

## City Council Meeting Minute – May 22, 2023

City Council Chambers, City Building, 16 West Scribner Avenue, DuBois, Pennsylvania on Monday, May 22, 2023 @ 6 p.m.; Council convened at their regular City Council Meeting with Council Vice President, Councilwoman Diane Bernardo, in the Chair. Other Council Members present were: James Aughenbaugh, Shane Dietz, and Shannon Gabriel. Also present were: Toni Cherry; Interim City Manager/City Engineer/Public Works Director, Chris Nasuti; Redevelopment Authority Director/Assistant Public Works Superintendent, Joe Mitchell; Police Chief, Blaine Clark; Corporal, Randy Young; Finance Officer, DeLean Shepherd; Code Enforcement/Zoning Officer, Zac Lawhead; and Administrative Secretary, Bobbie Shaffer.

The meeting was called to order at 6 p.m. and the Pledge of Allegiance was led by Councilwoman Bernardo.

### Excuse Mayor Edward L Walsh

The motion was made by Aughenbaugh and seconded by Gabriel that Council excuse Mayor Edward L. Walsh from the evening proceedings. Roll call vote was as follows: Aughenbaugh, yea; Gabriel, yea; Dietz, yea; Bernardo, yea. Motion passed 4-0.

### Approval of Minutes

#### City Council Meeting Minutes -May 8, 2023

The motion was made by Dietz and seconded by Aughenbaugh that Council approve the City Council Meeting Minutes of May 8, 2023, as presented. Roll call vote was as follows: Aughenbaugh, yea; Gabriel, yea; Dietz, yea; Bernardo, abstain. Motion passed 3-0.

#### Work Session Meeting Minutes – May 18, 2023

The motion was made by Gabriel and seconded by Dietz that Council approve the Work Session Meeting Minutes of May 18, 2023, as presented. Roll call vote was as follows: Aughenbaugh, yea; Gabriel, yea; Dietz, yea; Bernardo, yea. Motion passed 4-0.

### Registry of Invoices

Interim Manager Nasuti stated that an additional bill had been added for Rumbarger Cemetery, an annual donation of \$10,000 for maintenance. The motion was made by Gabriel and seconded by Aughenbaugh that Council approve the Purchase Order Listing by Vendor Name dated May 18, 2023, in the amount of \$511,172.11; the Purchase Order Listing by PO Number dated May 22, 2023, in the amount of \$10,000; the Check Register by Check ID dated May 17, 2023 in the amount of \$39,300.81; and the Check Register by Check ID (Pennvest – Sewer Plant) dated May 18, 2023, in the amount of \$3,566,137.79 as presented by the Finance Officer. Roll call vote was as follows: Aughenbaugh, yea; Gabriel, yea; Dietz, yea; Bernardo, yea. Motion passed 4-0.

### Public Comments

#### Aviana Gillaugh – TURNaBOU Boxng, 4563 Rockton Road, DuBois

Ms. Gillaugh read a letter she dropped off to Council requesting that June 17, 2023, be proclaimed “Tre’Sean Wiggins Day” in the City of DuBois. Councilwoman Gabriel said she wasn’t speaking for all of Council, but she didn’t feel it would be a problem; but to be in compliance with the Sunshine Act, we will add that to the next agenda (June 12<sup>th</sup>).

#### Ron Tryzna - 120 South Avenue, DuBois

I’m trying to make this as simple as possible. I am going back to May 14, 2018, a Council Meeting where City Manager Suplizio explained that at an Executive Session held prior to the Council Meeting which had to do with a land sale at our watershed. The parcel of 20 – 26 acres was being sold by Orner Farms for a price of \$4,762.50 an acre. The City Manager stated that the Council is always looking for opportunities to extend their land around the watershed since we believe our water is our most valuable resource. Tryzna clarified with Councilwoman Bernardo that water is our most valuable resource. She confirmed it is. Tryzna went on to say that the motion was made by Walsh and seconded by Bernardo and the motion passed 5-0. This is where it becomes interesting, City Manager Suplizio sent the Orner family two letters, one in April 2018 stating that the City of DuBois was interested in buying the land and another letter on May 16, 2018, two days after Council met stating that the City of DuBois and also GPA Group, LLC had interest in buying the land. The GPA Group was never mentioned in the minutes of the Council Meeting on May 14, 2018. Amazingly there is no hard copy of either letter in the files of the City of DuBois. Another interesting fact is that even though the City voted to purchase 20 -26 acres, the property was subdivided into three parcels and this was not done by the Orner Family; they refused to do it. On June 29, 2018, the City of DuBois ended up with one parcel of 7.7 acres, not 26 acres, at a cost of \$34,398. The other two parcels were 10.22 acres, and 10 acres were purchased by GPA Group, LLC - Kathryn A. Mitchell on the same day of the City’s purchase June 29, 2018, for \$89,427. This is in contrast to Council wanting to purchase, to protect their watershed, the 26 acres. Another interesting fact is that the GPA Group, LLC –



