

THROOP BOROUGH COUNCIL  
THROOP, PENNSYLVANIA

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IN RE: PALUMBO STREET VACATION

JUNE 14, 2010

6:30 P.M.

THROOP MUNICIPAL BUILDING  
SANDERSON STREET  
THROOP, PENNSYLVANIA

COUNCIL MEMBERS:

- THOMAS LUKASEWICZ, PRESIDENT
- JAMES BARNICK, VICE-PRESIDENT
- RAY JAROSH
- ANTHONY GANGEMI
- JOHN MUSEWICZ
- NEIL FURIOSI
- STANLEY LUKOWSKI, MAYOR

Mark Wozniak  
Official Court Reporter

1 MR. LUKASEWICZ: Roll call for the  
2 public hearing.

3 MS. GALLI: Barnick?

4 MR. BARNICK: Here.

5 MS. GALLI: Yarosh?

6 MR. YAROSH: Here.

7 MS. GALLI: Lukasewicz?

8 MR. LUKASEWICZ: Present.

9 MS. GALLI: Gangemi?

10 MR. GANGEMI: Here.

11 MS. GALLI: Repchick is absent.

12 Musewicz?

13 MR. MUSEWICZ: Here.

14 MS. GALLI: Furiosi?

15 MR. FURIOSI: Here.

16 MS. GALLI: Attorney Cimini is  
17 absent, Dolan is absent, Morrell is absent.

18 MR. LUKASEWICZ: Pledge of

19 Allegiance.

20 (The Pledge of Allegiance was  
21 recited.)

22 MR. LUKASEWICZ: Mr. Kalinoski,  
23 would you please state the exact items that  
24 will be discussed here this evening.

25 MR. KALINOSKI: We have two items on

1 the agenda for the public hearing. The  
2 first one is a petition by Francis and  
3 Valerie DiCindio to vacate a street in  
4 Warsaw. The street extends from Line Street  
5 to Olendike Street and it runs parallel to  
6 Maple and Cypress.

7 The petition is dated July 27, 2009.  
8 We did have a hearing earlier this year,  
9 February 22, which was reconvened tonight  
10 for lack of a stenographer at the first  
11 hearing.

12 The second request is by Joseph  
13 Palumbo -- Lea Palumbo. That was to vacate  
14 a portion of what's called Railroad Court  
15 which runs parallel to the Delaware,  
16 Lackawanna & Western Railroad, which we may  
17 be more familiar with which is the railroad  
18 bed that runs along the little league.

19 MR. LUKASEWICZ: That's the items  
20 that will be discussed this evening?

21 MR. KALINOSKI: That's correct. The  
22 Railroad Court, I'm going to make a  
23 correction to that. Since the roadway was  
24 never officially opened it wouldn't be a  
25 vacation. It would be a removal from the

1           borough plan rather than vacation. I  
2           believe Mr. DiCindio is hear, Mr. Palumbo is  
3           a here.

4                   MR. LUKASEWICZ:  Fist of all,  
5           anybody in the audience that anticipates  
6           speaking for or against or in any respect to  
7           the issues at hand this evening please state  
8           your name and your address so we'll have an  
9           official record of it.  Anybody in the first  
10          row that anticipates speaking?  Second row?

11                   MR. DICINDIO:  Francis DiCindio, 15  
12          Line Street, Throop.

13                   MR. RICHARDSON:  Alan Richardson,  
14          110 Cypress Street, Throop.

15                   MR. LUKASEWICZ:  That doesn't  
16          prohibit anybody else from speaking.  I'm  
17          just trying to get an official record.  
18          Anybody wants to speak at any time you'll  
19          have the opportunity to do so.

20                   MR. KALINOSKI:  Let's start with the  
21          alley -- the easiest one would probably be  
22          Railroad Court.  That would probably be the  
23          easiest one since it was never opened.  Let  
24          me show council exactly what we're talking  
25          about.  This is off the tax map.  We could

1 see the Lackawanna Western Railroad in this  
2 area here. This crosshatched area is  
3 considered Railroad Court. As I said, it's  
4 never been opened. From what I could see  
5 it's never been ordained.

