

OFFICIAL

**BOROUGH OF ASPINWALL
RESOLUTION NO. 2026-01**

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF ASPINWALL, ALLEGHENY COUNTY, PENNSYLVANIA, FORMALLY AND PUBLICLY CENSURING MAYOR SCOTT ZIMMERMANN FOR RECORDING A PRIVATE MEETING ON FEBRUARY 16, 2026, WITHOUT THE KNOWLEDGE OR CONSENT OF ANY ATTENDEE IN VIOLATION OF THE PENNSYLVANIA WIRETAPPING AND ELECTRONIC SURVEILLANCE CONTROL ACT.

WHEREAS, the Council of the Borough of Aspinwall (hereinafter “Council”) is the governing body of the Borough, vested with legislative and administrative authority under the Pennsylvania Borough Code, 8 Pa.C.S. § 1005, including the power to adopt resolutions expressing the sense and policy of Council; and

WHEREAS, Mayor Zimmermann (hereinafter “Mayor”), elected to a four (4) year term in November 2025, is an elected official whose authority is defined and limited by 8 Pa.C.S. §§ 10A01 through 10A60, and whose powers are primarily executive in nature, relating principally to enforcement of laws and supervision of the police department; and

WHEREAS, the Mayor, upon taking office, swore an oath to support, obey, and defend the Constitution of the United States and the Constitution of the Commonwealth of Pennsylvania, and to discharge the duties of the office of mayor with fidelity, as required by Article VI, Section 3 of the Pennsylvania Constitution and 8 Pa.C.S. § 10A06; and

WHEREAS, on or about February 16, 2026, President Harris, Councilmember McCaffrey, Manager O’Malley, Solicitor Korbelt and Zoning and Code Officer Santelli met in a private meeting in Council Chambers to discuss matters relating to Borough governance and after-hours operations (hereinafter the “Private Meeting”); and

WHEREAS, the Mayor was present at the Private Meeting; and

WHEREAS, the Private Meeting took place in a closed, private setting in Council Chambers, where the attendees had a justifiable expectation that their communications would not be intercepted or recorded without their knowledge and consent; and

WHEREAS, the Mayor, without the knowledge or consent of any other attendee, recorded the oral communications of the attendees during the Private Meeting using an iPhone or similar electronic device (“iPhone”); and

WHEREAS, at the conclusion of the Private Meeting, the mayor was asked what he was doing with the iPhone and acknowledged that he recorded the meeting because “the lawyer” was present; and

WHEREAS, the Solicitor Korbel advised the Mayor that recording the meeting without the knowledge or consent of all attendees was a crime; and

WHEREAS, the Mayor again accessed the iPhone and then claimed to have deleted the recording, but, at the time, did not verify or demonstrate that the recording had in fact been deleted; and

WHEREAS, the Mayor and his attorney, James Depasquale, have acknowledged that the Mayor intended to and did in fact record the meeting, and that such conduct is a violation of the Pennsylvania Wiretapping and Electronic Surveillance Control Act (the “Act”); and

WHEREAS, despite claiming the recording of the meeting was deleted at the conclusion of the meeting on February 16, 2026, the Mayor later claims that he discovered a six (6) second recording on his iPhone that he now claims was the only recording made of the meeting and which has since been deleted and destroyed; and

WHEREAS, on or about February 24, 2026, the Mayor made a sworn statement subject to the penalty of perjury that he deleted the recording and has agreed to submit the iPhone used to record the meeting to a forensic analysis to ensure the recording has been fully and completely deleted; and

WHEREAS, Pennsylvania is an all-party consent jurisdiction, and 18 Pa.C.S. § 5703 of the Act makes it a felony of the third degree for any person to intentionally intercept any oral communication without the consent of all parties to that communication, punishable by up to seven (7) years of imprisonment and a fine of up to fifteen thousand dollars (\$15,000) for each violation of the Act; and