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Ron Tryzna - 120 South Avenue, DuBois (Cont'd.)

Randy J. Mitchell, turned around and sold parcel 3 (10 acres) on July 2, 2019, to John F. Suplizio for \$1 consideration. In a Statement of Financial Interest that City Manager, John "Herm" Suplizio completed on January 13, 2020, the City Manager failed to list the 10-acre parcel as a gift of real estate interest. So, did the City Manager even explain to you the Council that the city only purchased 7.7 acres and not the 26 acres that you voted for? How can this occur?

City Solicitor Toni Cherry responded. Mr. Tryzna, have you seen the parcel? Tryzna confirmed he had. Cherry continued, then you will know it was not, there are no trees on that parcel. The most valuable part, it's off Christian Ridge Road, of that property for the City of DuBois is the roadway that extends from Christian Ridge Road to other property owned by the City of DuBois that is at the rear of the City's watershed area. The City looked to purchase land that has trees on it, this property was not property that normally would impact the City's watershed because the land had been depleted as farmland. That is not something that we use, what is most important to the city is that the City ends up with the roadway, if you were out there you would see the City has a gate across that roadway. Our concern, was to make sure that we protected the watershed from vehicles that might enter to the back of the watershed with that road. The property itself was being marketed by a realtor. The sale was infact handled by the Orner's lawyer. Tryzna said and also GPA Groups lawyer. Cherry confirmed. Tryzna asked if the Council was aware that the City had sent out a brush hog to cut down a lot of stuff on those properties, you actually had a guy go out and cut a lot of brush down on all three properties. Cherry asked when, what he was talking about? Tryzna stated he can't give an exact date, but he can find out. Cherry said OK, quite frankly I'm not aware of that. I'm only aware of the fact that it borders Christian Ridge Road and for the City that's a larger price than the City pays per acre for property that does not have timber on it. Tryzna asked if it should have been brought up at a Council meeting. He went on to say that the Council voted to purchase 26 acres and that's what the parcel is listed over on the map. Cherry stated that her understanding was that the Council voted to explore it for a period of time. Tryzna stated no they voted to purchase it. Tryzna asked if she wanted the minutes from the meeting, Cherry stated no she had seen them. Cherry went on to say that the valuable portion was the property for the City of DuBois was the 7 acres and the roadway, the rest of it would not have been of value. I think the money could have been spent elsewhere, but the roadway was the essential element for the city.

Pat Reasinger - 206 E. Logan Avenue, DuBois

He is wondering if there are any contracts that go past January 1, 2026, with either a vendor or an employee. Councilwoman Gabriel clarified, past January 1, 2026? Reasinger confirmed after Consolidation. Gabriel stated Blaine Clark's contract was extended a few months ago to help during the transition. Hopefully the new City Council will hire a Chief, because he will be retiring at the end of that year.

Reasinger directed his questions to Nasuti. There was talk a few years ago about extending the Rails to Trails to go between DuBois and Falls Creek. Nasuti confirmed. Reasinger wanted to know if there has been any progress on that. Nasuti stated that Joe Mitchell and Shawn Arbaugh have been working on that, he asked Mitchell for the consultant. Mitchell said Pashik MTR. Nasuti went on and said that we had a grant to do planning and that was completed. Reasinger wanted to know when the project would be completed. Nasuti said that was for planning, we need to find the money to do the actual project.

