

Palmyra Borough Council Meeting
Tuesday October 24, 2023
7:00 PM

President Shearer called the meeting to order at 7:00 PM in Council Chambers of the Palmyra Municipal Center, located at 325 S. Railroad St. Other Council members in attendance included Don Barry, Anthony Catalani, William Garber, Tom Miller, Jane Quairoli, and James Tesche. Also, in attendance were Police Chief Andy Winters, Assistant Borough Manager Brenda Pera, Borough Manager Roger Powl, and Borough Solicitor Josele Cleary. Mayor Fred Carpenter was absent from the meeting.

Public Hearing: Liquor License Transfer Request: Ninkovich, LLC – 1 East Main Street.

President Shearer introduced Josele Cleary, Borough Solicitor, and turned the public hearing over to her to conduct. Solicitor Cleary identified Christopher T. Behney, Jr. as the applicant for the transfer of Liquor License No. R-16170 held by Ninkovich, LLC from 800 Cumberland Street, Lebanon, to 1 East Main Street, Palmyra, PA.

Solicitor Cleary proceeded to outline the format in which the hearing would be conducted and highlighted the presence of the court reporter as emphasis that the proceeding was quasi-judicial. Anyone presenting testimony will have to be sworn in and affirmed. She also presented Administrative Exhibit 1 to the court reporter as the email chain between the Borough and Mr. Behney consisting of the request that the Borough conduct the necessary hearing under the Liquor Code and Administrative Exhibit 2, the notification of the date, time, and place of the hearing sent to Mr. Behney.

She then called upon Assistant Borough Manager, Brenda Pera, as a witness for the Borough. Upon the conclusion of Ms. Pera's testimony, Solicitor Cleary opened the floor to the applicant. Attorney James Petrascu introduced himself and his client, Derek Ninkovich, who owns the liquor license to be transferred. Attorney Petrascu had Mr. Ninkovich sworn in and proceeded to ask him questions regarding the intentions behind transferring the license and opening a restaurant at the 1 East Main Street property. Mr. Ninkovich testified that the property is owned by his brother, Christopher T. Behney, Jr.

After Mr. Ninkovich's testimony, Solicitor Cleary opened questions of the witness to the audience. The following individuals asked questions of Mr. Ninkovich:

- Joseph Barone, 1 W Main St, Palmyra – asked where restaurant patrons will park and if Mr. Ninkovich is renting the property from Mr. Behney.
- Corey Dupree, 822 N Railroad St, Palmyra – asked why the location on the Square was chosen for the new restaurant; what cultural impact does Mr. Ninkovich expect to have on the community; if he was willing to require anti-racist training for himself and his staff and what corporate initiatives would be initiated to prevent racial incidents, and; if he was willing to use minority vendors for supplies to his restaurant.
- Gerald Brinser, 6-22 E Main Street, Palmyra – asked if Mr. Ninkovich had contacted any of the private property owners who own the parking lots in the vicinity of the proposed restaurant. He also asked if he has a written lease with his brother and who is responsible for paying the sewer, water, and trash bills for 1 E. Main St.
- Ricky Bugg, Sr., 51 N. Village Circle, Palmyra – asked what Chris Behney's business relationship will be with the new restaurant.
- Bronagh Houser, 139 E Maple St, Palmyra – asked why Chris Behney made application to the Borough for the liquor license transfer.

- Maria Altebrando, 1 W Main St, Palmyra – asked if Mr. Ninkovich has had any meetings with the Borough or Light-Heigel to determine if the restaurant would be permitted at the property proposed.
- Carol Light, 920 S Green St, Palmyra – asked if employees will be Responsible Alcohol Management Program (RAMP) certified to serve alcohol, and if Mr. Ninkovich has had any Liquor Code violations at any of his other establishments.
- Jennifer Ruth, Smigel, Anderson & Sacks, 4431 N Front St, Harrisburg – asked why Mr. Ninkovich’s name appears on the State’s fictitious name records as an owner for “Just Wing It” in Annville with Chris Behney. She also asked if Mr. Ninkovich was too busy to make the application to the Borough for the Liquor License transfer, then how will he have time to run a new restaurant.
- Justin Elliott, 428 S Harrison St, Palmyra – asked Mr. Ninkovich if it is standard practice for his brother to do his work for him, and has he considered the parking impact to the other local business owners.
- Thomas Miller, Vice President of Borough Council – asked if the restaurant will be opened if the liquor license transfer is denied. He also wanted to confirm that Mr. Behney holds the delinquent balances not Mr. Ninkovich.
- John Bowalick, address unknown.

