

Penndel Borough Council Workshop Minutes

July 17, 2023

Council President John Stratz called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

Present at the Meeting

Council President John Stratz
Council Vice President Barbara Heffelfinger
Councilman Joe Dudash
Councilman Bud Murphy
Councilman Alan Dashoff
Councilman Gary Nickerson
Councilman Bob Winkler
Mayor Tom Sodano

Also present at the meeting

Ben Hauser, Solicitor, Hill Wallack
Marie Serota, Secretary/Treasurer

Council or Borough Announcements

Mayor Sodano thanked the Penndel Police. He said they are all familiar with the trials and tribulations of the police department right now. He wanted to say a public thank you to all of the current officers. They've really stepped up and are covering extra shifts and coming in for a couple of hours at a time if they can. They're doing everything they can because they all care about Penndel Borough, and he appreciates it and wanted to acknowledge them.

Joe Dudash said he's been talking about taxes. He reported that the fire departments will be consolidating. The wheels are moving, and they haven't saved a dime for anything. Middletown just hired their first fireman and are going to be working on a second one. They are going to be working from a 7-day schedule and the next thing they're working on is consolidation of the fire trucks. Middletown wants to meet with all the fire departments and buy the trucks. For instance, a fireman from Hulmeville can ride up and can now get into the fire truck for Penndel. It'll be configured the same way with all four departments. Hulmeville and Parkland's pedals for the pumpers are on the driver's side and Langhorne likes them in the back of the trucks. That's going to change. The new tax will be 6 to 8 mills and your property tax could go up. This is the first step. That's a job announcement and it's been approved, and the first officer will be reporting on July 31st to Middletown. For everyone that thinks they can keep kicking the can, it's going to be sooner than they think.

Barbara Heffelfinger met with the people at the fire company, and they asked her to talk to Middletown. She has an appointment on August 10th with Stephanie Teoli, who is the manager. They were concerned that they did not know anything about the plan that was going to happen. She will report back on that after the meeting.

Public Comment on Agenda Items

Tim Weaver, asked about the motion to hire the full-time officer. He said currently, they have no active Civil Service Commission and the word applicable is subject to interpretation. He asked if they are going to follow the Penndel Borough Civil Service Commission rules and regulations. He's asking because this is happening over and over again and if they actually get

this in motion this time and do it right, they might be able to have something concrete on the books so that no other council will have to deal with this hiring process being such a nightmare. They're losing the police and there's never any backup plan. He asked if the budget has been amended for the full-time officer. He asked if that needs to be done first or is this going to be scattershot all across the board. It would be nice if it's actually thought out, so no other council has to deal with this again. Right now, they don't have enough coverage and if they can do this right for every future council that may sit on these seats, they won't have to do this again and the police department can function in a more normal manner without as many councilmen's interpretations of what they can and can't do. If it's only applicable and they're not going to follow Civil Service Commission rules and regulations, how are they going to go about doing this? Alan Dashoff said without having a number that they're working towards; the contract represents the full timers, and they don't actually have a dollar value. Theoretically, there is no full time slot in the budget although there are a lot of extra hours. It could be looked at as a swap, so there are some concerns about that, and the other problem is they don't have a third civil service member. Tim said there's a baseline, but they don't even have a contract, is what he is hearing. Alan said there's no contract to even sign for this. If we have like a gentleman's agreement on numbers, there should at least be an MOU, something to back it up. If they pick a number of dollars over this flat rate and Ian and those guys are cool with it, then they need an MOU that says so in writing. Gary asked if he was talking about the salary. Alan said he's talking about something that actually the PBA agrees this is what the salary is going to be. Gary said Geoff came up with numbers for part time officers. Alan said these numbers are not agreed on with the PBA. Tim said he was speaking about the full-time officer. He said an MOU is a memo of understanding. Alan said it is an easy way to amend a labor contract, as far as he knows. Tim said in order to get this rocking and rolling and everything done if they're not actually going to follow the Pennndel Borough Civil Service Commission, nobody has any understanding of what the officer would have to go through because there's probationary periods and rules. There's a lot of stuff in here that would be very helpful along the way to get this guy on the ground running. Joe said he doesn't even think they have a job description. They sent it out, which he was hitting their human resource officer for the full time when they first advertised. They didn't have the pay or a job description. Tim asked if there was any way to put all this together and have it presented to the officer upon hiring considering nothing is done already. Working in the general public, you can't do a job without a job description and at least know your boundaries before you get started. And most customers have a budget in mind. Bob Winkler asked Ben if there was something in the borough code. Ben said the general understanding is, and there's been a couple of cases that came out in the last year or two or three and Dave may have mentioned this at the last meeting. Borough police forces under a certain number of members, and the question is what is considered a member, and courts are not exactly clear on that but once you get above three full-time members, that would certainly qualify and would have to operate under the civil service rules. Most boroughs operate, especially smaller police forces and most townships in Bucks can because they are second class townships, are not subject to any kind of civil service regulations. They are bound by what is known as the Police Tenure Act. That doesn't govern hiring, so the court case that came out about two years ago led the Borough's Association and a lot of council out there to believe that you would need a civil service to terminate. It has not been extended to hiring just yet, but the goals are moving and that is something they are going to have to look into. Tim said the Civil Service Commission is basically inoperable due to a lack of a quorum currently and the council's responsibility was to appoint another representative to that specific council within 30 days. The 30 days have come and gone. He asked if there are certain stipulations that say that something is going to have to be restarted. Ben said this is council's prerogative to appoint