Jennifer Jackson – 44 N. Brady ST

The Executive Session that was called last Saturday, I'm assuming it was about the \$93,000 that magically appeared in the Christmas gift bag. I'm just wondering why the defense attorney for the previous City Manager was in on that meeting. At an Executive Session that was called hurriedly for a Saturday morning, why would a defense attorney for Mr. Suplizio be in that meeting if it was about the money. Solicitor Cherry said because the defense attorney wants to have control over statements that are being made and they intend to use that as their defense at trial, that's why he was here. Jackson asked if there was any more information about the money that came into the city, if you have anything you would like to add to it, or say about it at all? Cherry stated, I'm going to let the defense Council say. Their defense for Mr. Suplizio is that the money was kept there, for both Community Fund money and Community Days money and all of that information was turned over. The AG was advised, I can tell you that. (Someone kept moving their papers around, I could not hear the conversation for a short period.) Jackson asked if it disappeared from the United Way in December. She asked for confirmation. Cherry said no. It would have been when the transition occurred between the former director and the new director. Jackson said it wasn't December. Cherry said no ma'am. Jackson said her last question concerned an Ordinance. This Ordinance that talks about property signage on a business, on other property, was that changed? You know you are not allowed to put signage, business signage, on another property, it had been that way for years and I'm just questioning if that Ordinance was changed or when it was changed. Cherry stated there is an exception there ... Jackson interrupted and said oh is there. Cherry continued,



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Jennifer Jackson – 44 N. Brady ST (Cont'd.)

if you have a resort there is language in there. That Ordinance has been in effect for quite some time. Jackson asked if the resort part was in there from years ago? Cherry confirmed it was. Cherry said if Jackson would like, you can get a copy of that. Jackson said she would love that and the date. Cherry stated that Mr. Lawhead would get that for her. Jackson said she appreciated Cherry answering her questions tonight.

Eric Brubaker – 320 W. Second Avenue, DuBois

My understanding is your answer to Mr. Tryzna is the city only owns 7 acres. Cherry confirmed. Brubaker then why was city equipment and city employees on city time on the 10 acres owned by John Suplizio. He has video evidence of it. He would like to know who authorized it. They should be fired for doing it. Cherry stated she has no knowledge of it. Brubaker said he has video evidence of it and knows the city employee that did it and he is sure he did it under orders.

Kristen Vida – 929 Chestnut Avenue, DuBois

Her subject is water, Diane, you have said it, it's our most valuable resource. So, knowing that water is a commodity that is regulated by the PUC because we sell it to Sandy Township, and to fracking companies. Are there consequences from the PUC if the sale of water, if those proceeds do not 100% go back into the Water Fund? Solicitor Cherry answered and stated that there was no requirement, I believe you are referring to the sale of water to EOG and EQT back in 2010, 2011 and 2012. All those companies were not able to drill themselves; so, they were willing to pay a premium for the city's reserve. The City had the right to, at that point, use of an extra 3,000,000 gallons. They were willing to pay a premium if the city would guarantee that that water would be available to them were they to need it. They did not. The actual water they used was put into what we call the Water Fund. The rest of the money was put into the General Fund. Which I consider to be absolutely correct, and I'll tell you why. All the assets like the reservoir, the wells, the Water Treatment Plant, the lines, and equipment all owned, not by an entity known as the Water Bureau but by the City of DuBois and all of those assets have been paid for by the taxpayers of the City of DuBois. I'm going to take you back briefly to 20 years ago when the City of DuBois paid off a PennVEST loan to raise the rates, because the taxpayers of the City of DuBois were paying far more for water than the customers outside of the boundaries of the City of DuBois. Once we did that, then we were able to equalize the rates. But we never really reimbursed the taxpayers of the City of DuBois for all those years when they paid for a system. We went through two PUC filings after that money was deposited into the General Fund. When you do the PUC filings, you hire a consultant to set the rate and you must disclose all of that. All of that passed mustard with the PUC. What we have also is that people who are employees of the City of DuBois are leased in an employment agreement to "the Water Bureau". One of the things we have always had a problem with in terms of PUC rate filings is that our assets are old. The reservoir has been in existence for a very long time, so when you are trying to calculate a proper rate, you must take the depreciated value of all those assets. So, that is why we started doing leases with the water bureau for proper compensation of what it costs the citizens of the City of DuBois to provide service to the customers outside the corporate boundaries. All of that was disclosed in two rate filings. There is no secret there. Do I legally think that is the appropriate way, when you are not actually having the water used. It was miscellaneous income on the audits, it was listed as a donation; I consider that to be highly appropriate. That money belongs to the residents of DuBois so that their taxes are held at a lower rate since they paid for the assets.