WHEREAS, the Mayor’s conduct in secretly recording the Private Meeting has undermined the trust and confidence that is essential to effective governance, and has compromised the ability of Council, the Borough Solicitor, the Borough Manager, and Borough staff to communicate openly and candidly on matters of Borough business in his presence; and

WHEREAS, the Mayor’s conduct has created a chilling effect on the willingness of Borough officials and employees to participate in private discussions necessary for the effective operation of Borough government, including but not limited to attorney-client consultations, personnel discussions, and strategic deliberations on Borough affairs; and

WHEREAS, the attendees of the Private Meeting included the Borough Solicitor, whose communications with Council and Borough officials are protected by the attorney-client privilege, and the secret recording of those communications constitutes a threat to the integrity and maintenance of that privilege; and

WHEREAS, conduct that appears to violate the criminal laws of the Commonwealth is inconsistent with the oath of office taken by the Mayor, the chief law enforcement officer of the Borough, and with the standards of conduct expected of an elected official entrusted with the public trust; and

WHEREAS, Council has a duty to the residents of the Borough to acknowledge conduct that threatens the integrity of Borough governance and to express its position clearly and on the public record; and

WHEREAS, the Mayor's conduct has created a fundamental breakdown in the working relationships essential to municipal governance — the Mayor, Council, the Borough Manager, the Borough Solicitor, and Borough staff must be able to engage in candid, confidential, and good-faith communications on sensitive matters including personnel decisions, legal strategy, contract negotiations, and public safety operations, and the Mayor's demonstrated willingness to secretly record such communications has rendered meaningful participation in these essential functions untenable for the other participants, directly threatening the delivery of competent governance and essential services to the residents of the Borough; and

WHEREAS, the Mayor's continued service in office following conduct that appears to constitute a third-degree felony under Pennsylvania law places the Borough in the untenable position of having its chief law enforcement officer serve under the cloud of an apparent serious criminal violation, diminishing public confidence in the integrity and credibility of Borough government, and although Council recognizes that it lacks the statutory authority to compel the Mayor's resignation, Council believes that a voluntary resignation would be in the best interest of the Borough and its residents and would represent the most responsible course of action available to the Mayor under the circumstances; and

WHEREAS, Section 904.1 of the Borough Code, 8 Pa.C.S. § 904.1, provides that the only ways in which an elected borough officer may be removed from office are: (1) impeachment by the state House of Representatives and conviction by the State Senate, (2) by the Governor for reasonable cause after notice and full hearing on the advice of two-thirds of the Senate, or (3) on conviction of misbehavior in office or of an infamous crime; and

WHEREAS, a resolution of censure by Council cannot remove the Mayor from office, reduce the Mayor's compensation, or restrict the Mayor's exercise of any statutory authority; and

WHEREAS, a resolution of censure is a formal expression of disapproval by Council of the Mayor's conduct.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Aspinwall, Allegheny County, Pennsylvania, as follows:

SECTION 1. Formal Censure. Council hereby formally and publicly censures the Mayor, Scott Zimmermann, for the secret recording of the oral communications of attendees at the Private Meeting without the knowledge or consent of any other attendee, conduct which appears to violate 18 Pa.C.S. § 5703 of the Pennsylvania Wiretapping and Electronic Surveillance Control Act and

which is inconsistent with the oath of office, the public trust, and the standards of conduct expected of an elected official of the Borough.

SECTION 2. Findings. Council finds that the Mayor's conduct in secretly recording the Private Meeting:

1. Was undertaken without the knowledge or consent of any other attendee, in violation of the reasonable and justifiable expectation of privacy held by each attendee;
2. Appears to constitute a felony of the third degree under Pennsylvania law;
3. Has materially undermined the trust, confidence, and working relationships among the Mayor, Council, the Borough Solicitor, the Borough Manager, and Borough employees;
4. Has engaged in conduct that may have compromised the attorney-client privilege between the Borough and its Solicitor;
5. Has created a chilling effect on the ability of Borough officials and employees to communicate candidly on matters of Borough business;
6. Is inconsistent with the oath of office and the standards of integrity expected of an elected official;
7. Has created a fundamental breakdown in the working relationships necessary for effective Borough governance that cannot reasonably be repaired while the Mayor continues to hold office;
8. Has rendered it impracticable for Council, the Borough Solicitor, the Borough Manager, and Borough staff to engage in the confidential communications and candid deliberations essential to the competent administration of Borough affairs in the Mayor's presence; and
9. Has placed the continued effective governance of the Borough and the delivery of essential services to its residents in serious jeopardy.