someone to that commission. He has strongly said that they should be filling that seat with an individual who does not have an incompatibility with that office. The Pennel Planning Commission also has a vacancy, so he would be recommending that council be looking for qualified individuals to be appointed to both. Alan asked if they hire the first full-timer outside of the civil service, does he have civil service protection going forward or is he strictly under the Police Tenure Act. Ben said that's a very good question. He thinks many lawyers even my own group would maybe disagree, but he personally thinks that that police officer would have civil service.

Consent Items

MOTION BY BARBARA HEFFELFINGER TO APPROVE THE MINUTES OF THE JULY 3, 2023 COUNCIL MEETING. SECONDED BY BOB WINKLER. 6 ayes, 1 no (Joe Dudash) motion carried.

Unfinished Business

Tabled from the 7/3/23 council meeting.

MOTION BY BOB WINKLER TO HIRE SEAN PECK AS A PART-TIME PATROLMAN. SECONDED BY BARBARA HEFFELFINGER. Joe said his two other questions have been answered. Apparently, the PBA contract hasn't been settled for the part-time officers. He asked if they knew when it would be since Alan hadn't been invited to anything and he's on civil service and safety. Alan said to his understanding the last time they met; they came to an agreement that they need to bring it to council. Barbara said she's been out of commission because she broke a couple of toes. Joe said she could have given it to Alan, and he could have finished. John said she is the chair of the committee and it's her prerogative. Gary asked when the current contract is up. Mayor Sodano said it's good until December 31st. Alan said he thought they had an agreement that it was ready to go, and they basically signed off on it and it was up to them to make the next move. His hopes had been that would get this on the table, get it voted on and then do an MOU. The big argument they keep hearing is they are not getting paid enough. They can fix that in 15 minutes. There's money in the budget to make that adjustment, especially with a half a year left and then it would be a show of good faith plus, dealing with getting the part-timers to actually take more shifts. His understanding of the labor market for the police departments is there is a bidding war. Barbara said they are hoping to bring it to the August or September meeting, when Geoff starts working on the budget. Mayor Sodano asked if they are talking about bringing the contract that would start in 2024 for three years to council. Alan said they could consider doing an MOU with the current contract. Mayor Sodano said that's a different subject issue. This has been a subject that he and the chief have been adamant about and even Mayor Winkler was prior to himself becoming mayor, and council has not acted on it. The mayor and chief don't get to vote. Regarding the meetings, the last meeting that he's aware of where they discussed anything to do with the budget or the proposed contract, was the three of them in Geoff's office and he was not invited to that meeting. Ben said the general process is a negotiation team from the borough meets the negotiating team from the union and they decide that this would be mutually beneficial and hammer out some terms and they kind of reach a meeting of the minds and then both sides have to approve. Mayor Sodano asked if council were to entertain that idea, they could simply do the hourly compensation rate change which would be the only thing in that MOU. Ben said he would have to double check. Mayor Sodano said this would be giving a raise to all the people who currently are on the police force. That's what the MOU would do that Alan described. Alan had said they could do an MOU now to increase the hourly compensation for the current officers. That would

become the new base rate and a new hire would automatically get whatever is the new base rate. He asked if they have to visit any other provisions of that contract to change the hourly compensation. Ben said they could do that. Joe said the part-time officers are getting XYZ, they're going to look at the full-time officer and some of these guys have been here for 20 years, so they're going to say they want the same pay. That's going to hold up both the part-time and full-time contract. Being here for 20 years part-time and having to train some full-time guy, they would want the same salary, so that's going to push them over budget if that happens. Alan said they would be doing the same set of skills, so they all should be making the same and then the only difference between the full-time and the part-timer is getting the benefits. Alan said he thinks they need an Executive Session to sit down and discuss what the actual expectation of the full-timer is and create a checklist of these things that must get done before they can actually tenure an offer. Joe also said, whatever the PBA comes back with in their negotiations because that could break the bank or not break the bank. Ben said where they're heading right now is less of a legal question in terms of fiscal expenditure versus, he thinks the other part of this is starting to get into labor law practice and it has to be curtailed. Joe said there's more to this than just hiring a guy. Alan said he thinks they need an Executive Session to work out the details amongst themselves, so that they're on the same page and not on a meeting night. So, if they need an hour, they get an hour and get it done. Make a checklist and then do it. Joe said then they would have the feedback of the PBA. He doesn't want to piss off the part-timers. Some of them have been here for 20 years. He doesn't want some newbies coming in here and getting more than the others. They would leave for sure. John asked them to get back to the motion of hiring Sean Peck as a part-time patrolman. Joe said they need to table it. Gary said he doesn't see why they would table this. They could still hire him and if they're able to come to an agreement, he doesn't know why they would delay in hiring an officer. Joe said to Gary they had an Executive Session, and he was gone for two meetings. He asked if he knew what was in that Executive Session with this guy. Mayor Sodano said lies and innuendo. Joe said oh really. Mayor Sodano said absolutely.

John called for an Executive Session. Ben said council is going to meet in an Executive Session. The time was 8:00 pm. He expects the topic to be collective bargaining and personnel.

Ben reported that council met in Executive Session at 8:00 pm and it concluded at 8:37 pm. The topics were personnel and collective bargaining. The seven members of council, himself and Mayor Sodano were present.

A roll call vote was taken. Bob Winkler, yes, Alan Dashoff, yes, Gary Nickerson, yes, John Stratz, yes, Barbara Heffelfinger, yes, Bud Murphy, yes, Joe Dudash, no. Motion passes 6-1.

MOTION BY BARBARA HEFFELFINGER TO HIRE A FULL-TIME POLICE OFFICER SUBJECT TO APPLICABLE CIVIL SERVICE COMMISSION REGULATIONS COMPENSATION TO BE DETERMINED THROUGH THE COLLECTIVE BARGAINING PROCESS. SECONDED BY JOHN STRATZ. Gary said he thought Ben said this would likely have to be amended. Ben said the motion itself doesn't need to be amended. The motion does not name a person to be hired. It is basically the next step in the process. Without getting too deep into collective bargaining, the collective bargaining agreement provides for certain things that must be conditions precedent before ultimately a name whichever process is followed is brought up to council for ultimately selection and hiring. Ben explained that this motion is more of an aspirational kind, expressing the sense of council because of the nature of the CBA and

the fluidity in the civil service process or the hiring process. The mechanism by which the borough is able to operate in terms of the hiring of the officer, whether that must go through the civil service promotion list or can be just done because the borough does not qualify for civil service for the purposes of hiring. Terminations may be a separate issue. This is more of an expression of the will of council that they wish to go through with this so they can begin the process.

Alan said he thinks they should have the contracts in place, the MOU in place and several of the other issues like a job description in place before they move forward.

Joe said he agrees with Alan. They don't even have a job description and the PBA needs to be settled. There's no way they can do a budget and everything else and then they're screwing the part-timers.

