

Penndel Borough Council Workshop Minutes

March 18, 2024

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 – via telephone
Councilman Mark Moffa
Councilman Bud Murphy
Councilwoman Robin Valentis
Councilman Gary Nickerson
Councilman Bob Winkler
Mayor Tom Sodano

Also present at the meeting

Barbara Kirk, Solicitor, Hill Wallack
Geoff Thompson, Borough Manager
Carol Schuehler, Value Engineering
Marie Serota, Secretary/Treasurer

Council or Borough Announcements

Barbara Kirk reported that council met in an Executive Session from 6:45 pm until 7:36 pm to discuss potential litigation and personnel.

Mayor Sodano offered get well wishes to Barbara Heffelfinger.

Consent Item

MOTION BY GARY NICKERSON TO APPROVE THE MINUTES OF THE FEBRUARY 5, 2024 COUNCIL MEETING, THE FEBRUARY 20, 2024 WORKSHOP MEETING AND TO RATIFY PAYMENT OF THE BILLS ON THE MARCH 5, 2024 BILL LIST:

General Fund	\$28,376.75
Fire Tax Fund	\$ 287.38
Refuse Fund	\$22,452.40
Sewer Fund	\$81,486.28
Capital Reserve	\$ 8,465.61
Sewer Capital	\$ 561.00
Liquid Fuel Fund	\$ 4,763.45
Escrow Fund	\$ 85.50
Payroll Fund	\$ 654.44

Payroll:

General Fund	\$30,778.38
Sewer Fund	\$ 3,565.35

Total	\$34,343.73
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Escrow Fund Bills:

Schoolhouse Court:

Value Engineering

\$ 85.50

SECONDED BY ROBIN VALENTIS. All ayes, motion carried. (6-0, Barbara Heffelfinger momentarily not available)

Reports

President's Report

John reported that the complaints about the accidents on Bellevue Ave. have been listened to. The DVRPC, Delaware Valley Regional Planning Commission, is getting involved county wide and coming up with a program called the Safe Streets and Roads for All Initiative. They will be working with the various police departments to do studies to find out where accidents are happening specifically, and suggestions of what can be done to alleviate such problems. John reported that towards the end of the meeting, there is a resolution they will be considering for support for House Bill 2077, which will prohibit bringing firearms to polling places. State Rep. Tim Brennan of Doylestown sponsored it. It has been on his mind for the last two years. There are a few states that prohibit firearms coming to polling locations. With things not going great out in the real world, every protection they can get, they need.

Manager's Report

Geoff Thompson read his report which is on file in the secretary's office.

Barbara Heffelfinger arrived via telephone.

Police Chief's Report

Mayor Sodano read Chief Perry's report which is on file in the secretary's office.

Mayor's Report

Mayor Sodano said he had a few issues to mention. He reported that the minutes for the meetings are not being posted regularly. The one meeting from January is still not posted. They also need to revisit some sort of video for the meetings. They desperately need to get the fence and pool ordinances in front of council and passed. It's nearly pool safety season. In these new ordinances they address a lot of electrical issues, but they don't have any way of knowing if people are complying with the state laws requiring, for instance, a GFI outlet on an above ground pool. They also need to address a parking ordinance so that they can address things like the sports equipment that is constantly in the streets. Middletown and Bristol Township have included in their ordinances that they cannot have basketball, hockey equipment, etc., in the cartway. It needs to be off the street. They need to revisit the parking meters. The ones on Eastbrook Ave., behind Manhattan Bagel, are non-functional. The cost of repairing or replacing them really isn't supported by the revenue that they get from them. He is in favor of meters because he thinks they provide a service. They give them added revenue and they remind people that they're at a place where they can stop and shop, which is what they want to promote. They need to go back to having towing contracts. It should be out at the beginning of the year, and it will allow people who meet the criteria to apply. They could have a duty schedule like other townships do. Charlie Manuel will be visiting at PennDel Beer on Saturday April 13th from 11:00 AM till 12:30 PM. Charlie will not be signing any autographs however PennDel Beer is supplying a photographer to have a picture taken with Charlie and you will receive a free digital copy. April 19th is the car show here in town.

He hopes they get a good turnout because those guys work hard every year to put something on in the borough.

Solicitor's Report

Barbara Kirk reported that for 40 Bellevue Ave., the judge on the zoning appeal matter heard argument last week on whether the appeal should be granted or dismissed. He's taking the matter under advisement and she's hoping for a decision within the next 30 days. She is continuing to work with the borough code enforcement officer and zoning officer regarding various violations that are noted and moving forward with appropriate notices, as well as possible citations. She is working with them on 51 Centre St. violations and notices as well.

