

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

VALIAN WALKER MONTGOMERY,  
COURTNEY THOMPkins, TRACEY  
JORDAN, AND JANINA RILEY,

Plaintiffs,

v.

MCKEESPORT CITY COUNCIL AND  
THE CITY OF MCKEESPORT,

Defendants.

CIVIL DIVISION

G.D. No. 21-1723

**MOTION FOR SPECIAL AND  
PRELIMINARY INJUNCTION AND  
BRIEF IN SUPPORT**

Filed on behalf of Plaintiffs, Valian Walker  
Montgomery, Courtney Thompkins, Tracey  
Jordan, and Janina Riley

Counsel of Record for these Parties:

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FILED

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DEPT. OF COURT RECORDS  
CIVIL FAMILY DIVISION  
ALLEGHENY COUNTY PA

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA**

VALIAN WALKER MONTGOMERY,	)	CIVIL DIVISION
COURTNEY THOMPkins, TRACEY	)	
JORDAN, AND JANINA RILEY,	)	
	)	G.D. No. _____
Plaintiffs,	)	
	)	
v.	)	
	)	
MCKEESPORT CITY COUNCIL AND	)	
THE CITY OF MCKEESPORT,	)	
	)	
Defendants.	)	
	)	

**MOTION FOR SPECIAL AND PRELIMINARY INJUNCTION**

Plaintiffs, Valian Walker Montgomery, Courtney Thompkins, Tracey Jordan, and Janina Riley (the “McKeesport Citizens”), through counsel, submit this Motion for Injunction and aver as follows:

1. Contemporaneously herewith, Plaintiffs McKeesport Citizens have filed a Complaint with the Court, which (along with the exhibits attached thereto) is fully incorporated herein. (See Exhibit 1).
2. Plaintiffs, via their lawyers, have been attempting to resolve this dispute with Defendants since sending a warning letter on January 22, 2021. Defendants are, thus, well aware of Plaintiffs’ claims.
3. Unfortunately, Defendants have failed to respond to Plaintiffs’ entreaties to remedy the legal violations.
4. Consequently, Plaintiffs have initiated this action and have served a copy of Verified Complaint and these preliminary injunction papers on Defendants’ solicitor, Jason Elash, via electronic mail. Notice of this action has, hereby, been duly effected on Defendants.

5. The McKeesport Citizens also attach to this Motion the Affidavit of Fawn Walker-Montgomery, who supports each of the following averments of fact. (See Exhibit 2).

6. On or about December 20, 2020, a McKeesport police officer was allegedly shot by an individual in handcuffs.

7. Upon information and belief, McKeesport police were joined by several other local, as well as state, county and federal law enforcement agencies, in searching McKeesport and surrounding areas to locate the suspected shooter.

8. The resulting “manhunt” led to complaints from concerned citizens and others of multiple civil rights abuses as law enforcement performed, according to the complaints, unconstitutional searches and seizures of individuals, their vehicles, and their homes.

9. As a result, a local community organization, Take Action Mon Valley (“TAMV”), issued a call to action encouraging residents to address the unlawful searches conducted during the manhunt at the January 6, 2021, Council meeting (the “January Meeting”).

10. Heeding TAMV’s call, numerous McKeesport Citizens planned to attend and present comments at the January Meeting.

11. Leading up to the January Meeting, including the day of the meeting, the McKeesport Citizens continuously checked City Council’s website and Facebook page for information regarding the January Meeting.

12. The website provided the City Council’s agenda for the January Meeting, noted the date and time of the meeting, and noted that citizens would be included in the audience.

13. As of 6:30 p.m. the day of the January Meeting, the City Council’s website and Facebook page both indicated that the meeting was to be held at Council Chambers.

14. Prior to the start of the 7:00 PM meeting, the McKeesport Citizens and other individuals arrived at Council Chambers.

15. Upon arrival at Council Chambers, the McKeesport Citizens found that the doors to Council Chambers were locked.

16. Thus, the McKeesport Citizens – along with the general public – were prevented from attending the City Council meeting.

17. Posted on the locked door of Council Chambers’ was a sign stating that the meeting was “closed to ‘in-person’ public participation...in light of COVID-19.” ( Exhibit 3).

18. The only mechanism for public comment provided for in the new COVID-19 procedures was an option for written submissions, the deadline for which was noon that day, which had already passed.

19. Prior to the events of December 20, 2020, including during the preceding nine months of the COVID-19 pandemic, every McKeesport City Council meeting was open to the public and allowed for live and direct public comment. (Exhibit 7).

20. Although the pandemic has created difficulties for government bodies subject to the Sunshine Act across the Commonwealth, countless other government agencies across the Commonwealth, including those in McKeesport such as the McKeesport school board, were able to provide at least electronic access through Zoom or other videoconferencing technology to fulfill transparency and participation requirements for citizens and the media.

21. On January 22, 2021, the ACLU of Pennsylvania sent a letter on behalf of the McKeesport Citizens and other McKeesport residents requesting that the McKeesport City Council President and the mayor honor their obligations under the Sunshine Act to provide participation, “either in person utilizing necessary COVID-19 safety precautions or virtually by using an

Internet-based streaming platform,” and make better provision for public comment at the upcoming Council meeting on February 3, 2021. (Exhibit 4).

22. Subsequently, the McKeesport Mayor, Michael Cherepko, and City Solicitor J. Jason Elash contacted an ACLU representative and indicated that City Council would provide the ACLU with a plan for including the public for the next Council Meeting scheduled for February 3, 2021.

23. No plan was ever provided, either to the ACLU confidentially or announced publicly to the residents. Instead, City Council canceled the February 3, 2021, meeting, claiming they had no business to discuss. (Exhibit 5).

24. Per the City Council website, the next City Council meeting is scheduled for 7:00 PM, March 3, 2021, at Council Chambers. (Exhibit 5).

25. Per the City Council website, “Any person who desires to present public comment to City Council for the March meeting are [sic] asked to submit a written statment [sic] to the Mayor's Office, 500 Fifth Avenue, by noon on March 3, by dropping it off in person or via email to [jen.vertullo@mckeesport-pa.gov](mailto:jen.vertullo@mckeesport-pa.gov).” The website provides no indication that the public may attend and/or participate either in-person or virtually. (Exhibit 5).

26. Upon information and belief, the March 3, 2021 City Council meeting will again be closed to the public in violation of 65 Pa. C.S.A. § 704 and the McKeesport Citizens will be denied a “reasonable opportunity” for public commentary before any agency or governance action is passed as required under 65 Pa. Cons. Stat. Ann. § 710.1(a)).

27. If this “closed” public meeting takes place without an injunction or other order entered against McKeesport, the McKeesport Citizens will be irreparably harmed in that publicly

elected officials will engage in official action and deliberation outside of the public eye and without the public being provided a reasonable opportunity for public comment.

28. The McKeesport Citizens have no adequate remedy at law to rectify or prevent this harm.

### **Request for Injunctive Relief**

29. The need for immediate injunctive relief is urgent because the McKeesport Citizens' interests, as well as the interests of all residents of McKeesport, are irreparably threatened unless injunctive relief is granted.

30. Greater injury will be inflicted upon the McKeesport Citizens, as well as many other McKeesport residents, by the denial of injunctive relief than would be inflicted upon the McKeesport City Council by the granting of such relief.

31. A mandatory injunction that compels City Council to ensure its meeting process continues to be open and available for public participation is in line with the status quo that existed except for one meeting, in January, and that is mandated by Pennsylvania's Sunshine Act.

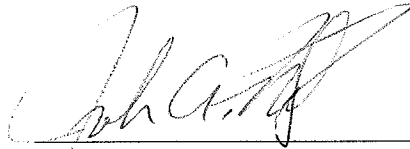
32. The activity sought to be enjoined is actionable and the McKeesport Citizens are likely to prevail on the merits.

33. The injunction the McKeesport Citizens seeks is reasonably suited to abate the activity.

34. The issuance of injunctive relief will serve the public interest.

WHEREFORE, Plaintiffs, Valian Walker Montgomery, Courtney Thompkins, Tracey Jordan, and Janina Riley, respectfully request that this Court grant the relief requested in this Motion and issue a Special Injunction Order in the form submitted by Plaintiff.

Respectfully submitted,



Dated: March 1, 2021

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MCKEESPORT CITY COUNCIL AND	)	
THE CITY OF MCKEESPORT,	)	
	)	
Defendants.	)	
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**BRIEF IN SUPPORT OF MOTION FOR SPECIAL AND PRELIMINARY INJUNCTION**

Plaintiffs, Valian Walker Montgomery, Courtney Thompkins, Tracey Jordan, and Janina Riley (the “McKeesport Citizens”), through counsel, submit this Brief in Support of Motion for Special and Preliminary Injunction:

**I. INTRODUCTION**

The McKeesport Citizens submit this Motion for a Special and Preliminary Injunction requesting immediate injunctive relief to protect their interest, as well as the interests of their fellow McKeesport residents and Pennsylvania citizens, who are placed at serious and imminent threat of harm by Defendant McKeesport City Council’s (the “City Council”) attempt to bar the public from observing and having a reasonable opportunity to provide commentary before the City Council meeting. Council must be enjoined before the next meeting on March 3 from their improper conduct in order to avoid irreparable harm to the McKeesport Citizens and their fellow residents. Special and preliminary injunctive relief is appropriate and necessary.



## **II. FACTUAL BACKGROUND**

### **A. The Non-Fatal Shooting and Subsequent Manhunt**

On or about December 20, 2020, a McKeesport police officer was allegedly shot by an individual in handcuffs. Upon information and belief, McKeesport police were joined by several other local, as well as state, county and federal law enforcement agencies, in searching McKeesport and surrounding areas to locate the suspected shooter. Exh. 2 at ¶¶7-8. The resulting “manhunt” led to multiple civil rights abuses of the citizens of McKeesport as law enforcement performed warrantless stops and searches of individuals, their vehicles and their homes. Exh. 2 at ¶9.

### **B. The McKeesport City Council Holds a “Closed” Public Meeting**

As a result, a local community organization, Take Action Mon Valley (“TAMV”), issued a call to action encouraging residents to address the unlawful searches conducted during the manhunt at the January 6, 2021, Council meeting (the “January Meeting”). Exh. 2 at ¶10. Heeding TAMV’s call, numerous McKeesport Citizens planned to attend and present comments at the January Meeting. Exh. 2 at ¶11.

Leading up to the January Meeting, including the day of the meeting, the McKeesport Citizens continuously checked City Council’s website for information regarding the January Meeting. Exh. 2 at ¶¶12-14. Prior to the start of the 7:00 PM meeting, the McKeesport Citizens and other individuals arrived at Council Chambers. Exh. 2 at ¶15.

Upon arrival at Council Chambers, the McKeesport Citizens found that the door to Council Chambers was locked. Exh. 2 at ¶16. Thus, the McKeesport Citizens – along with the general public – were prevented from attending the public City Council meeting. Exh. 2 at ¶17.

Located on the locked door of Council Chambers’ was a sign stating that the meeting was “closed to ‘in-person’ public participation...in light of COVID-19.” Exhibit 3. Prior to the events of December 20, 2020 – before and as the COVID-19 pandemic has continued – every McKeesport City

Council meeting was open to the public and allowed for live and direct public comment. Exh. 2 at ¶20, see also Exh 7.

On January 22, 2021, out of concern that they would be denied access at another meeting, the ACLU, on behalf of the McKeesport Citizens and other McKeesport residents, wrote a letter to the McKeesport City Council President and requested that the upcoming February 3, 2021 meeting occur “either in person utilizing necessary COVID-19 safety precautions or virtually by using an Internet-based streaming platform.” Exhibit 4.

Following the letter, the Mayor and Solicitor of McKeesport talked with an ACLU representative regarding ways that the City Council could ensure that the public had a right to participate in the hearing. Exh. 2 at ¶23. The Mayor and Solicitor agreed to provide a plan to the public to ensure that the public could observe and comment at the February 3, 2021 City Council Meeting. *Id.* at ¶23. No plan was ever published, instead City Council canceled the February Meeting. *Id.* at ¶24.

Per the City Council website, the next City Council meeting is scheduled for 7:00 PM, March 3, 2021, at Council Chambers. The City Council website states: “Any person who desires to present public comment to City Council for the March meeting are asked to submit a written statement [sic] to the Mayor's Office, 500 Fifth Avenue, by noon on March 3, by dropping it off in person or via email to [jen.vertullo@mckeesport-pa.gov](mailto:jen.vertullo@mckeesport-pa.gov).” The statement on the website provides no indication that the public may attend and/or participate either in-person or virtually. Exhibit 5.

Counsel for the McKeesport Citizens have made multiple efforts to contact the City Solicitor regarding their concern that they will be denied access to observe and publicly comment at the March 3, 2021, meeting. The City Solicitor has neither acknowledged nor responded to these efforts. Exhibit 7.

Upon information and belief, the March 3, 2021, City Council meeting will again be closed to the public, denying the McKeesport Citizens a reasonable opportunity for public commentary. Exh. 2 at ¶¶26-27. However, upon information and belief, other government agencies across the Commonwealth, including those in McKeesport, when encountering concerns about conducting in-person meetings in light of the pandemic, at least provided electronic access through Zoom or other videoconferencing technology to citizens and the media. Exh. 2 at ¶28.

### **III. ARGUMENT**

#### **A. Standard For Injunctive Relief**

Under Pennsylvania law, injunctive relief is appropriate if a plaintiff has demonstrated that:

- (1) an injunction is necessary to prevent immediate and irreparable harm that cannot be adequately compensated by damages;
- (2) greater injury would result by refusing the injunction than from granting it;
- (3) an injunction will properly restore the parties to their status as it existed immediately prior to the alleged wrongful conduct;
- (4) the activity plaintiff seeks to be enjoined is actionable, that its right to relief is clear, and that the wrong is manifest, or, in other words, the plaintiff must show that it is likely to prevail on the merits;
- (5) the injunction plaintiff seeks is reasonably suited to abate the offending activity; and
- (6) that a preliminary injunction will not adversely affect the public interest.

The York Group, Inc. v Yorktowne Caskets, Inc., 924 A.2d 1234, 1241 (Pa. Super. Ct. 2007). The McKeesport Citizens satisfy all six factors in this case, and injunctive relief is appropriate.

**B. The McKeesport Citizens Have Demonstrated A Need for Injunctive Relief.**

As the factual records indicates, the McKeesport Citizens have demonstrated an urgent need for injunctive relief and met the demands of the legal standard.

**1. An Injunction Is Necessary To Prevent Immediate And Irreparable Harm That Cannot Be Compensated By Money Damages.**

If an injunction is not issued here, the McKeesport Citizens' interests and the interests of third parties will be irreparably compromised. If the City Council is permitted to violate the Sunshine Law, such a violation constitutes irreparable harm per se. See Wolk v. Sch. Dist. of Lower Merion, 228 A.3d 595, 610 (Pa. Commw. Ct. 2020) (citing Pennsylvania Public Utility Commission v. Israel, 356 Pa. 400, 52 A.2d 317 (Pa. 1947)). See also, McGrath v. Bd. of School Directors of the City of Scranton, No. 20 CV 3698, 2020 WL 5904514, at \*9 (Pa.Com.Pl. Oct. 04, 2020) (finding violation of Sunshine Act during COVID-19 pandemic constitutes irreparable harm).

Plaintiffs will forever be denied to attend and/or witness in real time the public meeting, and will have no opportunity to present comments directly to council members, or to respond to what transpires during the meeting. There are no do overs in these situations. And these harms cannot be compensated through damages. Therefore, McKeesport Citizens are subject to irreparable harm that cannot be compensated with money damages or otherwise, and thus a preliminary injunction is warranted and required.

**2. Greater Injury Results By Refusing The Injunction Than From Granting It.**

The injury caused by denying a request for a preliminary injunction and allowing an agency to hold a meeting that violates the Sunshine Act and Act 15 of 2020 far outweighs the nominal harm done to the agency by granting the injunction. See McGrath, 2020 WL 5904514 at \*9 (reasoning that "greater harm would result from refusing the request for a preliminary injunction than from granting it" because the agency could easily cure its violation of the Sunshine Act).

As set forth in the Complaint and described in Fawn Walker-Montgomery's Affidavit, greater injury would result to the McKeesport Citizens and third parties if an injunction is not granted. The COVID-19 pandemic has been an issue for nearly a year. Since March 2020, state and local entities around the country have adapted to this "new normal" by instituting COVID-19 procedures and remote technology. Indeed, the McKeesport School board has implemented a policy that permits the school board meetings to be live streamed. See "Virtual Meeting Information" McKeesport Area School District, <https://www.mckasd.net/domain/289> (last accessed February 25, 2021). Those that wish "to address the board will be permitted to attend in person." *Id.*

A simple procedure similar to what McKeesport's own local school board has implemented would ensure public access and comment. The alternative, allowing the City Council to continue to hold closed meetings, robs the public of meaningful access and any opportunity to reasonably comment, particularly in a timeframe when the public has the distinct desire to comment on recent, and disturbing, events that took place in McKeesport. In this case, greater injury results by refusing to issue an injunction.

### **3. An Injunction Will Properly Maintain The Status Quo.**

Prior to the January 20, 2021, meeting, all City Council meetings were open to the public and permitted public comment. COVID-19 had spiked in Allegheny County by late last year and still Council held in-person meetings. (See Exh.7, City Council agendas for 2020 meetings, all of which list "CITIZENS IN THE AUDIENCE" on the agenda). While Council may have honestly made the decision that COVID-19 infection in the community necessitates closure of Council meetings to the public, they must still comply with their obligations under the Sunshine Act that proceedings "shall take place at a meeting open to the public." 65 P.S. § 704. Consequently, a mandatory injunction that compels City Council to ensure its meeting process continues to be open and available for public

participation is in line with the status quo that existed except for one meeting, in January, and that is mandated by Pennsylvania's Sunshine Act.

**4. The Activity Sought To Be Enjoined Is Actionable And The McKeesport Citizens Have Shown That They Are Likely To Prevail On The Merits.**

To satisfy this factor and establish a clear right to relief, “the party seeking an injunction need not prove the merits of the underlying claim, but need only demonstrate that substantial legal questions must be resolved to determine the rights of the parties.” McGrath, 2020 WL 5904514 at \*9 (quoting SEIU Healthcare Pa. v. Commonwealth, 104 A.3d 495, 506 (Pa. 2014)). The McGrath Court found that, because the dispute raised novel issues involving the application of the Sunshine Act to virtual public meetings that are conducted pursuant to Act 15 of 2020, the plaintiff's “request for injunctive relief clearly implicates ‘substantial legal questions’ that need to be resolved[.]” McGrath, 2020 WL 5904514 at \*9.

Pennsylvania's Sunshine Act requires all “[o]fficial action and deliberations by a quorum of the member of an agency,” such as City Council, “shall take place at a meeting open to the public.” 65 P.S. § 704. 43. The Sunshine Act further requires that agencies such as City Council “provide a reasonable opportunity at each advertised regular meeting . . . for residents . . . or taxpayers . . . to comment on matters of concern, official action, or deliberation which are or may be before the . . . council prior to taking official action.” 65 P.S. § 710.1(a). 45. In the face of the COVID-19 pandemic, Act 15 of 2020 clarified that local government agencies must still “allow for public participation in a meeting, hearing or proceeding through an authorized telecommunications device or written comments.” 35 Pa.C.S. § 5741(f).

In this instance, the McKeesport Citizens planned to participate in the January Meeting to voice concerns over unlawful searches of McKeesport residents. The McKeesport Citizens were unable to participate in the January Meeting because City Council did not allow for public

participation in the January Meeting either in person or through an authorized telecommunications device. The McKeesport Citizens were further unable to participate in the January Meeting because the Council did not meaningfully allow for public participation in the January Meeting through written comments because it was too late to provide written comment by the time the City Council's new COVID-19 procedures were made known to the McKeesport Citizens. City Council has ignored attempts by undersigned counsel to engage in a dialogue regarding the January Meeting and public access to future Council meetings. Indeed, City Council's website still maintains that the only form of participation will be through the submission of written comments. Apparently, future meetings, or at least the next meeting on March 3, will not be broadcast or otherwise transmitted live to the public. See Exhibit 5.

By depriving the public from a meaningful opportunity to observe and comment during its meetings, City Council has and will be in violation of Pennsylvania's Sunshine Act. The McKeesport Citizens have demonstrated that they are likely to prevail on the merits.

**5. The Injunction The McKeesport Citizens Seeks Is Reasonably Suited To Abate The Offending Activity Of Defendants.**

The McKeesport Citizens simply seek to preserve the status quo by ensuring all citizens have access to City Council meetings, whether in-person or virtually. This injunction will directly abate City Council's violation of the Sunshine Act. The proposed order seeks no more than is necessary to ensure that the public is allowed to comment on the record and observe the meeting in real-time. All that the McKeesport Citizens seek is either the same level of access that they had to all meetings prior to the January 2021 closed doors meeting of City Council; be it in person (with appropriate COVID-19 protects in place); or the ability to observe and participate – in real-time – through a digital platform.

**6. A Preliminary Injunction Will Not Adversely Affect The Public Interest, But Rather Will Benefit The Interests Of The Public.**

The issuance of the relief requested by the McKeesport Citizens will not adversely affect the public interest. By ensuring the Sunshine Act is followed, public policy will be upheld and the public interest will be protected. See McGrath, 2020 WL 5904514 at \*10 (“By adopting the Sunshine Act, the Legislature specifically declared it to be the public policy of this Commonwealth to ensure the rights of its citizens to observe all public meetings and to witness the deliberations and decisions of all public officials.”); McLaughlin v. Gastrointestinal Specialists, Inc., 561 Pa. 307, 315-16, 750 A.2d 283, 288 (2000) (explaining that “we declare the public policy of this Commonwealth by ... looking to our own Constitution, court decisions and statutes promulgated by our legislature” (emphasis added)); SEIU Healthcare, 104 A.3d at 509 (“when the Legislature declares particular conduct to be unlawful, it is tantamount to categorizing it as injurious to the public”).

Thus, the requested injunctive relief promotes the public interest.

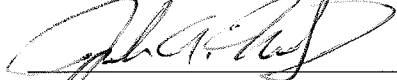


#### IV. CONCLUSION

For each of the foregoing reasons, the McKeesport Citizens respectfully requests that this Court grant the relief requested in the Motion for Special and Preliminary Injunction and issue a Special Injunction Order in the form submitted with this Brief.

Dated: March 1, 2021

Respectfully submitted,



Charles Kelly (PA ID 51942)

Michael Joyce, Esq. (PA ID. 311303)

Allison Burdette, Esq. (PA ID 316695)

John A. Marty, Esq. (PA ID 324405)

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	)	G.D. No. _____
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	)	
MCKEESPORT CITY COUNCIL AND	)	
THE CITY OF MCKEESPORT,	)	
	)	
Defendants.	)	
	)	

**ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2021, upon consideration of Plaintiffs' Motion for Special and Preliminary Injunction, it is ORDERED that the Motion is GRANTED as follows:

1. The City of McKeesport and McKeesport City Council is required to allow for meaningful public participation in all City Council meetings, hearings or proceedings either in person or through a telecommunication device which permits, at a minimum, real-time audio communication between individuals.

2. By closing its meeting to the public and preventing public comment from occurring during the meeting, the City of McKeesport and McKeesport City Council are in violation of Pennsylvania's Sunshine Act, 65 Pa. C.S. §§ 701 et seq.

3. Further, Act 15 of 2020 clarified that local government agencies must still "allow for public participation in a meeting, hearing or proceeding through an authorized telecommunications device or written comments" despite the ongoing COVID-19 pandemic. 35 Pa.C.S. § 5741(f).

4. Thus, the current public health crisis may not be used as an excuse to prevent public participation in a meeting, hearing, or proceeding.

5. The need for immediate injunctive relief is urgent because Plaintiffs' interests, as well as the interests of all residents of McKeesport, are irreparably threatened unless injunctive relief is granted.

6. Greater injury will be inflicted upon Plaintiffs', as well as many other McKeesport residents, by the denial of injunctive relief than would be inflicted upon the City of McKeesport or McKeesport City Council by the granting of such relief.

7. A mandatory injunction that compels the City of McKeesport or McKeesport City Council to ensure its meeting process continues to be open and available for public participation is in line with the status quo that existed except for one meeting, in January, and that is mandated by Pennsylvania's Sunshine Act.

8. The activity sought to be enjoined is actionable and the Plaintiffs are likely to prevail on the merits.

9. The injunction the Plaintiffs seeks is reasonably suited to abate the activity.

10. The issuance of injunctive relief will serve the public interest.

11. The City of McKeesport or McKeesport City Council must allow Plaintiffs and other members of the press and public to participate in all City Council meetings, either in-person or through a telecommunication device which permits, at a minimum, real-time audio communication between individuals.

12. Until further Order of the Court, the City of McKeesport or McKeesport City Council are enjoined from holding meetings, including the next scheduled meeting on March 3,

2021, that do not allow either in-person, telephonic, or video-conference public observation and comment.

13. Within 3 days of the date of this Order, the City of McKeesport or McKeesport City Council must advise Plaintiffs of its plan to allow for public participation and public commentary at City Council meetings.

14. The City of McKeesport or McKeesport City Council willfully violated the Pennsylvania Sunshine Act without justification. As such, Plaintiffs are entitled to an award of attorneys' fees and costs to be decided at a later date upon appropriate motion from Plaintiffs.

\_\_\_\_\_, J.

# Exhibit 1

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) CIVIL DIVISION

) G.D. No. \_\_\_\_\_

) **VERIFIED COMPLAINT**

) Filed on behalf of Plaintiffs, Valian  
) Walker Montgomery, Courtney  
) Thompson, Tracey Jordan, and Janina  
) Riley

) Counsel of Record for these Parties:

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) Tel: (412) 681 7736  
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**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA**

VALIAN WALKER MONTGOMERY,  
COURTNEY THOMPkins, TRACEY  
JORDAN, AND JANINA RILEY,

Plaintiffs,

v.

MCKEESPORT CITY COUNCIL AND  
THE CITY OF MCKEESPORT.

Defendants.

CIVIL DIVISION

G.D. No. \_\_\_\_\_

**VERIFIED COMPLAINT**

Plaintiffs, Valian Walker Montgomery, Courtney Thompkins, Tracey Jordan, and Janina Riley, (the “McKeesport Citizens”), by and through their undersigned attorneys, file this Complaint, averring as follows:

**Parties**

1. Plaintiff Valian Walker Montgomery is an adult individual who resides in McKeesport in Allegheny County, Pennsylvania.
2. Plaintiff Courtney Thompkins is an adult individual who resides in McKeesport in Allegheny County, Pennsylvania.
3. Plaintiff Tracey Jordan is an adult individual who resides in McKeesport in Allegheny County, Pennsylvania.
4. Plaintiff Janina Riley is an adult individual who resides in McKeesport in Allegheny County, Pennsylvania.
5. Defendant McKeesport City Council (“City Council”) is the government entity entrusted with governing the city of McKeesport in Allegheny County, Pennsylvania.



6. Defendant City of McKeesport (the “City”) is a City located in Allegheny County, Pennsylvania.

7. The City’s Mayor is Michael Cherepko.

### **Jurisdiction**

8. City Council is a government entity formed under the laws of the Commonwealth of Pennsylvania.

9. City Council carries on continuous and systematic operations within the Commonwealth of Pennsylvania.

10. The City is located in the Commonwealth of Pennsylvania, and more specifically in Allegheny County.

11. Accordingly, the courts of the Commonwealth of Pennsylvania, and this court in particular, have personal jurisdiction over City Council. 42 Pa. C.S. §§ 5301(a)(3)(i); (iii).

12. The Court of Common Pleas has subject matter jurisdiction over the claims set forth in this Complaint. 42 Pa. C.S. § 931(a) and 65 Pa.C.S. § 715.

### **Venue**

13. City Council’s chambers are located at 500 5th Avenue, McKeesport, Pennsylvania 15132 in Allegheny County, Pennsylvania.

14. The City’s Mayor’s office is also located at 500 5th Avenue, McKeesport, Pennsylvania 15132 in Allegheny County, Pennsylvania.

15. Rule 2103 of the Pennsylvania Rules of Civil Procedure provides in relevant part that “an action against a political subdivision may be brought only in the county in which the political subdivision is located.”

16. Thus, the Court of Common Pleas of Allegheny County is the only appropriate venue for hearing the claims set forth in this Complaint.

### **Factual Background**

17. On or about December 20, 2020, a McKeesport police officer was allegedly shot by an individual in handcuffs.

18. Upon information and belief, McKeesport police were joined by several other local, as well as state, county and federal law enforcement agencies, in searching McKeesport and surrounding areas to locate the suspected shooter.

19. The resulting “manhunt” led to complaints from concerned citizens and others of multiple civil rights abuses as law enforcement performed, according to the complaints, unconstitutional searches and seizures of individuals, their vehicles, and their homes.

20. As a result, a local community organization, Take Action Mon Valley (“TAMV”), issued a call to action encouraging residents to address the unlawful searches conducted during the manhunt at the January 6, 2021, Council meeting (the “January Meeting”).

21. Heeding TAMV’s call, numerous McKeesport Citizens planned to attend and present comments at the January Meeting.

22. Leading up to the January Meeting, including the day of the meeting, the McKeesport Citizens continuously checked City Council’s website and Facebook page for information regarding the January Meeting.

23. The website provided Council’s agenda for the January Meeting, noted the date and time of the meeting, and noted that citizens would be included in the audience.

24. As of 6:30 p.m. the day of the January Meeting, the City Council’s website and Facebook page both indicated that the meeting was to be held at Council Chambers.

25. Prior to the start of the 7:00 PM meeting, the McKeesport Citizens and other individuals arrived at Council Chambers.

26. Upon arrival at Council Chambers, the McKeesport Citizens found that the doors to Council Chambers were locked.

27. Thus, the McKeesport Citizens – along with the general public – were prevented from attending the City Council meeting.

28. Posted on the locked door of Council Chambers was a sign stating that the meeting was “closed to ‘in-person’ public participation...in light of COVID-19.”

29. The only mechanism for public comment provided for in the new COVID-19 procedures was an option for written submissions, the deadline for which was noon that day, which had already passed.

30. Prior to the events of December 20, 2020, including during the preceding nine months of the COVID-19 pandemic, every McKeesport City Council meeting was open to the public and allowed for live and direct public comment.

31. Although the pandemic has created difficulties for government bodies subject to the Sunshine Act across the Commonwealth, countless other government agencies across the Commonwealth, including those in McKeesport such as the McKeesport school board, were able to provide at least electronic access through Zoom or other videoconferencing technology to fulfill transparency and participation requirements for citizens and the media.

32. On January 22, 2021, the ACLU of Pennsylvania sent a letter on behalf of the McKeesport Citizens and other McKeesport residents requesting that the McKeesport City Council President and the mayor honor their obligations under the Sunshine Act to provide participation, “either in person utilizing necessary COVID-19 safety precautions or virtually by using an

Internet-based streaming platform,” and make better provision for public comment at the upcoming Council meeting on February 3, 2021.

33. Subsequently, the McKeesport Mayor, Michael Cherepko, and City Solicitor J. Jason Elash contacted an ACLU representative and indicated that City Council would provide the ACLU with a plan for including the public for the next Council Meeting scheduled for February 3, 2021.

34. No plan was ever provided, either to the ACLU confidentially or announced publicly to the residents. Instead, City Council canceled the February 3, 2021, meeting, claiming they had no business to discuss.

35. Per the City Council website, the next City Council meeting is scheduled for 7:00 PM, March 3, 2021, at Council Chambers. The website provides no indication that the public may attend and/or participate either in-person or virtually.

36. Per the City Council website, “Any person who desires to present public comment to City Council for the March meeting are [sic] asked to submit a written statment [sic] to the Mayor's Office, 500 Fifth Avenue, by noon on March 3, by dropping it off in person or via email to [jen.vertullo@mckeesport-pa.gov](mailto:jen.vertullo@mckeesport-pa.gov).”

37. Undersigned counsel has in the past two weeks sent several emails to the City Solicitor asking whether and how Council will address McKeesport Citizens’ concern that they will be denied access to observe and publicly comment at the March 3, 2021, meeting.

38. The City Solicitor has neither acknowledged nor responded to these emails.

#### **COUNT I – Violation of the Pennsylvania Sunshine Act**

39. Paragraphs 1 through 40 of this Complaint are incorporated as though set forth fully herein.

40. Pennsylvania's Sunshine Act requires all "[o]fficial action and deliberations by a quorum of the member of an agency," such as City Council, "shall take place at a meeting open to the public." 65 P.S. § 704.

41. The Sunshine Act further requires that agencies such as City Council "provide a reasonable opportunity at each advertised regular meeting . . . for resident . . . or taxpayers . . . to comment on matters of concern, official action, or deliberation which are or may be before the . . . council prior to taking official action." 65 P.S. § 710.1(a).

42. Willful violation of the Sunshine Act entitle litigants to attorney's fees for a civil lawsuit. 65 P.S. § 714.

43. In the face of the COVID-19 pandemic, Act 15 of 2020 clarified that local government agencies must still "allow for public participation in a meeting, hearing or proceeding through an authorized telecommunications device<sup>1</sup> or written comments." 35 Pa.C.S. § 5741(f).

44. Plaintiffs planned to participate in the January Meeting to voice concerns over unlawful searches of McKeesport residents.

45. Plaintiffs were unable to participate in the January Meeting because Council did not allow for the public to witness the January Meeting, either in person or through an authorized telecommunications device.

46. Plaintiffs were further unable to participate in the January Meeting because City Council provided notice too late to allow McKeesport Citizens to submit written comments.

47. City Council has ignored attempts by undersigned counsel to engage in a dialogue regarding the alleged Sunshine Act violations at the January Meeting and how to provide for legally required public access at future Council meetings.

---

<sup>1</sup> "Authorized telecommunications device" is defined as "any device which permits, at a minimum, audio communication between individuals." 35 Pa.C.S. § 5741.

48. McKeesport Plaintiffs still wish to attend McKeesport Council's future meetings and present comments, including being able to react to what Council members say during the session, about the Police Department's treatment of citizens during the December 20 manhunt and other matters of public concern.

49. As such, Defendants have violated, and will continue to violate, the Sunshine Act by foreclosing the public from meaningfully participating in government operations.

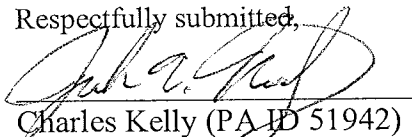
50. Defendants' denial of meaningful participation to McKeesport Citizens and other members of the public is irreparable harm for which there is no adequate remedy at law.

51. Additionally, as stated further in the accompanying moving papers, McKeesport Citizens further move for mandatory injunctive relief to ensure that they have meaningful access to upcoming City Council meetings, including the one slated to occur on March 3, 2021.

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in favor of Plaintiffs and against City Council, including the award of attorneys' fees, and grant such other and further relief as this Court deems just and proper.

Dated: March 1, 2021

Respectfully submitted,



Charles Kelly (PA ID 51942)

Michael Joyce, Esq. (PA ID. 311303)

Allison Burdette, Esq. (PA ID 316695)

John A. Marty, Esq. (PA ID 324405)

SAUL EWING ARNSTEIN & LEHR LLP

Charles.Kelly@saul.com

Michael.Joyce@saul.com

Allison.Burdette@saul.com

John.Marty@saul.com

One PPG Place, 30th Floor

Pittsburgh, PA 15222

Tel.: (412) 209-2500

Fax: (412) 209-2585

Witold J. Walczak (PA ID 62976)

American Civil Liberties Union of PA

vwalczak@aclupa.org

Western Region Office

P.O. Box 23058

Pittsburgh, PA 15222

Tel: (412) 681 7736

Fax (412) 681 8707

*Counsel for Plaintiffs*

**VERIFICATION**

I verify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Dated: March 1, 2021

Valian Walker Montgomery

\_\_\_\_\_  
Valian Walker Montgomery



VERIFICATION

I verify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to perjury in affidavits.

Dated: February 26, 2021

  
Courtney Thompson

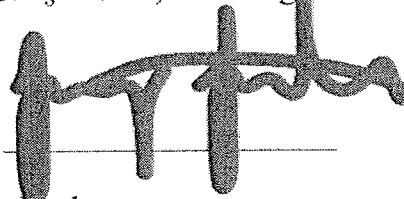
2/26/2021

VERIFICATION

I verify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Dated: \_\_\_\_\_

3.1.21

A handwritten signature in dark ink, appearing to read 'Tracey Jordan', written over a horizontal line.

Tracey Jordan

**VERIFICATION**

I verify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Dated:  
3/1/2021 \_\_\_\_\_


\_\_\_\_ Janina Riley

Janina Riley

**CERTIFICATE OF SERVICE**

I hereby certify that on March 1, 2021, I served a true and correct copy of the foregoing Verified Complaint via electronic mail and First Class United States mail, postage prepaid upon the following:

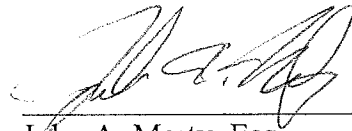
Jason Elash  
McKeesport City Solicitor  
500 Fifth Avenue  
McKeesport, PA 15132

  
\_\_\_\_\_  
John A. Marty, Esq.  
Pa ID No. 324405  
Saul Ewing Arnstein & Lehr LLP  
One PPG Place, Suite 3010  
Pittsburgh, PA 15222  
Telephone: (412) 209-2500  
John.Marty@saul.com

**CERTIFICATION OF COMPLIANCE WITH  
CASE RECORDS PUBLIC ACCESS POLICY**

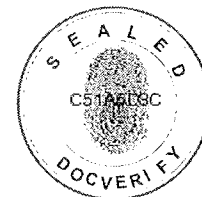
I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

March 1, 2021



John A. Marty, Esq.  
Pa ID No. 324405  
Saul Ewing Arnstein & Lehr LLP  
One PPG Place, Suite 3010  
Pittsburgh, PA 15222  
Telephone: (412) 209-2500  
John.Marty@saul.com

# Exhibit 2



## Valian affidavit.pdf

DocVerify ID: C51A6D8C-57C9-4A35-B7CD-A80075C756D2

Created: March 01, 2021 04:55:54 -8:00

Pages: 5

Remote Notary: Yes / State: PA

This document is a DocVerify VeriVaulted protected version of the document named above. It was created by a notary or on the behalf of a notary, and it is also a DocVerify E-Sign document, which means this document was created for the purposes of Electronic Signatures and/or Electronic Notary. Tampered or altered documents can be easily verified and validated with the DocVerify veriCheck system. This remote online notarization involved the use of communication technology.

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### E-Signature Summary

#### E-Signature 1: Valian F Walker Montgomery (VFW)

March 01, 2021 05:04:49 -8:00 [9A435DB18A0E] [172.56.13.139]  
electvfawnwalker@gmail.com (Principal) (Personally Known)

#### E-Signature Notary: Amy L. Payne (ALP)

March 01, 2021 05:04:49 -8:00 [F1776EECF49A] [67.186.19.84]  
amy.payne@saul.com

I, Amy L. Payne, did witness the participants named above electronically sign this document.



IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

VALIAN F WALKER MONTGOMERY,	)	CIVIL DIVISION
COURTNEY THOMPkins,	)	
, TRACEY JORDAN, JANINA	)	
RILEY,	)	G.D. No. _____
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
MCKEESPORT CITY COUNCIL AND	)	
THE CITY OF MCKEESPORT	)	
	)	
Defendants.	)	

**AFFIDAVIT OF VALIAN F WALKER MONTGOMERY**

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF ALLEGHENY

ss:

Before me, the undersigned Notary Public, personally appeared Valian F Walker Montgomery, to me known, who being duly sworn according to law, deposes and says as follows:

1. I am an adult individual.
2. I am resident of McKeesport in Allegheny County, Pennsylvania.
3. The statements in this affidavit are based upon my personal knowledge and information.
4. I make this affidavit in connection with the above-captioned litigation.
5. In connection with this litigation, I have reviewed Plaintiffs' Complaint, the Exhibits attached to the Complaint, as well as Plaintiffs' Motion for Special and Preliminary Injunction and Brief.
6. To the best of my personal knowledge and belief, I attest that the information contained in the above court documents, also set forth below, is true and accurate.

38159225.2





7. On or about December 20, 2020, a McKeesport police officer was allegedly shot by an individual in handcuffs.

8. Upon information and belief, McKeesport police were joined by several other local, as well as state, county and federal law enforcement agencies, in searching McKeesport and surrounding areas to locate the suspected shooter.

9. The resulting “manhunt” led to complaints from concerned citizens and others of multiple civil rights abuses as law enforcement performed, according to the complaints, unconstitutional searches and seizures of individuals, their vehicles, and their homes.

10. As a result, a local community organization, Take Action Mon Valley (“TAMV”), issued a call to action encouraging residents to address the unlawful searches conducted during the manhunt at the January 6, 2021, Council meeting (the “January Meeting”).

11. Heeding TAMV’s call, Courtney Thompkins, Kimberly Neal, Tracey Jordan, Janina Riley, Lakaisha Cash, and I (the “McKeesport Residents”) and other members of the community planned to attend and present comments at the January Meeting.

12. Leading up to the January Meeting, including the day of the meeting, the I continuously checked City Council’s website and Facebook page for information regarding the January Meeting.

13. The website provided the City Council’s agenda for the January Meeting, noted the date and time of the meeting, and noted that citizens would be included in the audience.

14. As of 6:30 p.m. the day of the January Meeting, the website indicated that the meeting was to be held at Council Chambers.

15. Prior to the start of the 7:00 PM meeting, the other McKeesport Residents and I arrived at Council Chambers.



16. Upon arrival at Council Chambers, we found the doors to Council Chambers were locked.

17. We – along with the general public – were prevented from attending the City Council meeting.

18. Posted on the locked door of Council Chambers' was a sign stating that the meeting was "closed to 'in-person' public participation...in light of COVID-19." Exhibit 3 is a true and accurate copy of the notice that was posted.

19. The only mechanism for public comment provided for in the new COVID-19 procedures was an option for written submissions, the deadline for which was noon that day, which had already passed.

20. Prior to the events of December 20, 2020, including during the preceding nine months of the COVID-19 pandemic, every McKeesport City Council meeting was open to the public and allowed for live and direct public comment.

21. Although the pandemic has created difficulties for government bodies subject to the Sunshine Act across the Commonwealth, countless other government agencies across the Commonwealth, including those in McKeesport such as the McKeesport school board, were able to provide at least electronic access through Zoom or other videoconferencing technology to fulfill transparency and participation requirements for citizens and the media.

22. On January 22, 2021, the ACLU of Pennsylvania sent a letter on behalf of the McKeesport Citizens and other McKeesport residents requesting that the McKeesport City Council President and the mayor honor their obligations under the Sunshine Act to provide participation, "either in person utilizing necessary COVID-19 safety precautions or virtually by using an Internet-



based streaming platform”, and make better provision for public comment at the upcoming Council meeting on February 3, 2021. Exhibit 4 is a true and accurate copy of that letter.

23. Subsequently, the McKeesport Mayor, Michael Cherepko, and City Solicitor J. Jason Elash contacted an ACLU representative and indicated that City Council would provide the ACLU with a plan for including the public for the next Council Meeting scheduled for February 3, 2021.

24. No plan was ever publicly announced to the residents. Instead, City Council canceled the February 3, 2021 meeting, claiming they had no business to discuss.

25. Per the City Council website, the next City Council meeting is scheduled for 7:00 PM, March 3, 2021, at Council Chambers. Exhibit 5 is a true and accurate copy of the notice posted on the City Council’s website.

26. Per the City Council website, “Any person who desires to present public comment to City Council for the March meeting are [sic] asked to submit a written statment [sic] to the Mayor's Office, 500 Fifth Avenue, by noon on March 3, by dropping it off in person or via email to [jen.vertullo@mckeesport-pa.gov](mailto:jen.vertullo@mckeesport-pa.gov).” Exhibit 5 is a true and accurate copy of the website.

27. Counsel for the McKeesport Citizens have made multiple efforts to contact the City Solicitor regarding their concern that they will be denied access to observe and publicly comment at the March 3, 2021 meeting. The City Solicitor has neither acknowledge nor responded to these efforts. Exhibit 6 is a true and correct copy of those communications.

28. Upon information and belief, other government agencies across the Commonwealth, including those in McKeesport, when encountering concerns about conducting in-person meetings in light of the pandemic, at least provided electronic access through Zoom or other videoconferencing technology to citizens and the media.



29. If this "closed" public meeting takes place without an injunction or other order entered against McKeesport, I and other McKeesport Citizens will be irreparably harmed in that publicly elected officials will engage in official action and deliberation outside of the public eye and without the public being provided a reasonable opportunity for public comment.

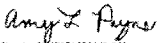
I declare under penalty of perjury that the information contained in this Affidavit is true and correct.

Valian F Walker Montgomery

Signed on 2021/03/01 05:04:49 -0500

Valian F Walker Montgomery

Sworn and subscribed to  
Before me this 1st day of  
March, 2021.

  
\_\_\_\_\_  
Notary Public

Commonwealth of Pennsylvania - Notary Seal  
Amy L. Payne, Notary Public  
Allegheny County  
My Commission Expires Jun 26, 2023  
Commission Number 1234413

Notary Stamp 2021/03/01 06:04:49 PST

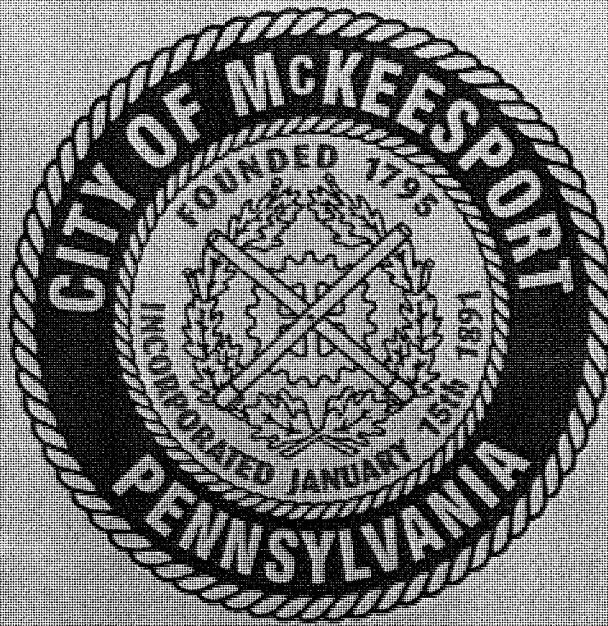
F177EECF48A

US: A6D8C-57C9-4A35-B7CD-A80075C756D2 ... 2021/03/01 04:55:54 -0500 ... Remote Notary

38159225.2



# Exhibit 3



The meetings of McKeesport City Council, scheduled for the first Wednesday of each month in 2021, will be closed to "in-person" public participation until further notice in light of COVID-19 mitigation efforts currently in place.

Any person who desires to comment on any agenda item may do so by submitting no more than 250 words to the Mayor's Office, 500 Fifth Ave., by noon on the date of meeting, by dropping it off in person or via email to [jen.vertullo@mckeesport-pa.gov](mailto:jen.vertullo@mckeesport-pa.gov). For more information, as always, residents also are welcome to call 412-675-5020, ext. 605.

All comments related to the City Council agenda will be incorporated into the record by reference.

# Exhibit 4

January 22, 2021

Richard Dellapenna  
McKeesport City Council President  
500 Fifth Avenue  
McKeesport, PA 15132

Delivered c/o [annette.james@mckeesport-pa.gov](mailto:annette.james@mckeesport-pa.gov)



RE: Demand that McKeesport Council honor Sunshine Act's open-meeting and public-comment requirements.

Dear Mr. Dellapenna:

Eastern Region Office  
PO Box 60173  
Philadelphia, PA 19102  
215-592-1513 T  
215-592-1343 F

Central Region Office  
PO Box 11761  
Harrisburg, PA 17108  
717-238-2258 T  
717-236-6895 F

Western Region Office  
PO Box 23058  
Pittsburgh, PA 15222  
412-681-7736 T  
412-681-8707 F

We write to you on behalf of community organization Take Action Mon Valley and its members, McKeesport residents who were prevented by the City Council from attending and providing comment during its January 6 meeting. The City Council's last-minute decision to hold its meeting behind closed doors follows significant community concern that McKeesport police officers violated residents' constitutional rights while searching for a criminal suspect in late December. Take Action Mon Valley had called on residents to provide comment on the matter at the January 6 City Council meeting. While we appreciate the need to modify existing practices in light of the health risks posed by COVID-19, the Sunshine Act is clear and unambiguous: the City Council acted illegally by not holding an open meeting—either in-person or virtually—on January 6 and by prohibiting public participation in that meeting. Accordingly, we request that you either restore the pre-January meeting procedures or follow the lead of many other municipalities in Pennsylvania by holding public meetings via live-stream and allowing community participation at those meetings.

The City Council's actions on January 6 violate the Sunshine Act in two ways. First, all "[o]fficial action and deliberations by a quorum of the members of an agency," such as City Council, "shall take place **at a meeting open to the public.**" 65 P.S. § 704 (emphasis added). The only exception to this broad mandate for open meetings is for the discussion of certain matters in executive session, but even the final decisions following those discussions must occur in public. *See, e.g., Morning Call v. Board of School Directors*, 642 A.2d 619, 623 (Pa. Commw. Ct. 1994) (explaining that votes on official actions must occur in public). By holding its entire January 6 meeting behind closed doors, and by taking official actions during that closed-door meeting, the City Council violated the Sunshine Act.

Second, the Sunshine Act requires that agencies such as the City Council must "provide a **reasonable opportunity** at each advertised regular meeting ... for residents ... or taxpayers ... to comment on matters of concern, official action, or deliberation **which are or may be before the ... council** prior to taking official action." 65 P.S. § 710.1(a) (emphasis added). *See Alekseev v. City Council of City of Philadelphia*, 8 A.3d 311, 312-13 (Pa. 2010) (agency violates Sunshine Act if it "does not permit public attendees to comment at its regularly scheduled meetings"). Yet at the January 6 meeting, there was no reasonable opportunity for any members of the public to



provide public comment. No notice was posted on the city's website that public comments would have to be submitted before the closed-door meeting. Instead, Ms. Montgomery and other residents who arrived for the meeting discovered a note on the door barring their entry and advising for the first time that they should have submitted comments by noon the same day—six hours earlier. This failure to allow a reasonable opportunity for public comment constitutes a second clear violation of the Sunshine Act.

The Sunshine Act is a vital part of Pennsylvania's long-standing commitment to openness and transparency in government. Accordingly, it contains a several potential remedies and consequences for unlawfully excluding public scrutiny and participation. A court can void any and all official actions taken at a closed meeting. 65 P.S. § 713. Willful violations of the Sunshine Act—that is, knowing what the Act requires and nevertheless choosing to disregard its mandates—not only entitle litigants to attorney's fees for a civil lawsuit, but they also expose the members of the City Council to potential criminal liability. *Id.* at § 714-714.1.

In addition, the City Council's actions also violate the First Amendment to the U.S. Constitution. Speech on political matters and governmental affairs “lies at the heart of protected speech,” *Cornelius v. NAACP Legal Def. and Educ. Fund*, 473 U.S. 788, 797 (1985), and “[t]here is practically universal agreement that a major purpose of [the First] Amendment was to protect free discussion of governmental affairs” *Burson v. Freeman*, 504 U.S. 191, 196 (1992). The Sunshine Act's requirement that government agencies provide an opportunity for public input establishes that public meetings are “designated public forums” for expression on political issues. *See, e.g., City of Madison, Joint Sch. Dist. No. 8 v. Wis. Employment Relation Comm'n*, 429 U.S. 167, 175 (1976) (recognizing First Amendment right to comment at public meetings where state legislature had opened such meetings to public attendance and comment). And the Supreme Court has held that “when the Government has intentionally designated a place or means of communication as a public forum, speakers cannot be excluded without a compelling governmental interest,” and any restriction on speech in that forum must be narrowly tailored to meet that interest. *Cornelius*, 473 U.S. at 800.

COVID-19 has created numerous and unprecedented challenges for local governments, but compliance with the Sunshine Act is not one of them. Act 15 of 2020 clarified that local government agencies “may conduct hearings, meetings, proceedings or other business through the use of an authorized telecommunications device until the expiration or termination of the COVID-19 disaster emergency.”<sup>1</sup> 35 Pa.C.S. § 5741(a). In addition, it clarified that an agency must still “allow for public participation in a meeting, hearing or proceeding through an authorized telecommunication device or written comments.” *Id.* at § 5741(f). Thus, rather than weakening Sunshine Act protections, the legislature has clarified that the use of technology—Zoom, Microsoft Teams, WebEx, etc.—can and must be used to comply with the clear mandates of the Sunshine Act. As the Pennsylvania District Attorneys Association wrote in a guidance document:

Public participation pursuant to Section 710.1 is a necessity. Common-sense should also prevail here. There may be no singular way to meet this statutory requirement, but no doubt government officials working together can identify ways to permit their constituents to have a voice in a manner that is achievable

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<sup>1</sup> “Authorized telecommunications device” is defined as “any device which permits, at a minimum, audio communication between individuals.” 35 Pa.C.S. § 5741.

given whatever technology and other methods of communication are available in their communities.<sup>2</sup>

For all of these reasons, we expect that the City Council will comply with the Sunshine Act at its next meeting on February 3, as well as all subsequent meetings, by ensuring that the meeting is open to the public—either in person utilizing necessary COVID-19 safety precautions or virtually by using an Internet-based streaming platform—and that all McKeesport residents have an opportunity to provide public comment to the City Council on each matter—including matters that may arise in future meetings—before it takes any action on that matter. Should the City Council continue to willfully violate the Sunshine Act, we will have no choice but to take necessary legal action to protect McKeesport residents' rights, which will include a request for reimbursement of our attorneys' fees. If you would like to discuss this issue with us, please feel free to contact me at 412-681-7736 x 321 or at [VWalczak@aclupa.org](mailto:VWalczak@aclupa.org).

Sincerely,



Witold J. Walczak  
Legal Director

Tierra Bradford  
Criminal Justice Policy Advocate

Cc: James Barry, Jr., Councilman (c/o [annette.james@mckeesport-pa.gov](mailto:annette.james@mckeesport-pa.gov))  
Timothy Brown, Councilman (c/o [annette.james@mckeesport-pa.gov](mailto:annette.james@mckeesport-pa.gov))  
Brian Evans, Councilman (c/o [annette.james@mckeesport-pa.gov](mailto:annette.james@mckeesport-pa.gov))  
LuEtha Nesbit, Council Vice President (c/o [annette.james@mckeesport-pa.gov](mailto:annette.james@mckeesport-pa.gov))  
Keith Soles, Councilman (c/o [annette.james@mckeesport-pa.gov](mailto:annette.james@mckeesport-pa.gov))  
Jill Lape, Councilwoman (c/o [annette.james@mckeesport-pa.gov](mailto:annette.james@mckeesport-pa.gov))  
Hon. Michael Cherepko ([mike.cherepko@mckeesport-pa.gov](mailto:mike.cherepko@mckeesport-pa.gov))  
Jennifer Vertullo ([jen.vertullo@mckeesport-pa.gov](mailto:jen.vertullo@mckeesport-pa.gov))  
J. Jason Elash, City Solicitor ([Jason.elash@mckeesport-pa.gov](mailto:Jason.elash@mckeesport-pa.gov))

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<sup>2</sup> [https://openrecordspa.files.wordpress.com/2020/03/pdaa\\_covid-19\\_guidance.pdf](https://openrecordspa.files.wordpress.com/2020/03/pdaa_covid-19_guidance.pdf). The Office of Open Records also has provided administrative guidance to agencies. See <https://openrecordspennsylvania.com/2020/03/11/the-sunshine-act-and-covid-19/>.

# Exhibit 5

# EMERGENCY ALERT

February Meeting Canceled  
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*Pennsylvania*



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January 28, 2021 5:59 PM

### February Meeting Canceled

McKeesport City Council will not meet in February, as there are no agenda items for consideration. Anyone wishing to present public comment to Council should do so in writing before March 3, which is the next scheduled meeting. Please read on.

McKeesport City Council will not meet in February, as there are no agenda items for consideration at this time. As advertised at the start of 2021, McKeesport City Council meetings will be closed to "in-person" public participation until further notice in light of COVID-19 mitigation efforts currently in place. The meetings of McKeesport City Council are scheduled for the first Wednesday of each month in 2021. Any person who desires to present public comment to City Council for the March meeting are asked to submit a written statement to the Mayor's Office, 500 Fifth Avenue, by noon on March 3, by dropping it off in person or via email to [jen.ventullo@mckeesport-pa.gov](mailto:jen.ventullo@mckeesport-pa.gov).

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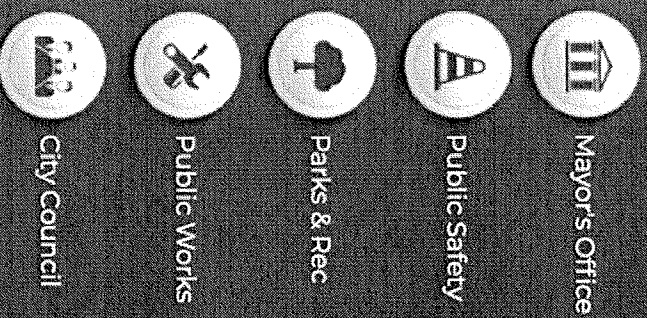
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Mayor's Office

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# Exhibit 6


**From:** [Joyce, Michael J.](#)  
**To:** [Vic Walczak](#); [Jason.elash@mckeesport-pa.gov](mailto:Jason.elash@mckeesport-pa.gov)  
**Cc:** [Tierra Bradford](#); [Marty, John A.](#); [Burdette, Allison L.](#); [Kelly, Charles](#)  
**Subject:** RE: Demand that Council comply with PA Sunshine Act  
**Date:** Monday, February 22, 2021 2:31:17 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)

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Jason,

I assume there are no updates, but I am happy to discuss if there is anything to report.

Otherwise, please let me know if you will accept service.


**SAUL EWING  
ARNSTEIN  
& LEHR** 

**Michael J. Joyce, Esq.**  
**SAUL EWING ARNSTEIN & LEHR LLP**  
One PPG Place, 30th Floor | Pittsburgh, PA 15222  
Tel: (412) 209-2539 | Fax: (412) 209-2585 | Cell: (412) 996-4178  
[Michael.Joyce@saul.com](mailto:Michael.Joyce@saul.com) | [www.saul.com](http://www.saul.com)

**From:** Joyce, Michael J.  
**Sent:** Wednesday, February 17, 2021 10:10 AM  
**To:** 'Vic Walczak' <[vwalczak@aclupa.org](mailto:vwalczak@aclupa.org)>; [Jason.elash@mckeesport-pa.gov](mailto:Jason.elash@mckeesport-pa.gov)  
**Cc:** Tierra Bradford <[tbradford@aclupa.org](mailto:tbradford@aclupa.org)>; Marty, John A. <[john.marty@saul.com](mailto:john.marty@saul.com)>; Burdette, Allison L. <[allison.burdette@saul.com](mailto:allison.burdette@saul.com)>; Kelly, Charles <[Charles.Kelly@saul.com](mailto:Charles.Kelly@saul.com)>  
**Subject:** RE: Demand that Council comply with PA Sunshine Act

Thank you for the introduction, Vic.

Jason – it's nice to connect. Vic is correct that Saul Ewing has been engaged to prepare for litigation related to the recent closure of Council meetings and to ensure the appropriate public openness of future meetings. We plan to institute these proceedings soon. However, if you have any relevant updates, please let me know as soon as possible. Thank you.

**SAUL EWING  
ARNSTEIN  
& LEHR** 

**Michael J. Joyce, Esq.**  
**SAUL EWING ARNSTEIN & LEHR LLP**  
One PPG Place, 30th Floor | Pittsburgh, PA 15222  
Tel: (412) 209-2539 | Fax: (412) 209-2585 | Cell: (412) 996-4178  
[Michael.Joyce@saul.com](mailto:Michael.Joyce@saul.com) | [www.saul.com](http://www.saul.com)

**From:** Vic Walczak <[vwalczak@aclupa.org](mailto:vwalczak@aclupa.org)>

**Sent:** Wednesday, February 17, 2021 10:00 AM

**To:** [Jason.elash@mckeesport-pa.gov](mailto:Jason.elash@mckeesport-pa.gov)

**Cc:** Joyce, Michael J. <[Michael.Joyce@saul.com](mailto:Michael.Joyce@saul.com)>; Tierra Bradford <[tbradford@aclupa.org](mailto:tbradford@aclupa.org)>

**Subject:** FW: Demand that Council comply with PA Sunshine Act

**\*\*EXTERNAL EMAIL\*\* - This message originates from outside our Firm. Please consider carefully before responding or clicking links/attachments.**

Hi Jason. I am following up on the attached letter and our telephone conversation, which included the mayor, of that same date. My understanding of where we left matters was that you would send us details of how council planned to conduct public meetings going forward. I'm sorry we have not heard from you. We are preparing to file suit before the next council meeting, but wanted to give you a last opportunity to avoid litigation. Our co-counsel, Michael Joyce, is taking the lead for us on this matter so if you have any relevant information you would like to share with us please be in touch with him. Thank you. VW

**Witold J. Walczak, Esq.** | Legal Director

Pronouns: he, him, his

ACLU of Pennsylvania

247 Ft. Pitt Blvd., 2d Fl.

Pittsburgh, PA 15222

412-681-7864 x 321 | [vwalczak@aclupa.org](mailto:vwalczak@aclupa.org)

[aclupa.org](http://aclupa.org)



*[Are you a card-carrying member? Click here to support the ACLU.](#)*

**From:** Vic Walczak <[vwalczak@aclupa.org](mailto:vwalczak@aclupa.org)>

**Sent:** Friday, January 22, 2021 10:43 AM

**To:** '[annette.james@mckeesport-pa.gov](mailto:annette.james@mckeesport-pa.gov)' <[annette.james@mckeesport-pa.gov](mailto:annette.james@mckeesport-pa.gov)>

**Cc:** '[mike.cherepko@mckeesport-pa.gov](mailto:mike.cherepko@mckeesport-pa.gov)' <[mike.cherepko@mckeesport-pa.gov](mailto:mike.cherepko@mckeesport-pa.gov)>;

'[jen.vertullo@mckeesport-pa.gov](mailto:jen.vertullo@mckeesport-pa.gov)' <[jen.vertullo@mckeesport-pa.gov](mailto:jen.vertullo@mckeesport-pa.gov)>; '[jason.elash@mckeesport-pa.gov](mailto:jason.elash@mckeesport-pa.gov)' <[jason.elash@mckeesport-pa.gov](mailto:jason.elash@mckeesport-pa.gov)>; 'Tierra Bradford' <[tbradford@aclupa.org](mailto:tbradford@aclupa.org)>

**Subject:** Demand that Council comply with PA Sunshine Act

Dear Council President Dellapenna: Please see the attached letter. I'd be happy to answer any questions or concerns that you may have. You can reach me at the contacts below, which are also repeated at the end of the letter. Thank you.

**Witold J. Walczak, Esq.** | Legal Director

Pronouns: he, him, his

ACLU of Pennsylvania

247 Ft. Pitt Blvd., 2d Fl.

Pittsburgh, PA 15222

412-681-7864 x 321 | [vwalczak@aclupa.org](mailto:vwalczak@aclupa.org)

[aclupa.org](http://aclupa.org)



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# Exhibit 7

**PROPOSED AGENDA FOR THE REGULAR MEETING OF COUNCIL**

**WEDNESDAY, MARCH 4, 2020– 7:00PM**

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

ROLL CALL

APPROVAL OF MINUTES FROM THE REGULAR MEETING OF FEBRUARY 5, 2020

COMMUNICATIONS

MAYOR'S REPORT

CITIZENS IN THE AUDIENCE

NEW BUSINESS:

BILL #12 – ORDINANCE - APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES OF MCKEESPORT, PENNSYLVANIA.

BILL #13 – ORDINANCE – AUTHORIZING THE PROPER CITY OFFICIALS TO TAKE ANY ACTIONS NECESSARY TO WAIVE ANY AND ALL TAXES, TAX CLAIMS AND MUNICIPAL CLAIMS DUE AND OWING ON LOT & BLOCKS 464-C-48 AND 381-H-287 PURSUANT TO THE MUNICIPAL CLAIM AND TAX LIEN LAW AND §2109(h) AND §2117 OF THE LAND BANK ACT

BILL #14 – RESOLUTION - AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO A CONTRACT WITH KRAKEN CHEMICALS FOR WEED & VEGETATION CONTROL FOR A ONE YEAR TERM

BILL #15 – RESOLUTION – AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO A CONTRACT WITH DTI DEVELOPMENT INCORPORATED FOR A ONE YEAR TERM FOR GRANT APPLICATIONS

BILL #16 – RESOLUTION – AMENDING THE FISCAL YEAR 2018 CDBG PROGRAM

BILL #17 – RESOLUTION – AMENDING THE FISCAL YEAR 2019 CDBG PROGRAM

BILL #18 – RESOLUTION – AWARDING THE BID FOR FAIR HOUSING SERVICES TO THE FAIR HOUSING PARTNERSHIP OF GREATER PITTSBURGH, INC., AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE ALL DOCUMENTS NECESSARY TO ENTER INTO AN AGREEMENT WITH THE FAIR HOUSING PARTNERSHIP OF GREATER PITTSBURGH, INC. FOR AN AMOUNT NOT TO EXCEED \$20,000.00

AMENDMENTS

BILL #19 – RESOLUTION – AUTHORIZING THE PROPER CITY OFFICIALS TO TAKE ALL ACTION AND EXECUTE ALL DOCUMENTS NECESSARY TO APPLY FOR THE 2020 COMMUNITY POLICING DEVELOPMENT (CPD) GRANT

BILL #20 – RESOLUTION - AUTHORIZING THE PROPER CITY OFFICIALS TO TAKE ALL ACTION AND EXECUTE ALL DOCUMENTS NECESSARY TO APPLY FOR THE 2020 COPS HIRING PROGRAM (CHP) GRANT

ADJOURNMENT

**PROPOSED AGENDA FOR THE REGULAR MEETING OF COUNCIL**

**WEDNESDAY, APRIL 1, 2020 – 7:00PM**

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

ROLL CALL

APPROVAL OF MINUTES FROM THE REGULAR MEETING OF MARCH 4, 2020

COMMUNICATIONS

MAYOR'S REPORT

CITIZENS IN THE AUDIENCE

NEW BUSINESS:

**BILL #21 – RESOLUTION** – APPROVING A CONDITIONAL USE REQUEST FROM LEA MORGAN TO OPERATE AN AUTOMOBILE RENTAL (LIMO) SERVICE AT 1828 FIFTH AVENUE, MCKEESPORT, PA. THE PROPERTY EXISTS IN A C-3 ZONING DISTRICT.

**BILL #22 – RESOLUTION** - PROCLAIMING THE MONTH OF APRIL 2020 AS “FAIR HOUSING MONTH” IN THE CITY OF MCKEESPORT

**BILL #23 – RESOLUTION** - AWARDING THE BID FOR THE MCKEESPORT RISING PAVING PROJECT – PHASE II TO EL GRANDE INDUSTRIES, INC., AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE ALL DOCUMENTS NECESSARY TO ENTER INTO AN AGREEMENT WITH EL GRANDE INDUSTRIES, INC. FOR AN AMOUNT NOT TO EXCEED \$723,428.50.

**BILL #24 – RESOLUTION** - AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO AN AGREEMENT WITH FOUR SEASONS CONSTRUCTION GROUP, INC. FOR THE MCKEESPORT REGIONAL HISTORY & HERITAGE CENTER FOR AN AMOUNT NOT TO EXCEED THIRTY-TWO THOUSAND FOUR HUNDRED SEVENTY-FIVE (\$32,475.00) DOLLARS.

**BILL #25 – RESOLUTION** - AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO AN AGREEMENT WITH EL GRANDE INDUSTRIES, INC. FOR THE RESTORATION OF THE RENZIEHAUSEN PARK WALKING TRAIL FOR AN AMOUNT NOT TO EXCEED ONE HUNDRED EIGHTY-EIGHT THOUSAND SIX HUNDRED SEVENTY-FIVE (\$188,675.00) DOLLARS.

**BILL #26 – RESOLUTION** - AUTHORIZING THE SELECTION OF ABM BUILDING SOLUTIONS, LLC FOR THE IMPLEMENTATION OF A DESIGN BUILD PROJECT WITH ALTERNATIVE FUNDING SOURCES THROUGH FAR 552.238-79 USE OF FEDERAL SUPPLY SCHEDULE CONTRACTS BY NON-FEDERAL ENTITIES (JUL 2016).

**BILL #27 – RESOLUTION** - ADOPTING THE TRANSPORTATION IMPACT STUDY(TIS) FOR THE PROPOSED GET GO DEVELOPMENT ATTACHED HERETO AND APPROVING THE CONCLUSIONS THEREIN

**BILL #28 – ORDINANCE** - AMENDING AND SUPPLEMENTING AN ORDINANCE OF THE CITY OF MCKEESPORT PREVIOUSLY EFFECTIVE AND AMENDED BY ORDINANCE FROM TIME TO TIME, RELATIVE TO THE ESTABLISHMENT AND MAINTENANCE OF THE RETIREMENT SYSTEM FOR OFFICERS AND EMPLOYEES OF THE CITY OF MCKEESPORT PENSION PLAN, INSURANCE AND BENEFIT FUND OR FUNDS, TO AMEND CERTAIN PROVISIONS OF THE PENSION PLAN OR PROGRAM APPLICABLE TO THE OFFICERS AND EMPLOYEES OF SAID CITY

**AMENDMENTS**

**BILL #29 – RESOLUTION** - AWARDING THE BID FOR THE MCKEESPORT RISING PAVING PROJECT CONTRACT B – PHASE II TO EL GRANDE INDUSTRIES, INC., AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE ALL DOCUMENTS NECESSARY TO ENTER INTO AN AGREEMENT WITH EL GRANDE INDUSTRIES, INC. FOR AN AMOUNT NOT TO EXCEED \$51,986.00.

ADJOURNMENT

**PROPOSED AGENDA FOR THE REGULAR MEETING OF COUNCIL**

**WEDNESDAY, MAY 6, 2020 – 7:00PM**

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

ROLL CALL

APPROVAL OF MINUTES FROM THE REGULAR MEETING OF APRIL 1, 2020

COMMUNICATIONS

MAYOR'S REPORT

CITIZENS IN THE AUDIENCE

NEW BUSINESS:

BILL #30 – RESOLUTION – ADOPTING AN OFFICIAL SEWAGE FACILITIES PLAN PROVIDING FOR SEWAGE SERVICES ADEQUATE TO PREVENT CONTAMINATION OF WATERS AND/OR ENVIRONMENTAL HEALTH HAZARDS FOR A NEW LAND DEVELOPMENT BY PURE PENN

BILL #31 – RESOLUTION – AWARDING THE BID FOR STREET IMPROVEMENTS TO EL GRANDE INDUSTRIES, INC., AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE ALL DOCUMENTS NECESSARY TO ENTER INTO AN AGREEMENT WITH EL GRANDE INDUSTRIES, INC. FOR AN AMOUNT NOT TO EXCEED \$230,674.55.

BILL #32 – RESOLUTION – AWARDING THE BID FOR THE IMPROVEMENTS TO THE LAROSA BOYS & GIRLS CLUB TO KUCICH CINSTRUCTION, INC. AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE ALL DOCUMENTS NECESSARY TO ENTER INTO AN AGREEMENT WITH KUCICH CONSTRUCTION, INC. FOR AN AMOUNT NOT TO EXCEED \$74,600.00.

BILL #33 – RESOLUTION – AMENDING THE CITIZEN PARTICIPATION PLAN.

BILL #34 – RESOLUTION – APPROVING AND AUTHORIZING THE FILING OF THE FIVE YEAR CONSOLIDATED PLAN, FISCAL YEAR 2020 ANNUAL ACTION PLAN AND ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE FOR FUNDING KNOWN AS B-20-MC-42-0106 UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 (PUBLIC LAW 93-383) AS AMENDED.

ADJOURNMENT

**PROPOSED AGENDA FOR THE REGULAR MEETING OF COUNCIL**

**WEDNESDAY, JUNE 3, 2020 – 7:00PM**

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

ROLL CALL

APPROVAL OF MINUTES FROM THE REGULAR MEETING OF MAY 6, 2020

COMMUNICATIONS

MAYOR'S REPORT

CITIZENS IN THE AUDIENCE

NEW BUSINESS:

BILL #35 - RESOLUTION – DESIGNATING JAMES GARVIN TO PROVIDE ENGINEERING SERVICES FOR ALL CITY OF MCKEESPORT PROJECTS.

BILL #36 – RESOLUTION- DESIGNATING URBAN DESIGN VENTURES TO PROVIDE CONSULTING SERVICES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

BILL #37 – RESOLUTION – AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE ALL DOCUMENTS NECESSARY TO APPLY FOR AN ACTIVE ALLEGHENY GRANT IN THE AMOUNT OF EIGHTY-ONE THOUSAND (\$81,000.00) DOLLARS THROUGH THE REDEVELOPMENT AUTHORITY OF ALLEGHENY COUNTY.

BILL #38 – RESOLUTION - AWARDING THE BID FOR THE DEMOLITION OF THE FORMER ST. STEPHEN'S CHURCH TO LUTTERMAN EXCAVATING, AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE ALL DOCUMENTS NECESSARY TO ENTER INTO AN AGREEMENT WITH LUTTERMAN EXCAVATING FOR AN AMOUNT NOT TO EXCEED SEVENTY-SEVEN THOUSAND NINE HUNDRED (\$77,900.00) DOLLARS.

BILL #39 – RESOLUTION – AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE ALL DOCUMENTS NECESSARY TO APPLY FOR AND ACCEPT CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING THROUGH THE U.S. DEPARTMENT OF JUSTICE AND OFFICE OF JUSTICE PROGRAMS.

ADJOURNMENT

**PROPOSED AGENDA FOR THE REGULAR MEETING OF COUNCIL**

**WEDNESDAY, JULY 1, 2020 – 7:00PM**

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

ROLL CALL

APPROVAL OF MINUTES FROM THE REGULAR MEETING OF JUNE 3, 2020

COMMUNICATIONS

MAYOR'S REPORT

CITIZENS IN THE AUDIENCE

NEW BUSINESS:

BILL #40 - RESOLUTION – AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO THE ATTACHED AGREEMENT FOR RODENT CONTROL SERVICES.

BILL #41 – RESOLUTION – APPROVING AND AUTHORIZING THE TRANSFER OF FISCAL YEAR 2016 HOME PROGRAM GRANT FUNDS TO ALLEGHENY COUNTY IN RETURN FOR AN EQUIVALENT AMOUNT OF AFFORDABLE HOUSING TRUST FUND DOLLARS.

BILL #42 – RESOLUTION – APPROVING AND AUTHORIZING THE TRANSFER OF FISCAL YEAR 2017 HOME PROGRAM GRANT FUNDS TO ALLEGHENY COUNTY IN RETURN FOR AN EQUIVALENT AMOUNT OF AFFORDABLE HOUSING TRUST FUND DOLLARS.

BILL #43 – RESOLUTION – APPROVING AND AUTHORIZING THE TRANSFER OF FISCAL YEAR 2018 HOME PROGRAM GRANT FUNDS TO ALLEGHENY COUNTY IN RETURN FOR AN EQUIVALENT AMOUNT OF AFFORDABLE HOUSING TRUST FUND DOLLARS.

BILL #44 – RESOLUTION – APPROVING AND AUTHORIZING THE TRANSFER OF FISCAL YEAR 2019 HOME PROGRAM GRANT FUNDS TO ALLEGHENY COUNTY IN RETURN FOR AN EQUIVALENT AMOUNT OF AFFORDABLE HOUSING TRUST FUND DOLLARS.

BILL #45 – RESOLUTION – AUTHORIZING THE PROPER CITY OFFICIALS TO APPLY FOR A BLIGHT REMEDIATION PROGRAM GRANT IN AN AMOUNT NOT TO EXCEED \$300,000.00 FROM THE COMMONWEALTH FINANCING AUTHORITY.

ADJOURNMENT

**PROPOSED AGENDA FOR THE REGULAR MEETING OF COUNCIL**

**WEDNESDAY, SEPTEMBER 2, 2020 – 7:00PM**

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

ROLL CALL

APPROVAL OF MINUTES FROM THE REGULAR MEETING OF JULY 1, 2020

COMMUNICATIONS

MAYOR'S REPORT

CITIZENS IN THE AUDIENCE

NEW BUSINESS:

BILL #46 – RESOLUTION - AWARDING THE BID FOR THE TRAFFIC SIGNAL PROJECT AT EVANS STREET AND VERSAILLES AVENUE, AND LYSLE BOULEVARD (SR0148) AND COURSIN STREET TO TRAFFIC CONTROL AND ENGINEERING COMPANY, AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE ALL DOCUMENTS NECESSARY TO ENTER INTO AN AGREEMENT WITH TRAFFIC CONTROL AND ENGINEERING COMPANY FOR AN AMOUNT NOT TO EXCEED \$265,858.75

BILL #47 – RESOLUTION – DESIGNATING SEPTEMBER 19 THROUGH OCTOBER 11, 2020 AS RADICAL DAYS IN THE CITY OF MCKEESPORT

BILL #48 – RESOLUTION – AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO AN AGREEMENT WITH DAVID COLLURA

BILL #49 – RESOLUTION – APPROVING AND AUTHORIZING THE TRANSFER OF FISCAL YEAR 2017 HOME PROGRAM GRANT FUNDS TO ALLEGHENY COUNTY IN RETURN FOR AN EQUIVALENT AMOUNT OF AFFORDABLE HOUSING TRUST FUND DOLLARS

BILL #50 - RESOLUTION – AUTHORIZING THE PROPER CITY OFFICIALS TO ACCEPT THE ACTIVE ALLEGHENY GRANT IN THE AMOUNT OF \$81,000.00 THROUGH THE REDEVELOPMENT AUTHORITY OF ALLEGHENY COUNTY.

BILL #51 – RESOLUTION – APPROVING A REVERSE SUBDIVISION REQUEST FROM EUGENE AND WENDY RIAZZI, 2721 GRANDVIEW AVENUE, MCKEESPORT, PA 15132, TO COMBINE TWO (2) LOTS (464-H-116 AND 464-H-151-1) INTO ONE (1). THE PROPERTY EXISTS IN A R-3 ZONING DISTRICT.

BILL #52 – RESOLUTION – APPROVING A CONDITIONAL USE REQUEST FROM LEONARD KOLODZEK dba K&K ROADSIDE SERVICE, LLC, TO OPERATE AN AUTOMOBILE TOWING AND REPAIR FACILITY AT 2215 PATTERSON AVENUE, MCKEESPORT, PA. THE PROPERTY EXISTS IN AN R-2 ZONING DISTRICT.

BILL #53 – RESOLUTION -AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE ALL DOCUMENTS NECESSARY TO RETAIN PRISM SPECTRUM, INC. AS THE CITY'S HAZARDOUS MATERIAL ASSESSMENT/ABATEMENT CONSULTANT FOR ALL CITY AGENCIES AND PROJECTS.

**TABLED ITEM:**

BILL #21 – RESOLUTION – APPROVING A CONDITIONAL USE REQUEST FROM LEA MORGAN TO OPERATE AN AUTOMOBILE RENTAL (LIMO) SERVICE AT 1828 FIFTH AVENUE, MCKEESPORT, PA. THE PROPERTY EXISTS IN A C-3 ZONING DISTRICT

**AMEND AGENDA**

BILL #54 – RESOLUTION – AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE ALL DOCUMENTS NECESSARY TO LEASE EQUIPMENT FROM LAUREL MOUNTAIN LEASING & FINANCIAL SERVICES, INC.

BILL #55 – RESOLUTION – AUTHORIZING THE PROPER CITY OFFICIALS TO APPLY FOR FUNDING THROUGH THE STRATEGIC MANAGEMENT PLANNING PROGRAM

ADJOURNMENT



**PROPOSED AGENDA FOR THE REGULAR MEETING OF COUNCIL**

**WEDNESDAY, OCTOBER 7, 2020 – 7:00PM**

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

ROLL CALL

APPROVAL OF MINUTES FROM THE REGULAR MEETING OF SEPTEMBER 2, 2020

COMMUNICATIONS

MAYOR'S REPORT

CITIZENS IN THE AUDIENCE

NEW BUSINESS:

BILL #56 – ORDINANCE – AMENDING ORDINANCE #90-19, TO INCREASE THE MINIMUM AND MAXIMUM FINES FOR THROWING OR DEPOSITING LITTER IN PUBLIC PLACES IN THE CITY OF MCKEESPORT.

BILL #57 – ORDINANCE – AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE ANY DOCUMENTS NECESSARY TO TRANSFER THE PROPERTY KNOWN AS 0382-A-00289, LOCATED ON 11<sup>TH</sup> STREET, TO THE REDEVELOPMENT AUTHORITY OF THE CITY OF MCKEESPORT.

BILL #58 – RESOLUTION – AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO THE ATTACHED MAINTENANCE AGREEMENTS FOR ELEVATORS IN CITY-OWNED BUILDINGS.

BILL #59 – RESOLUTION - AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO A GRANT AGREEMENT WITH THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION TO BE USED FOR EAST 5<sup>th</sup> AVENUE ROAD & INTERSECTION IMPROVEMENTS.

BILL #60 – RESOLUTION - AUTHORIZING THE PROPER CITY OFFICIALS TO REQUEST GRANT FUNDS FROM THE PENNSYLVANIA HOUSING AFFORDABILITY AND REHABILITATION ENHANCEMENT FUND (PHARE) PROGRAM TO BE UTILIZED IN CONJUNCTION WITH ACTION HOUSING, INC. FOR NEW RESIDENTIAL CONSTRUCTION AND RESIDENTIAL RENOVATIONS IN THE CULTURAL DISTRICT OF THE CITY OF MCKEESPORT

ADJOURNMENT

**PROPOSED AGENDA FOR THE REGULAR MEETING OF COUNCIL**

**WEDNESDAY, NOVEMBER 4, 2020 – 7:00PM**

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

ROLL CALL

APPROVAL OF MINUTES FROM THE REGULAR MEETING OF OCTOBER 7, 2020

COMMUNICATIONS

MAYOR'S REPORT

CITIZENS IN THE AUDIENCE

NEW BUSINESS:

BILL #61 – RESOLUTION – AMENDING THE FISCAL YEAR 2019 CDBG PROGRAM

AMENDMENTS

BILL #62 – RESOLUTION - AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO A GRANT AGREEMENT WITH THE PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT TO BE USED FOR FACILITIES IMPROVEMENTS IN RENZIEHAUSEN PARK.

ADJOURNMENT

**PROPOSED AGENDA FOR THE REGULAR MEETING OF COUNCIL**

**WEDNESDAY, DECEMBER 2, 2020 – 7:00PM**

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

ROLL CALL

APPROVAL OF MINUTES FROM THE REGULAR MEETING OF NOVEMBER 4, 2020

COMMUNICATIONS

MAYOR'S REPORT

CITIZENS IN THE AUDIENCE

NEW BUSINESS:

BILL #63 – ORDINANCE – AUTHORIZING THE PROPER CITY OFFICIALS TO TAKE ANY ACTION NECESSARY TO WAIVE ANY AND ALL TAXES, TAX CLAIMS AND MUNICIPAL CLAIMS DUE AND OWING ON LOT AND BLOCKS 464-K-56, 461-N-257, 381-H-212 AND 381-H-213 PURSUANT TO THE MUNICIPAL CLAIM AND TAX LIEN LAW AND §2109(h) AND §2117 OF THE LAND BANK ACT.

BILL #64 – ORDINANCE – FIXING THE NUMBER AND COMPENSATION OF CITY OFFICIALS AND EMPLOYEES OF THE CITY OF MCKEESPORT; LEVYING TAXES FOR THE FISCAL YEAR; MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2021.

BILL #65 – RESOLUTION - SETTING FORTH THE PAYDAYS FOR THE YEAR 2021.

BILL #66 – RESOLUTION - AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO AN AGREEMENT WITH MR. JOHN FOR THE 2021 PORTABLE RESTROOM RENTAL PROGRAM.

BILL #67 – RESOLUTION - APPOINTING MARK C. TURNLEY AS AUDITOR OF THE CITY OF MCKEESPORT FOR THE FISCAL YEAR 2021 AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A CONTRACT FOR SAID SERVICES.

BILL #68 – RESOLUTION - AUTHORIZING THE PROPER CITY OFFICERS TO ENTER INTO A PEST CONTROL CONTRACT WITH PEST B GONE FOR A PERIOD OF ONE (1) YEAR.

BILL #69 – RESOLUTION - APPROVING A CONDITIONAL USE REQUEST FROM THE MUNICIPAL AUTHORITY OF WESTMORELAND COUNTY TO INSTALL A POLE TO HOUSE A METER READING COLLECTION UNIT ON ATLANTIC AVENUE (LOT & BLOCK 308-J-076) IN MCKEESPORT, PA. THE PROPERTY EXISTS IN A R-4 ZONING DISTRICT.

BILL #70- RESOLUTION - APPROVING A CONDITIONAL USE REQUEST FROM GRANT COUNTY MULCH, INC., TO OPERATE A BULK MATERIAL STORAGE FACILITY LOCATED AT 3500 WALNUT STREET (LOT & BLOCKS 464-R-381, 464-R-378 AND 464-R-395), MCKEESPORT, PA 15132. THE PROPERTY EXISTS IN A R-4 ZONING DISTRICT.

BILL #71 – RESOLUTION - APPROVING A CONDITIONAL USE REQUEST FROM IBRAHIM DALLOU dba ALSHAM LTD., TO OPERATE AN AUTOMOBILE SHOP AT 3903 WALNUT STREET (LOT & BLOCK 555-C-255), MCKEESPORT, PA 15132. THE PROPERTY EXISTS IN A C-3 ZONING DISTRICT.


BILL #72 – RESOLUTION - AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO AN AGREEMENT WITH ACE PYRO, LLC FOR THE PURPOSE OF PROVIDING THE FIREWORKS DISPLAYS AT RENZIEHAUSEN PARK FOR JULY 4<sup>TH</sup> (INDEPENDENCE DAY), AUGUST 9<sup>TH</sup> (INTERNATIONAL VILLAGE), SEPTEMBER 6<sup>th</sup> (LABOR DAY), AND TBA (PATRIOT'S DAY).

ADJOURNMENT

**CERTIFICATION OF COMPLIANCE WITH  
CASE RECORDS PUBLIC ACCESS POLICY**

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

March 1, 2021

  
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**CERTIFICATE OF SERVICE**

I hereby certify that on March 1, 2021, I served a true and correct copy of the foregoing filing via electronic mail and First Class United States mail, postage prepaid upon the following:

Jason Elash  
McKeesport City Solicitor  
500 Fifth Avenue  
McKeesport, PA 15132



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