6 MR. LUKASEWICZ: That's below Saint  
7 Bridget's Church. It would be from --

8 MR. KALINOSKI: It would be the  
9 Kossuth Street side of the railroad bed or  
10 the lower side of the railroad bed.

11 For the record, Mr. Palumbo's  
12 petition was dated October 23, 2009.  
13 Section 1724 of the borough code is entitled  
14 "Effective failure to open street after it's  
15 been laid out. At any time after any street  
16 or portion thereof shall have remained laid  
17 out but not opened for a period of ten years  
18 or longer, any owner or owners of 50 percent  
19 of the front feet of the land over which  
20 street or portion thereof is laid out may  
21 petition the borough council to remove such  
22 street from the plan of streets and to  
23 cancel the laying out thereof.

24 Council shall thereupon, following  
25 at least 15 days' notice in a newspaper of

1 general circulation in the borough and at  
2 least 15 days' personal notice to the owners  
3 of all real estate abutting upon the land  
4 over which such street or portion thereof is  
5 laid out, hold a public hearing on the  
6 matter."

7 Notice was sent out to the property  
8 owners on May 18 of this year. The legal ad  
9 was also published in the paper. I don't  
10 have the exact date with me but I know  
11 that's at least 15 days' notice. Probably  
12 more like 17.

13 "Council may on motion deny the  
14 petition or by ordinance grant such petition  
15 and remove such street or portion thereof  
16 from the borough plan and cancel the laying  
17 out thereof. Any person aggrieved by the  
18 decision of council either granting or  
19 denying such petition may appeal thereof.

20 Whenever any street shall have been  
21 laid out and shall not have been opened to  
22 or used by the public for a period of 21  
23 years such street shall not thereafter be  
24 opened without the consent of at least 51  
25 percent of the number of owners of the

1 abutting real estate and without the consent  
2 of the owners of at least 51 percent of the  
3 property abutting such street based upon a  
4 front foot basis."

5 MR. LUKASEWICZ: He owns on both  
6 sides?

7 MR. KALINOSKI: He owns on both  
8 sides. Correct. Now, I believe Mr.  
9 Palumbo's petition was only for a length  
10 which abutted his property. The court goes  
11 actually from Clark Street to Maygar Street.  
12 He does not own that far. I don't know if  
13 council has any use to retain the rest of  
14 it. My recommendation would be to cancel  
15 the laying out of everything.

16 MR. LUKASEWICZ: Right.

17 MR. KALINOSKI: We have a storm and  
18 a sanitary sewer which cross that court but  
19 we should have an easement. There should be  
20 an easement there dedicated because that  
21 line has been there quite a period of time.

22 MR. YAROSH: In our packet there's a  
23 note from our solicitor about granting that  
24 easement.

25 MR. KALINOSKI: That would be for

1 the other one. That line is owned by the  
2 sewer authority.

3 MR. GANGEMI: Do we need to check  
4 and see if we have an easement or are you  
5 sure?

6 MR. KALINOSKI: According to the  
7 borough code there's definitely an easement  
8 underneath any sanitary or storm system.

9 MR. BARNICK: It's already done by  
10 borough code.

11 MR. KALINOSKI: It doesn't give you  
12 the width but it's assumed.

13 MR. LUKASEWICZ: Probably in the  
14 best interest of the borough.

15 MR. BARNICK: I don't think you  
16 should just vacate the rest of it right off  
17 because the other people, you don't know  
18 which way they want to go with it. I know  
19 Saint Bridget's is closed. I don't know  
20 what they're going to do there.

21 MR. GANGEMI: You didn't really  
22 advertise the rest of it.

23 MR. KALINOSKI: It wasn't specific.  
24 It said Railroad Court, period.

25 MR. LUKASEWICZ: All adjacent

1 homeowners were notified?

2 MR. KALINOSKI: Yes.

3 MR. LUKASEWICZ: Everyone adjacent  
4 to that entire court?

5 MR. LUKASEWICZ: Yes, from Maygar to  
6 Clark.

7 MR. GANGEMI: It's the hatch marked  
8 area?

9 MR. KALINOSKI: The hatch marked  
10 area is the entire length.

11 MR. LUKASEWICZ: The darkened area  
12 is Palumbo's two properties.

13 MR. KALINOSKI: Correct.

14 MR. LUKASEWICZ: Mr. Palumbo, at  
15 this time are you looking for just the  
16 parcel between your two properties?

17 MR. PALUMBO: Yes. Nothing to do  
18 with the pipe at all.

19 MR. LUKASEWICZ: You have no  
20 intention of wanting the entire parcel all  
21 the way through and having to maintain it?