Unfinished Business

MOTION BY BUD MURPHY FOR POTENTIAL LEGAL ACTION REGARDING GILMORE & ASSOCIATES FOR ADA RAILING PROBLEM AND TO SEND THE DRAFT LETTER FROM BARBARA KIRK DATED MARCH 15, 2024. SECONDED BY BARBARA HEFFELFINGER.

Mike Smith, asked if they could explain the motion. Barbara Kirk explained that at the last council meeting, there were two change orders presented with respect to the ADA ramp construction. The lengthening of the ramp due to inappropriate elevations being provided to the contractor, another one that will be coming up today is the fact that the handrail is not ADA compliant and needs to be replaced. The project is funded by an RDA grant, which normally means any monies that the borough pays to the contractor for the works gets reimbursed by the RDA. Unfortunately, these two issues will not be reimbursable to the borough. The borough will be putting the funds out of pocket. She obtained a copy of the agreement that the borough reached with Gilmore, and she has determined that Gilmore failed to do what they were required to do as part of their engineering services. She has drafted a letter for council making a demand on Gilmore to have the monies reimbursed for those two costs. If they were RDA funds, there wouldn't have been an issue but they're not and she's demanding that the monies be reimbursed to the borough because the borough still needs to pay the contractor who's doing the actual work or else face a potential mechanics lien and they don't want to get into that situation. Council reviewed the demand letter and are making a motion to authorize that letter to be sent along with further legal action if necessary.

Dave Cahill, complained about not seeing plans or drawings, the job not being done right, the railing extending past the steps, and the little ramp going up to the steps. He asked if the extended railing was an afterthought after the elevation problem happened. Barbara Kirk said it was not an afterthought. After it was installed, the borough's building inspector inspected it and determined that the railing was not the appropriate guardrail. Dave said the railing doesn't meet code because there's not a handrail on the inside of the railing and it is 42 inches high and there is supposed to be a handrail at 32 inches high. Barbara said that's why they are going after Gilmore. Dave said somebody made a big mistake. There's a hole in the concrete out there on the old concrete before the new concrete where the expansion joint is. John said the job is not finished yet.

Mike Smith, said for everybody's understanding about the little ramp, you're not allowed to go over a seven-inch rise, so they had to pitch the concrete up to get the seven-inch rise. He asked if the railings are supposed to be replaced. Barbara said the ADA compliant grasp rail is to be installed whether it's to be installed on the existing rail to make sure it's ADA compliant or ripped out, she doesn't know for sure. Mike said that they are aware they are missing a railing

on the steps. Barbara said that was brought up and that's why the borough building inspector who understands and has access to all the ADA regulations, is going to double check and then report back to the manager who will then report back to her.

Dave Cahill, asked why they were missing the railing in the center of the steps. Barbara explained that it was brought to her attention that where the step is, there should be a center railing. Dave asked if the one next to the brick wall was the one that was supposed to be in the middle of the steps because you don't need a railing next to the brick wall. Barbara said his comments have been noted.

All ayes, motion carried.

Mayor Sodano said Bob Winkler pointed out to him that the car show is actually May 18th.

Tabled from 2/20/24 Workshop Meeting

MOTION BY GARY NICKERSON TO APPROVE CHANGE ORDER #2 FOR THE BOROUGH HALL ADA AND SECURITY RENOVATIONS IN THE AMOUNT OF \$2,193.00 FOR ADDITIONAL REQUIRED ADA COMPLIANT HAND RAILING FOR THE ADA RAMP AS RECOMMENDED BY GILMORE & ASSOCIATES. SECONDED BY MARK MOFFA.

Mike Smith, said in those drawings it will state that the contractor is responsible to verify all dimensions for accuracy. He doesn't know why they keep paying bills when there's mistakes. Barbara Kirk said to clarify, the inaccurate slope elevations were provided to the contractor for the ramp. She doesn't know if the contractor was required to do a survey or take any other measurements. It's her recommendation to pay the contractor and go after Gilmore for reimbursement. Mike said every contractor that does a job is supposed to go into the field and verify what is there. It's probably either in the scope of work or it's on the drawings.

Dave Cahill, asked if Gilmore made the mistake by not putting the handrail on the inside of the railing on the plans or if Prime Builders missed the handrail. Barbara said she doesn't have the plans. This is not for the handrail this is for the extension of the ramp with a small slope up to the stairs to meet ADA due to inaccurate elevations of the slope. Dave said Gilmore should pay for it. John said that's what they've been saying.