Gary asked Ben to walk him through the process if council does approve this motion. Ben explained one of the first things he would imagine would happen, they confirmed the process under which council would need to proceed if they find that the case law issued very recently within the last couple of months more or less, puts the borough in the box of it does not need to go through civil service for hiring. Then the borough would hire an officer in the same manner, more or less like a second-class township, which is basically every township in Bucks County with the exception of Bristol Township, which is a first-class township. They select a full-time candidate and hire them and that triggers certain elements of the collective bargaining agreement. They might want to have that ironed out beforehand. If, on the other hand, if the case law indicates the borough with a certain number of part-time officers and what's coming is more of an entity that qualifies under section J of the civil service code of the borough code then the Civil Service Commission, which is currently not fully comprised, would have to recommend a candidate to council and certain effects would be applied. There are veterans' preferences etc. Mayor Sodano said he and the chief have supported the idea that the borough should use the Police Chief's Association to do the initial interviews. They have a list they go through and then they recommend what they feel are the top three candidates and then the borough proceeds from there. He asked if the borough could use a procedure such as that. Ben said he would certainly think that would be the case if civil service does not apply to the hiring. If civil service does apply to the hiring, he would have to have that double checked. They can begin the process of starting to get names out there, but he thinks it would be helpful to have a job description.

Barbara asked if they could at least show these guys that they want to help them and keep them here. They need to go home once in a while and sleep. Ben said he thinks by passing the motion, the council would be signaling where it's going. How it gets there is a little bit TBD. Barbara asked Alan if he agreed. Alan said no, because he's seen past behavior of the council is they are not very good on following through in task processes. He understands where she's coming from. Some of the things could have been done earlier like the MOU, which would give them a bone to start with. Barbara said right now, the guys are working their fingers to the bone. They need support and help.

Alan said all this has to be done before they can hire them anyway. All she's doing is being a mouthpiece and giving them nothing, fluff. Let's get the contracts done and bring this back up when the contracts are signed. Barbara said they can work all that out with the description by the time they get people to apply and have interviews. Alan said they've already had the agreement they can advertise and only got one person. Mayor Sodano said they didn't

advertise. Alan said put the ad out there then and that would be the initial start. Let's advertise because that's been approved. In the meantime, they should table this for one more round. Bob asked if they wanted, could they change the motion to advertise for a full-time position and have the contract by next meeting. Ben said they have a couple of options. There's been a motion made and seconded. There may be a motion to amend this however, because it's not on the agenda 24 hours in advance of the meeting and the legal state of that, he would advise against it. They can table this motion until the next meeting for further consideration or proceed with the ayes and the nays. John said they already approved advertising for this but have not yet approved actual let's hire a full-time police officer. This motion tonight is approving that they want to hire a full-time police officer. It gives the police a little bit more hope that this will get done. Gary asked why they hadn't advertised.

Mayor Sodano said council hadn't decided whether they were going to talk sergeant, patrolman, etc. He and the chief are in favor of a full-time patrolman, not a sergeant. There were questions regarding the compensation situation and negotiations were ongoing. It seemed to him that the feedback between Ian and Alan in their conversations, they seemed to be pretty much on the same page when they discussed compensatory figures. Alan said he would say so especially when he asked them for an electronic copy of it. Mayor Sodano said he's confident that it would be easy to get finalization for the next meeting on what the compensation numbers that the PBA would be comfortable with.

Mike Smith, said they can't hire anybody until they know what their job description is and how much they're going to pay them. They have to put the horse in front of the cart, not the cart in front of the horse. It's about knowing what this guy is going to be hired for. He wouldn't hire a welder that didn't know how to weld. John said he is going to be a patrolman like the rest of the guys. Mike said put together the job description and salary so when they put it in the paper or put it out there on the professional sites, they can say they're looking to hire a full-time officer that is capable of working 40 hours a week at this amount or this is the pay scale. He said they should table the motion and amend it for the next meeting so that they have everything in place.

MOTION TO TABLE BY ALAN DASHOFF. SECONDED BY JOE DUDASH.
Ben suggested amending the motion to table to the first meeting in August.

MOTION BY ALAN DASHOFF TO AMEND MOTION TO TABLE TO FIRST COUNCIL MEETING IN AUGUST. SECONDED BY JOE DUDASH. Motion passes 4-3 (Bob Winkler, John Stratz, Barbara Heffelfinger).

MOTION BY ALAN DASHOFF TO TABLE THE AMENDED MOTION. SECONDED BY JOE DUDASH. A roll call vote was taken. Bob Winkler, no, Alan Dashoff, yes, Gary Nickerson, no, John Stratz, no, Barbara Heffelfinger, no, Bud Murphy, no, Joe Dudash yes. Motion fails 5-2.

