to decide whether or not to revoke the Square Café's Sidewalk Café Permit for the remainder of the 2019 operating season.

Solicitor Tim Barry opened the Square Café's public hearing regarding the continuation of their license by explaining the process to the audience and that borough council may make a decision at tonight's meeting. The question before council is whether the Square Café's sidewalk café license should be revoked due to the violation notice regarding the placement of and number of tables and chairs on the public sidewalk.

Mr. Miller testified that he visited the Square Café on September 13, 2019 and observed several violations: failure to maintain a clear pedestrian pathway of 60 inches, the placement of umbrellas and planters on the sidewalk, the proximity of tables to the parking lane preventing motorists from exiting their vehicles, the placement of tables and chairs in front of neighboring businesses, and the placement of tables and chairs beyond the approved boundary (past an adjacent business), failure to remove tables and chairs from sidewalk after closing time and throughout the winter season, and the operation of the sidewalk café past the permitted operating season.

Mr. Barry asked Mr. Miller to clarify the placement of tables and chairs in front of an adjacent business. Mr. Miller stated the Square Cafe is permitted to place tables and chairs in front of one adjacent business under the ordinance. Mr. Miller viewed photos taken by Mayor Wilson prior to September 13, 2019 showing tables and chairs placed in front of several businesses ending at Sanders Street.

Margaret Sitko, attorney for the Square Café, suggested that the café is not in violation of the ordinance because the ordinance allows a pedestrian pathway of 36 inches. Ms. Sitko stated she requested this variance in a letter delivered to Mr. Miller but that he did not respond. Ms. Sitko asked for permission to reduce pathway again.

Ms. Sitko stated the café ordinance does not allow planters but planters are permitted under the borough's zoning ordinance. She asked the borough consider revising the ordinance to allow for planters and umbrellas with café seating. Mr. Barry reminded Ms. Sitko that amendments to the borough's zoning ordinance are not being considered by borough council at this hearing. Pedestrians have been struck and killed by vehicles along S. Braddock Avenue and the placement of planters and umbrellas is a separate serious matter as they relate to visibility and pedestrian safety.

Ms. Sitko made her presentation stating that the Square had reconfigured their tables and chairs on September 24 and wanted to know whether that was satisfactory. Mr. Miller stated that he did not inspect the placement of tables and chairs on that day. Ms. Sitko also said the pedestrian pathway was established and protected on that day as well. She then questioned the requirement to have permission from the neighboring business owner or neighboring landlord. The café does have permission from the neighboring business and the next owner allowing the café to extend seating to Sanders Street. Mr. Barry questioned what building that was on the street. Sherri stated that they have consent from the adjacent property which allows them to access to the entire block to Sanders. Mr. Miller interprets the language as neighboring business and Ms. Sitko feels it is the neighboring property.

Mr. Barry introduced the consent forms to borough council and gave the opinion that the form grants permission on behalf of the property addresses and not specific businesses. Mr. Barry also asked Mr. Miller to elaborate on the number of tables and chairs currently present versus the number shown on their permit application. Mr. Miller stated that while he did not count the tables it was clear that there were more tables present than the number shown on their application. Mr. Zahorchak stated the permit shows six tables and the photos taken by the Mayor and several inspections have shown tables and chairs beyond the stated number.

Mr. Zahorchak stated that it is reasonable to assume there are more than six tables present on the sidewalk if the sidewalk tables stretch from the store front to the end of the block. There are four tables in front of the entry door to the restaurant. This is the main reason for Mr. Miller's inspection and the crux of the complaint against the business. Mr. Barry asked Mr. Miller to address the stacking of tables and chairs after closing. Mr. Miller did not elaborate other than their presence was called out in his violation notice letter dated September 13. Ms. Sitko stated that the café removes the tables and chairs from the sidewalk area and stores them in front of the business. There was a question about the café area versus sidewalk. Mr. Miller replied that the ordinance uses the language of sidewalk café area, it does not differentiate between the seating area, sidewalk, or preparation area.

Mr. Barry asked Mr. Miller if he had any other items to comment on, Mr. Miller did not. Mr. Zahorchak had nothing further to add and Ms. Sitko had no questions for either individual.

Ms. Sitko made a statement thanking the board for the hearing and to confirm what items the café was not complying with and that she felt that there were two items: the placement of planters and umbrellas and operating out of season as defined by the permit. She hoped council would consider an amendment allowing the planters and umbrellas and that council would consider extending the operating time through the winter months and that the enforcement of these two items be stayed until council discussed an amendment.

Sherri Goldstein addressed council and shared the history of her business and the benefit it offers to its employees. She identified several employees in the audience, neighboring business owners and customers who were in attendance supporting the restaurant. She stated that she felt the attention being paid to her business was unfair because none of the other businesses have been targeted by the borough for their outdoor seating. Ms. Goldstein closed her testimony by stating that her landlord has permitted her to expand her seating by adding tables and chairs as her business has grown and that the borough has permitted this expansion over the sixteen years she's been in business.

Ms. Sitko added that she does not believe the way the business is being operated presents a threat to public safety. Mr. Barry had no questions of Ms. Goldstein or Ms. Sitko. Mr. O'Donnell and Ms. Sitko discussed the width of the pedestrian pathway and that he observed the tables were close to the curb. Mr. O'Donnell asked for clarification about the definition of "tenant" in the ordinance. Mr. Barry responded that the section contains terms which have a legal definition. It does not refer to a landlord tenant relationship but rather a tenant in common scenario. Several business owners and staff of the Square Café spoke their support of the business. A short discussion ensued regarding Ms. Goldstein's income from the additional tables and what impact the elimination of these tables could have on her revenue. Mr. Zahorchak asked Ms. Goldstein if she has ever updated her site plan to reflect the additional tables added as her business has expanded. She responded that the drawing on file was dated and did not reflect the current number of tables in use.

At this point, Mr. Barry explained to the audience that borough council will deliberate the facts presented to them and make a decision regarding the ongoing status of the café's sidewalk permit. The council entered executive session to deliberate at 9:20 p.m.

Upon leaving executive session at 9:50 p.m., Mr. Barry briefed the audience on the discussion that occurred during executive session with Ms. Goldstein and Ms. Sitko. Next year, the Square Café will need to submit a formal site plan showing the number of settings and distances from buildings, curbs, etc., neighboring property owner consent issues will be clarified; the pedestrian pathway width will be evaluated. For this year, the pedestrian pathway can remain at 36 inches. The permit still expires on October 31, 2019. Ms. Sitko pointed out that Ms. Goldstein was being fined \$100 for violating the sidewalk café ordinance.

Mr. Barry elaborated that Ms. Goldstein needed to demonstrate next year that she needed the minimum 36 inches to operate. For this year, Ms. Goldstein can continue to operate as is.

**M-6** Mr. Bright moved to revoke the Square Café's sidewalk café permit for the remainder of 2019. Second by Mr. Fuller.

DISCUSSION: None

Upon roll call vote the following responded No: Mr. Wainright, Mr. O'Donnell, Mr. Love and Mr. Fuller. Mr. Bright responded Yes. **Motion Failed.**

**M-7** It was moved by Mr. O'Donnell and seconded by Mr. Wainright to adjourn at 9:58 pm.

DISCUSSION: None.

The aye vote on the motion was unanimous. **Motion carried.**



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Rob Zahorchak, Borough Manager