Theresa Henwood, was concerned that they were going to pay and why they were going to agree on a motion prior to looking at the contract and then the legalities instead of reviewing that information first and having all of the facts, shelling out all this money and then prosecute them. Barbara explained that the issue is when the work is done, contractors have the right to file a lien against the borough for collection, which creates a bigger issue. Her recommendation to council was to render the payment, go after Gilmore for the monies back and if Gilmore doesn't answer the demand letter, file suit in court to get the money back. It's a breach of contract.

Dave Cahill, said the grant bid came in at \$130,000 and change and the RDA grant was for \$139,000 and change. He asked if there is \$9,000 left, why they don't use that money. Barbara said that money is not reimbursable by the RDA.

Tim Weaver, asked if Barbara could give him a quick explanation, since he was late for the meeting. Barbara explained again that council approved a letter to be sent to Gilmore for

demand of reimbursement of the additional monies that are subject to tonight's proceedings since Gilmore failed to provide the accurate information to the contractors. If Gilmore does not respond to the letter and provide reimbursement to the borough, the borough has authorized her to file suit in Judge Baranoski's court for breach of contract to get the monies back.

Mike Smith, asked if they were the same plans that Beverly had taken to the RDA and if there were any drawings. Geoff said it was the same application and there are sketches. Mike said ADA requirements are very specific. He asked if they paid them yet. Geoff said they made a partial payment. Mike asked how much money they were holding. Geoff said \$8,000.00. Mike said they need to hold that until this is rectified.

Dave Cahill, asked how much Gilmore was paid. John didn't know the answer and asked Dave to fill out the form and he would get him an answer in two weeks.

All ayes, motion carried.

New Business

MOTION BY GARY NICKERSON TO APPROVE CHANGE ORDER #3 FOR THE BOROUGH HALL ADA AND SECURITY RENOVATIONS FOR GRASPABLE HANDRAIL. SECONDED BY MARK MOFFA.

Barbara Heffelfinger said when all this started, she was very upset that Gilmore was selected because they've had other problems with them. She thinks they should go after them for every penny they've got if they can't come in and do a job correctly.

Mike Smith, said they are not 42 inches. They have to remove and replace them. They can't just add a graspable handrail to it.

Tim Weaver, thanked Barbara Heffelfinger for being the only voice of reason out there tonight.

Dave Cahill, asked if the manager was supposed to be looking over this project. He asked if there were actual architectural engineer drawings with a stamp on them. Barbara Kirk said there are no engineering drawings to the best of her knowledge. She was told there were architectural renderings. Dave said the plans are no good.

Motion carried 5-0-1 (abstention by Barbara Heffelfinger).

MOTION BY BARBARA HEFFELFINGER TO RATIFY APPROVAL OF THE FOLLOWING MID-CYCLE INVOICES:

Comcast invoice dated 1/26/24 in the amount of \$196.39 for internet and voice service at 300 Bellevue Avenue

Comcast invoice dated 12/26/23 in the amount of \$212.32 for internet and voice service at 37 W. Woodland Avenue

Comcast invoice dated 1/26/24 in the amount of \$218.07 for internet and voice service at 37 W. Woodland Avenue

Gettysburg Benefits Administrators, Inc. invoice dated 1/31/24 in the amount of \$169.59 for medical insurance installment

T2 Systems, Inc. Invoice #Q-39464 in the amount of \$200.00 for printer for the police department

215Build Invoice #5334 in the amount of \$1,650.00 for new windows installed in the police department

Comcast invoice dated 2/2/24 in the amount of \$247.89 for internet at 790 Neshaminy Street

Independence Blue Cross Invoice #240206245984 in the amount of \$6,248.83 for medical insurance installment

Office of Labor & Industry invoice dated 2/5/24 in the amount of \$1,555.00 for fire department workers' compensation insurance installment

Ready Refresh Invoice #14A0431953892 in the amount of \$64.98 for spring water

Comcast invoice dated 1/26/24 in the amount of \$436.06 for internet and voice service at 37 W. Woodland Avenue

Selective Insurance Co. of America invoice dated 2/9/24 in the amount of \$4,872.00 for commercial package and workers' compensation insurance

Comcast Invoice #193702211 in the amount of \$379.26 for business voice edge service

PECO invoice dated 2/13/24 in the amount of \$1,412.94 for streetlights' electric

SECONDED BY GARY NICKERSON. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO AWARD CONTRACT TO G&B CONSTRUCTION FOR STORM SEWER INLET REPAIRS IN THE AMOUNT OF \$115,670.00 AS RECOMMENDED BY BOROUGH ENGINEER. SECONDED BY BUD MURPHY.