MOTION BY BARBARA HEFFELFINGER TO HIRE A FULL-TIME POLICE OFFICER SUBJECT TO APPLICABLE CIVIL SERVICE COMMISSION REGULATIONS COMPENSATION TO BE DETERMINED THROUGH THE COLLECTIVE BARGAINING PROCESS. SECONDED BY JOHN STRATZ. A roll call vote was taken. Bob Winkler, yes, Alan Dashoff, no, Gary Nickerson, yes, John Stratz, yes, Barbara Heffelfinger, yes, Bud Murphy, yes, Joe Dudash no. Motion passes 5-2.

President's Report – No report.

New Business

MOTION TO PAY CONRAD SIEGEL INVOICE #P649:A:90216967.1 IN THE AMOUNT OF \$6,100.00 AND INVOICE #P660:A:90216968.1 IN THE AMOUNT OF \$5,100.00 FOR ACTUARIAL SERVICES RENDERED THROUGH 5/28/23. John said to strike this motion because it was already approved and paid. The borough secretary confirmed.

MOTION BY GARY NICKERSON TO AUTHORIZE ADVERTISEMENT OF ORDINANCE #2023-2 AMENDING PROVISIONS OF CHAPTER 405 - "ZONING," ARTICLE VIII – "SIGN REGULATIONS", TO REVISE AND CLARIFY THE APPLICABLE REQUIREMENTS FOR LED SIGNS IN THE BOROUGH. SECONDED BY BUD MURPHY. Gary said probably around this time last year, they hired the Bucks County Planning Commission to work with them to create an electronic sign ordinance because they didn't really have one. They developed an ordinance, and they came down and presented it to the Planning Commission and they met twice with the representative from the Planning Commission. They tweaked it a little and the ordinance has gone through the Penndel Borough Planning Commission and a member of the BCPC was in attendance and listening to those concerns that were raised, which were implemented for the second meeting. Ben said the Penndel Borough Planning Commission recommended adoption of the ordinance in a memorandum dated the 5th of July. Ben read an excerpt from the memo. Tonight, is not approving the ordinance. They would be authorizing its advertisement for the hearing on that ordinance. Under the MPC, that ordinance will have to be run twice, once in each successive week before it actually comes before council. If council were to approve the motion tonight, the ordinance would be before council at its August Work Session meeting. Barbara said the signs on Route 1 make her stomach turn. Gary said the current two signs were done by special exception or they at least went to the Zoning Hearing Board. At least this way they can regulate them and control where they can be placed, the size, the intensity, the scrolling. They drastically need something to regulate these. They had a lot of back and forth between the Planning Commission and the rep. from the Planning Commission. It's a pretty good ordinance and it's a pretty good compromise from all perspectives. Motion carried 6-0-1 (Barbara abstained.)

MOTION BY ALAN DASHOFF TO APPROVE AND SIGN THE LETTER TO THE BUCKS COUNTY BOARD OF COMMISSIONERS SUPPORTING ACT 91 FIRE PROPERTY TAX REBATE FOR VOLUNTEER FIREFIGHTERS IN BUCKS COUNTY. SECONDED BY JOE DUDASH. John said the Act 91 Fire Property Tax Rebate Program offers valuable financial assistance to volunteer homeowners who selflessly dedicate their time to serve their community during emergencies and training exercises. By implementing this program, the county would not only show support for these committed individuals but also help ensure that our communities have the necessary resources to effectively respond to emergencies.

Alan said it does include emergency medical service as well. They don't ever get mentioned but it's in the act. Ben said he's been dealing with this in other places. It's also been amended to allow school districts to grant a rebate either on the EIT or real estate property taxes. The county is a larger tax jurisdiction than the borough and, in most respects, but this is a trend that's starting to happen. School districts are starting to pass this one. Bristol Township School District did a property tax rebate and Neshaminy is in the process.

All ayes, motion carried.

MOTION BY JOE DUDASH TO ADJOURN THE MEETING. SECONDED BY BARBARA HEFFELFINGER. All ayes, motion carried.

Submitted by: Marie Serota
Marie Serota, Secretary/Treasurer