### **Requests from Downtown DuBois, Inc.**

The motion was made by Gabriel and seconded by Aughenbaugh that Council approve the requests from Downtown DuBois, Inc. for the annual use of the Pershing Parking Lot Saturday mornings and free parking in that lot until 11:30 a.m. from June 24 through October 7. Roll call vote was as follows: Aughenbaugh, yea; Gabriel, yea; Dietz, yea; Bernardo, yea. Motion passed 4-0.

### **Proclamation – Memorial Day**

Councilwoman Bernardo read the proclamation in its entirety and ended with "God bless our troops". The motion was made by Aughenbaugh and seconded by Gabriel that Council proclaim May 29, 2023, Memorial Day in the City of DuBois and ask that all residents observe it with appropriate ceremonies. Roll call vote was as follows: Aughenbaugh, yea; Gabriel, yea; Dietz, yea; Bernardo, yea. Motion passed 4-0.

### **Forensic Financial Analysis**

Nasuti stated that we executed the contract with Boyer & Ritter from Camp Hill, the amount to the agreement was \$125,000, so it was within budget; our first meeting is June 5, he will report after that how our kickoff meeting went; and it should be finished in 12 months from June 5th. Hopefully we can get done quicker but the engagement letter is for 12 months.



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### Loan Interest Rate Benchmark

This came from S & T Bank, we have three loans, I believe they are summarized in the back, their interest rates are tied to LIBOR, that interest rate benchmark is going away. It will no longer exist at the end of June. Congress has actually passed an act that if you have this and don't leave any change that you will switch over to SOFR (Secured Overnight Financial Rate) automatically. S & T is recommending we memorialize that in paper and after everyone signs them we will switch over to SOFR. I have talked to Anthony Ditka, our bond Council, this is pretty standard and he recommends we memorialize this also. This is for our three loans we have at S & T. It's a \$9,000,000, \$4,600,000, and \$4,400,000 loan. Bernardo asked for Council wishes. Gabriel asked what happens if it is not done. Nasuti stated that if it is not done it will automatically switch to that; must be done between now and June. Gabriel asked if Council could take the document and read over it and put it on for the next meeting. The motion was made by Aughenbaugh and seconded by Gabriel that Council table this item until the next meeting. Roll call vote was as follows: Aughenbaugh, yea; Gabriel, yea; Dietz, yea; Bernardo, yea. Motion passed 4-0.

### Ballfields Update

Nasuti stated they met with the architect today, hopefully he'll be back here within the next 30 days to present the final plan to Council and request authorization to go out for bids. If all goes well, we will be under construction by mid-September and ready for the next ball season. He went on to say that he just wanted to give an update, we are still securing the permits that is what we are waiting for right now. Exciting project and we're moving forward. Aughenbaugh confirmed we can do the planning even though we don't have the permits. Nasuti stated this is why we are waiting 30 days, we will know where the permits are at, we'll have the final plans done and have a better time frame then. Someone asked what they were constructing. Nasuti stated, a new softball field where the football field in the park is now. Gabriel asked about the T-Ball field. Nasuti stated that we are looking at different options. Currently we are looking at a softball field, a basketball court, pickleball has become very in demand so... I'll have the final plan for you.

### Council Comments

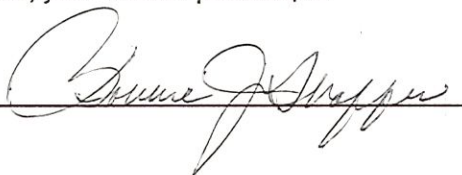
Nasuti stated we received a \$131,000 grant from the Susquehanna River Basin to add to our leak detection system. We will be able to purchase approximately 100 new loggers; currently we have 186 out there right now. So, we're going to have a sizable increase to that to find the source of our unaccountable water. This should help us reduce that even more. That will help us monitor our leaks and keep them in check and keep our rates as low as possible. Aughenbaugh asked if we still have the company come in once a year and check for leaks. Nasuti said no.

Executive Session was called for Personnel.

### Adjourn

There being no further business to transact; the motion was made by Gabriel and seconded by Aughenbaugh that Council adjourn. Roll call vote was as follows: Aughenbaugh, yea; Gabriel, yea; Dietz, yea; Bernardo, yea. Motion passed 4-0.

ATTEST:



APPROVED:

