

NESQUEHONING BOROUGH
ORDINANCE NO. 2017-2

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF NESQUEHONING BOROUGH, AUTHORIZING THE BOROUGH TO ENTER INTO A COOPERATIVE AGREEMENT WITH OTHER MUNICIPAL ENTITIES TO FORM A MUNICIPAL POWER AGENCY, AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT AND ALSO TO EXECUTE THE INTERGOVERNMENTAL AGREEMENT AND ALL DOCUMENTS RELEVANT TO THE FORMATION AND OPERATION OF THE MUNICIPAL POWER AGENCY

WHEREAS, by enactment of 8 Pa.C.S.A. Section 24A04 (2015), the Commonwealth of Pennsylvania empowered two or more municipalities entites within the Commonwealth to cooperate with each other in forming a Municipal Power Agency for the purpose of developing sources and supply of electric energy; and,

WHEREAS, a proposal has been presented to establish the “Broad Mountain Co-Op Municipal Power Agency” (the “Power Agency”) for the purpose of collectively , with other municipal bodies located within Carbon, Schuylkill and Luzerne counties, developing sources and supply of electric energy; and,

WHEREAS, the Power Agency will be established by the execution of an intergovernmental cooperation agreement for the formation of a Municipal Power Agency, between the Borough of Nesquehoning and the Township of Packer (the “Agreement”) and upon passage of authorizing ordinances by the Borough of Nesquehoning and the Township of Packer.

NOW THEREFORE BE IT ENACTED AND ORDAINED BY THE COUNCIL OF THE BOROUGH OF NESQUEHONING, AS FOLLOWS:

SECTION I. Operating Agreement

The Borough Council of the Borough of Nesquehoning hereby approves entering into this Agreement, with the intent and effect that this political body shall be bound by the Agreement.

SECTION 2. Authorization to execute

A. The President or Vice-President of the Borough Council, acting alone or together with the Secretary or Assistant Secretary, are hereby authorized and directed on behalf of the Borough of Nesquehoning to execute the agreement after approval by Borough Council and to execute and deliver such additional instruments, and to take such further actions, as may be necessary or appropriate to carry firth the agreement and the transactions to be effected under the Agreement.

B. All actions taken heretofore by any officer, agent or other representative of the

Borough of Nesquehoning in pursuit of the establishment of the Agency and/or the Borough's participation therein are hereby ratified and approved in all respects.

Section 3. Pennsylvania Intergovernmental Cooperation Act

As required by the Pennsylvania Intergovernmental Cooperation Act, the following matters are specifically found and determined:

- A. The Borough of Nesquehoning shall participate in the Power Agency for an initial term of five (5) years from the date that they first elect to purchase power through the Power Agency. Thereafter, termination of the Agreement shall be as further set forth in the Agreement.
- B. The purpose and objectives of the Agreement are as set forth in the preamble to this ordinance and in the Agreement.
- C. The manner and extent of financing the Agreement are that : no borrowing will be required by the Borough; funds to implement the Borough's obligations under the Agreement shall come from normal and usual budgeted amounts for such matters; and other provisions governing the manner and extent of the financing of the Power Agency shall be as set forth in the Agreement.
- D. The Power Agency shall be managed by its Board of Directors pursuant to the terms of the Agreement.
- E. All property, real or personal, of the Power Agency shall be acquired, managed, licensed or disposed of by the Power Agency in accordance with the terms of the Agreement.

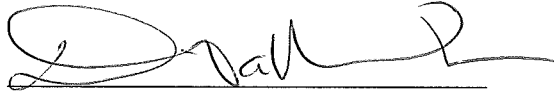
Section 4. Severability

A. The provisions of this ordinance are severable, and if any section, sentence, clause or part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect the remaining sections, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Borough that such ordinance would have been enacted if such illegal, invalid or unconstitutional section, sentence, clause , part or provision had not been included herein. Nothing contained in this ordinance shall be construed to affect any suit or proceeding in any court, or any rights acquired or liability incurred or any cause of action existing prior to the enactment of this ordinance.

SECTION 5. Effective Date. This Ordinance shall become effective upon adoption by Borough Council.


DULY ORDAINED AND ENACTED BY THE COUNCIL OF THE BOROUGH OF NESQUEHONING, CARBON COUNTY, PENNSYLVANIA, THIS 25th DAY OF January, 2017.

BOROUGH OF NESQUEHONING:

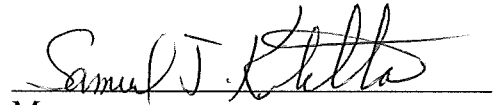


President of Council

ATTEST:


Secretary

AND NOW, this 25th day of January, 2017, the foregoing ordinance is approved.


Mayor