Carol Schuehler explained that the borough received 7 bids for repairing 70 inlet structures throughout the borough. This is the project that council wants to use the ARPA funding to stabilize the infrastructure.

Dave Cahill, asked if they dealt with this already when Jay Moser and Pat Dicken were part of a group that looked into this and decided that it should be for the work on the storm sewers. John told him that's what this motion was for.

All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER FOR PROPOSAL FOR A STREAM RESTORATION FEASIBILITY STUDY FROM LANDSTUDIES DATED MARCH 4, 2024. SECONDED BY BUD MURPHY.

Gary said it says this firm is not responsible for getting any permits. He has concerns about them designing a project that is not permittable. A lot of times when you're doing stream bank restoration and things like that, there are certain limits as to how much fill you can place in streams. He asked if there were any sort of assurances that they're going to design a project that can actually get permitted. Carol explained that this is the feasibility study, not the full project design. They are looking to do a feasibility study on the best ways to stabilize this stream and also about the length of the stream that could or would be stabilized and providing a cost estimate for that work. She is hoping that they can look at what they can do within the grant funding they have today or what other grant funding might be needed to be combined with that to do something larger in scope, if they recommend it. They will be getting a more detailed concept along with cost estimating from them.

Tim Weaver, said he wanted to make everyone fully aware that most of the area being discussed is a red bellied turtle rearing area. There is also the coastal plain leopard frog, which really likes the soft soils in the area that they are about to mess with. Heavy equipment is going to make a mess. They should not be messing with Mother Nature and messing with their

habitat. He said this is just to get MS4 credits. They can do that another way like by having an outreach program.

Barbara Heffelfinger thinks they need to do the study but should see if they can do it without taking heavy equipment down there. They should maybe put stipulations in the agreement that say no large equipment or get more specifics on exactly what they're going to do and lay it out and then maybe go from there. Carol explained it is just a feasibility study. This group will look at the best ways to stabilize this stream. There is some extraordinary erosion, and it is bringing down trees. When they get a storm through there, they're getting a surge of water that is scouring that little waterway. This group will come up with a way to spread that area and make it able to carry that 100-year storm without the scouring that they're having today and be able to carry those big storms. It's actually going to better the habitat for the critters that are down there now. Whenever you do a job like this, when it goes to permitting, they're going to have to do a search of the Pennsylvania Natural Diversity Index and work with the Fish and Boat Commission on mitigation tactics to minimize any damage or troubles to those species. Barbara asked if they were going to bring big equipment down there and Carol said no.

Tim Weaver, asked Carol if she measured how much erosion has been occurring down there over the last three storms. Carol said she has not measured but has pictures. Tim said there's a certain Sycamore tree down there that's been holding up a section of that bank for over 20 years. The majority of that erosion started occurring after Middletown Township cut all the trees down along the back of Evans' farm.

All ayes, motion carried.

John Stratz announced that the motion to authorize the borough engineer to prepare bid specifications for the 2024 streets project is tabled until the next meeting to give the Streets Committee a chance to look it over.

MOTION BY MARK MOFFA TO APPROVE 2024 SANITARY SEWER REHAB QUOTE AND TERMS AND CONDITIONS DATED 3/11/24 FROM SEWER SPECIALTY SERVICES COMPANY, INC. SECONDED BY GARY NICKERSON.

Carol explained that the borough received a DCED grant for \$136,187.00, which is an 85% grant with a 15% match that was awarded for sewer inflow and infiltration work. This grant will help fund remaining repairs in quadrant one and video inspection and trenchless repairs in quadrants three and four of the borough collection system. She is recommending the borough accept a unit price proposal that is provided under the Costars program from Sewer Specialty Services to perform video inspection and in place repairs. Council may wish to define the total expense by including a not to exceed cap on the work at \$140,000.00. The next task is to prepare a request for bids for two excavation repairs in quadrant one that will also be funded by this grant.

Mark Moffa amended the motion to include a cap of \$140,000.00. Gary Nickerson seconded it. All ayes, motion carried.

MOTION BY GARY NICKERSON TO APPROVE PAYMENT REQUEST #1 IN THE AMOUNT OF \$38,250.00 TO PREMIER BUILDERS, INC. FOR THE BOROUGH HALL ADA AND SECURITY RENOVATIONS PROJECT AS RECOMMENDED BY GILMORE AND ASSOCIATES. SECONDED BY MARK MOFFA.