Solicitor Cleary then opened the floor to anyone that wanted to provide testimony in the proceeding. The following individuals were sworn in and provided comments concerning the restaurant and the transfer of the liquor license to 1 E Main Street, Palmyra, PA:

- Pamela Roth, 2095 Acorn Drive, Lebanon Pa – Ms. Roth presented copies of a judgment against Mr. Behney. Solicitor Cleary labeled the evidence as Roth 1 and presented them to the court reported for admission in the transcript.
 - Attorney Petruscu objected to Ms. Roth’s testimony based on relevance.
- Maria Altebrando, 1 W Main Street, Palmyra – explained that her dance studio generates a great deal of traffic between the hours of 4:00 p.m. – 9:30 p.m. so there is no parking available for the new restaurant, nor will she allow parking of the restaurant. She also expressed concern for alcohol sales in such proximity to her dance studio that has dancers aged 3 – 18 years of age.
- Jennifer Ruth, Smigel, Anderson & Sacks, 4431 N Front St, Harrisburg – Ms. Roth presented copies of a judgment against Mr. Behney. Solicitor Cleary labeled the evidence as Ruth 1 and presented them to the court reported for admission in the transcript.
 - Attorney Petruscu objected to Ms. Ruth’s testimony based on relevance.
- Gerald Brinser, 6-22 E Main Street, Palmyra – explained that he is not concerned with the liquor license transfer per se but is very concerned about patrons of the restaurant using his small parking lot to the rear of the buildings on the southeast corner of the Town Square. He also expressed concerns of the possibility of intoxicated individuals crossing Main Street from the restaurant to his parking lot. He also noted that school aged children traverse the area around the proposed restaurant.
- Andrew Sattazahn, 29 E Main St, Palmyra – explained that he owns a parking lot at 29 E. Main Street which has very limited parking and he does not want additional cars parking in his parking lot for the restaurant.

- Ricky Bugg, Sr. 51 N. Village Circle, Palmyra – expressed that it seems very strange to him that Chris Behney is doing Derek Ninkovich’s work. He does not believe Mr. Behney will not be part of this new establishment as testified by Derek.
- Carol Light, 920 S Green St, Palmyra – stated she commented on a Facebook post and Chris Behney threatened to expose her past transgressions as a result.
- Corey Dupree, 822 N Railroad St, Palmyra – expressed that he hopes the restaurant will be successful but is deeply concerned about Chris Behney’s past and his involvement in this new venture. He also explained that he lives on N. Railroad Street and traffic is very heavy during the early evening hours contrary to Mr. Ninkovich’s testimony.
- Joseph Barone. 1 W Main St, Palmyra – explained that there is no parking available for the restaurant to use. He expressed that he wants to see Palmyra thrive and not have any empty buildings but, he is not sure what is being proposed is the right fit for that particular property.
- Nate Hartman, 16 N Railroad Street, Palmyra – explained that he purchased, renovated, and lives on the top floor of the former Light Building immediately adjacent to the proposed restaurant building. He feels parking is the main issue. He said from what he has heard during this meeting that Derek does not appear to be the problem, but Chris Behney is the main concern. He also added that, as a contractor, he knows that converting the property into a restaurant to satisfy all the requirements of ADA accessibility and PA Department of Labor and Industry will be bigger hurdles to jump than the liquor license transfer.

Solicitor Cleary called again for any additional testimony.

Motion: To close the public hearing. Motion by James Tesche, second by Jane Quairoli. Motion passed.

At 8:39 PM, Council adjourned into an executive session to confer with their legal counsel. The meeting reconvened at 9:04 PM with Councilor Quairoli making the following motion:

Motion: To inform Ninkovich, LLC that the Borough has elected to take an extension of time until a future scheduled meeting, or no later than the December 12, 2023 meeting. Motion by Jane Quairoli, second by James Tesche. Motion passed.

President Shearer then called the regular meeting to order.

Public Comment Period #1

There were no public comments.

Consent Calendar

The following agenda items were acted upon by a single motion:

- a. Approve the minutes of the October 10, 2023 Borough Council meeting.
- b. Approve payment of all bills listed on the September 2023 Detailed Check Listing Report.
- c. Approve the Treasurer’s Report for the period September 1 through September 31, 2023:

	General Fund	Sewer Fund	Refuse Fund	Capital Reserve Fund	Special Sewer Fund	Liquid Fuels Fund
YTD Revenue	\$3,477,263	\$1,274,704	\$863,726	\$13,904	\$23,206	\$225,616
YTD Expenses	\$2,941,172	\$1,238,718	\$858,844	\$415,293	\$3,065	\$235,000
Difference	\$536,091	\$35,986	\$4,882	\$ (401389)	\$21,203	\$ (9,384)
Fund Balance	\$1,291,055	\$137,370	\$170,351	\$1,430,612	\$2,131,631	\$47,580