SECTION 4. Call for Voluntary Resignation. For the reasons set forth above, Council respectfully but firmly calls upon Mayor Scott Zimmermann to resign from office voluntarily and without delay, as the most responsible course of action available to restore effective governance to the Borough of Aspinwall and to serve the best interests of its residents.

SECTION 3. Scope and Limitations. This Resolution is a formal expression of disapproval by Council. It does not constitute a finding of criminal guilt, a penalty, or a legal adjudication. It does not remove the Mayor from office, reduce the Mayor's compensation, or restrict the Mayor's exercise of any statutory authority.

SECTION 5. Reservation of Rights. Nothing in this Resolution shall be construed as a waiver of any rights, claims, or remedies available to the Borough, to Council, or to any individual attendee of the Private Meeting, whether criminal, civil, or otherwise. Council expressly reserves all rights and remedies available to the Borough under applicable law, including but not limited to the right to refer this matter to the Allegheny County District Attorney's Office or other appropriate law enforcement authority, the right to pursue any civil claim on behalf of the Borough, and the right to take any further governance action that Council deems appropriate and within its statutory authority. This Resolution does not constitute a referral to law enforcement; any such referral shall be the subject of separate Council action.

SECTION 6. Preservation of Individual Rights. Nothing in this Resolution shall affect, limit, or be construed to waive the independent legal rights of any individual attendee of the Private Meeting to pursue criminal complaints, civil causes of action, or any other remedy available under 18 Pa.C.S. §§ 5703 and 5725, or under common law, in their individual and personal capacities. Council recognizes that the individual legal rights of the attendees are separate and distinct from this institutional action.

SECTION 7. Commitment to Governance Standards. Council reaffirms its commitment to transparent, lawful, and effective governance in accordance with the Pennsylvania Borough Code, the Sunshine Act, and all applicable laws. Council further reaffirms that the statutory roles and responsibilities of the Mayor, Council, the Borough Manager, and Borough staff are defined by law and must be respected by all parties. Council directs the Borough Solicitor to prepare and transmit to the Mayor a formal written communication reaffirming these statutory boundaries.

SECTION 8. Employee Protection. Council directs the Borough Manager to notify all Borough employees that they have no obligation to submit to the recording of any private communication without their express consent, and that any Borough employee who cooperates with a law enforcement investigation into the matters described in this Resolution will be fully supported and protected from retaliation by the Borough or any of its elected officials, including Mayor Zimmermann.

SECTION 9. Recording Policy. Council directs the Borough Solicitor to prepare for Council's consideration at a subsequent meeting a Borough Policy governing the recording of non-public meetings and communications involving Borough officials and employees, consistent with the Sunshine Act and the Pennsylvania Wiretapping and Electronic Surveillance Control Act.

SECTION 10. Public Record. This Resolution shall be entered into the official minutes of Council, maintained in the Borough's records, and made available to the public as a public record of the Borough.

SECTION 11. Effective Date. This Resolution shall take effect immediately upon adoption.

RESOLVED and **ADOPTED** by the Council of the Borough of Aspinwall at a regular meeting duly convened on March __, 2026, by a vote of ____ in favor, ____ opposed, and ____ abstaining.

ATTEST:

BOROUGH OF ASPINWALL

Melissa Lang O'Malley
Borough Manager/Secretary

By: _____
Jeff Harris
President, Borough Council

(SEAL)