22 MR. PALUMBO: No.

23 MR. KALINOSKI: This darkened  
24 portion is the Palumbo property. The old  
25 railroad bed is what was purchased and now

1 in the ownership of Mr. Palumbo.

2 MR. LUKASEWICZ: This other one  
3 would just remain as is.

4 MR. KALINOSKI: Correct.

5 MR. LUKASEWICZ: Only vacate a  
6 portion of.

7 MR. GANGEMI: I agree.

8 MR. LUKASEWICZ: Probably in the  
9 best interest. We're cancelling the laying  
10 out. Do you have the length of his  
11 property? Would it be 255 feet? One side  
12 is 154, the other side is 255.

13 MR. BARNICK: The longer length.

14 MR. LUKASEWICZ: The 250.

15 MR. KALINOSKI: You have 255 feet  
16 which would be on the southeast side, 155  
17 feet on the northwest side.

18 MR. LUKASEWICZ: The entire 255  
19 feet.

20 MR. KALINOSKI: I don't think it's  
21 going to hurt anything.

22 MR. LUKASEWICZ: You're better off  
23 going the entire 255 feet by -- what's the  
24 width?

25 MR. KALINOSKI: I don't have

1 anything on the width. I'm going to assume  
2 it's 16 feet. Without going back through  
3 map books from the courthouse I couldn't  
4 tell you.

5 MR. LUKASEWICZ: This way it will  
6 square off his property completely. It's  
7 255 feet by the width of Railroad Court?

8 MR. BARNICK: You're not doing  
9 nothing along the railroad bed.

10 MR. KALINOSKI: No.

11 MR. LUKASEWICZ: All right. Then  
12 for the record, Mr. Palumbo, if, indeed,  
13 this is granted, what the borough is  
14 conveying is basically that we will not be  
15 laying out the portion of the property.  
16 We're not giving you title to the property.  
17 We can't give you title to it because we  
18 don't own the property. So if you wanted to  
19 procure title to the property you'd have to  
20 do an action to quiet title and try to go  
21 back in history to find out who, indeed, was  
22 the owner. Just so you know for the record  
23 that we cannot give you that.

24 Anyone from the audience with any  
25 comments in regard to the borough not laying

1 out this portion of the road and vacating it  
2 to Mr. Palumbo? Okay. If there's nothing  
3 we should put that to a motion and put this  
4 one to rest.

5 MR. KALINOSKI: It has to be done by  
6 ordinance.

7 MR. LUKASEWICZ: It would be a  
8 motion by ordinance -- and, Robin, you have  
9 to check the ordinance number for this one.  
10 It would be a motion by ordinance, whatever  
11 number, to adopt ordinance whatever of 2010,  
12 and it would be cancelling the laying out of  
13 the portion of Railroad Court.

14 MR. KALINOSKI: To grant  
15 Mr. Palumbo's petition and to remove a  
16 255-foot length beginning at Clark Street  
17 from the borough plan and cancel the laying  
18 out thereof.

19 MR. LUKASEWICZ: It would be a  
20 motion by ordinance to grant Mr. Palumbo's  
21 petition to remove a 255-foot length  
22 beginning at Clark Street and cancelling out  
23 the laying out thereof. Okay. So I'll read  
24 the motion, someone make it.

25 MR. KALINOSKI: It's a 15-foot

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alley.

MR. LUKASEWICZ: All right. Robin, for the meeting if you want that number on. We have a motion by ordinance to grant Mr. Palumbo's petition to remove a 255-foot length beginning at Clark Street and cancelling the laying out thereof. The width is 15 feet.

MR. BARNICK: I wouldn't be specific on that.

MR. KALINOSKI: That's from Joe, that description.

MR. BARNICK: As per his plan.

MR. KALINOSKI: As per his survey.

MR. LUKASEWICZ: As per Mr. Palumbo's survey. Anyone have any questions or concerns about this one item? If not, then, Rob, proceed to the next item.

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C E R T I F I C A T E

I hereby certify that I attended the foregoing proceeding, took stenographic notes of the same, that the foregoing, consisting of 13 pages, is a true and correct copy, done to the best of my ability, of same and the whole thereof.

  
Mark Wozniak  
Official Court Reporter