	Library Fund	Police Health Care Fund	Joint Fire Apparatus Fund	Cemetery Fund	Employee Benefits Fund	Fire Protection Tax Fund
YTD Revenue	\$29,353	\$54,572	\$82,115	\$481	\$204,434	\$394,754
YTD Expenses	\$28,000	\$53,210	\$123,212	\$66	\$75,699	\$231,878
Difference	\$1,353	\$1,362	\$ (41,096)	\$416	\$128,735	\$162,876
Fund Balance	\$3,267	\$306,916	\$160,304	\$44,137	\$664,915	\$175,203

Motion: To approve the consent calendar with correction to minutes proposed by Councilor Quairolì. Motion by William Garber, second by Jane Quairolì. Motion passed.

Action & Discussion Items

- a. Amend Chapter 350 (Vehicles & Traffic) Section 24 (Parking Prohibited certain, days, times, hours):

Motion: To authorize the Borough Solicitor prepare and advertise Ordinance #827, an ordinance to prohibit parking Monday – Friday during the school year at the following times and locations:

- 8:00 a.m. – 9:00 a.m. / 11:00 a.m. – 12:00 p.m. / 3:00 p.m. – 4:00 p.m.
S. Forge Rd – from a point 125-feet north of the intersection of E. Birch St. to the intersection of E. Walnut St. on the East & West sides of the street.

Motion by Jane Quairolì, second by James Tesche. Motion passed.

- b. Personnel – Police Officer Suspension:

Motion: To authorize a one (1) day suspension without pay for Police Officer Timothy M. Lengle for violation of the Palmyra Borough Police Department Policy & Procedure Manual. Motion by Don Barry, second by Jane Quairolì. Motion passed.

- c. 2024 Budget Presentation & Discussion: Mr. Powl provided Council with a copy of the draft budget and highlighted areas in each fund for 2024. Council plans to review the draft and discuss at the November 14th meeting. Mr. Powl commented that there is an additional week in the calendar until the next meeting if Council would like to have a budget only meeting.

Reports

- a. President's Report: President Shearer reminded everyone about Trick-or-Treat night on October 31, 2023.
- b. Financial Report:
 1. Financial Statement: Mr. Powl provided a copy of the September 2023 report.
- c. Fire Department:
 1. Fire Services Commission: Mr. Powl reported that the Commission met on Wednesday, October 18th and discussed the need to increase the contribution to the joint apparatus fund to meet the future purchase in 2032 to replace Wagon #1 at an estimated cost of \$1.2 million. He explained that a total contribution of \$150,000 per year, split 50/50 with North Londonderry Twp, would be required to accumulate enough money to pay for the purchase in 2032. He also explained that the Borough is receiving more Fire Tax revenue than anticipated, and the additional \$35,000 necessary from the Borough can be covered by the existing Fire Tax rate. Other topics of discussion included the incentive program and a potential merger of the fire departments in the northern Lebanon County area.
- d. Library Report: Councilor Quairoli provided a copy of the October 2023 report.
- e. Police Department: Chief Winters provided a copy of the September 2023 report.
- f. Recreation Commission: A copy of the October 2023 report was provided to Council.
- g. Solicitor's Report: There was no report.
- h. Borough Manager's Report:
 1. Municipal Building Renovations Update: Mr. Powl reported that the contractor is working on the Police evidence room framing and will begin hanging drywall. Mr. Powl mentioned that a change order was requested due to the removal of the locker room improvements. He is waiting for the reduction in costs for the project.

Other Business

- Councilor Barry asked about the November 14th meeting that is being held by the Palmyra Area School District (PASD). Councilor Quairoli shared the information she received about the meeting. The PASD did a study on the projected growth of the district and determined that they need to make renovations to one of their existing schools or a new school will need to be built to manage the growth. The renovations are anticipated to cost the taxpayers \$135 million, or the new school will cost taxpayers \$155 million.
- Councilor Miller announced that he would not be at the November 14th meeting.

Public Comment Period #2

There were no public comments.

Announcement

President Shearer announced that Borough Council will conduct its next public meetings on Tuesday, November 14, 2023, and Tuesday, November 28, 2023 beginning at 7:00 PM.

Motion to Adjourn

Motion to adjourn the meeting by Jane Quairola, second by Anthony Catalani. The meeting adjourned at 9:49 PM.

Respectfully submitted,

Roger E. Powl
Borough Manager