Gary asked if anyone is overseeing the project, so they can minimize change orders and if there were any other issues that they have to be concerned about, since they messed up on the exterior portion. He asked if there were any concerns about issues on the inside. Geoff said technically, Gilmore is overseeing it since they're the engineering firm, but they also have the borough's building inspector looking over their work. Gary asked if there were any thresholds, criteria, or milestones where Gilmore comes out. Geoff said he would have to double check their contract, but he has seen their inspectors out here looking at the work as well as our building inspector.

Robin said when she was working with her HOA and had inspectors coming out or other companies coming out, they were to supply certain types of warranties and she wanted everything in writing. Geoff said obviously, Gilmore didn't know what they were doing with the ADA issue. It was our building inspector that picked up on that. Robin asked if ADA comes out and does their own inspection. Geoff said there isn't any organization that does. Robin said that the engineers should have known. Geoff said that's why you hire an engineer.

Dave Cahill, said the state has their own ADA inspectors that should come out.

Mark said they would still be owed a final payment of \$45,000.00 plus, there's a 10% with the retainer that they're holding as well. Geoff said actually with this project there are two contracts, one with Premier Builders for doing the doors and the ramp and such and the other contract, which is \$10,000.00 and change is for the electronic portion of it for the automatic door openers and the key fob openers. That's why they exceeded the grant limit.

Geoff said normally with contracts, you hold final payment until a full inspection is done. You come up with a punch list and when those items are corrected, that's when you issue final. If something is not correct, you withhold final payment.

Dave Cahill, said according to the bid that he has, the front door was bid with push button handicap hardware. He asked which door was the one with the push button automatic. Geoff said the rear door. Dave said it doesn't say anything in this contract about the rear door and asked who approved spending the other money for that.

Tim Weaver, said to John this is his floor and he should control his people because they're out of line. He does a good job, and they give him credit, but he needs to keep control because this will get way out of hand.

All ayes, motion carried.

MOTION BY MARK MOFFA TO APPROVE PAYMENT REQUEST #2 IN THE AMOUNT OF \$46,710.90 TO PREMIER BUILDERS, INC. FOR THE BOROUGH HALL ADA AND SECURITY RENOVATIONS PROJECT AS RECOMMENDED BY GILMORE AND ASSOCIATES.
SECONDED BY BUD MURPHY.

Mike Smith, said Robin has the right idea. They have to start setting thresholds in every one of the contracts. They have a ramp that has to be torn apart because when they go to take those rails out, they're going to damage the concrete. They had better hold enough money to pay for a completely new ramp with handrails.

Dave Cahill, said the state is going to be out here inspecting this.

Motion carried 6 yes, 1 no (Barbara Heffelfinger).

MOTION BY BARBARA HEFFELFINGER TO APPROVE PAYMENT TO CHIEF PERRY IN LIEU OF VACATION TIME TAKEN. SECONDED BY BUD MURPHY.

Barbara Heffelfinger said he works very hard and should be compensated.

John Stratz said the chief is very busy and due to circumstances last year, has not been able to take his vacation week. So, they are compensating him for the time that he would have been compensated for anyway.

All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO HIRE KEVIN DIPAOLO AS A PART-TIME PATROLMAN CONTINGENT ON BACKGROUND CHECK AND MPOETC REQUIREMENTS. SECONDED BY BUD MURPHY. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO HIRE SARAH VEGA AS A PART-TIME SUBSTITUTE CROSSING GUARD. SECONDED BY MARK MOFFA. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO HIRE PAMELA SALVITTY AS A PART-TIME SUBSTITUTE CROSSING GUARD. SECONDED BY BUD MURPHY. All ayes, motion carried.

MOTION BY MARK MOFFA FOR A RESOLUTION OF SUPPORT FOR HOUSE BILL #2077 WHICH WILL PROHIBIT BRINGING FIREARMS TO POLLING PLACES. SECONDED BY BARBARA HEFFELFINGER. All ayes, motion carried.

Tim Weaver, said this bill hasn't even passed yet because it has to make its way through the House and then the Senate before it occurs and right now, that doesn't even look likely. He said there's only one thing that stops a bad guy with a gun and that is a good guy with a gun, so they're all going to be sitting ducks here. John said it is only for polling locations and it is twice a year. Tim said criminals don't obey the law, so this is putting more erroneous burdens on people that are actually out there to protect you.

Mike Smith, said as a legal gun owner, he would hope someone would have a gun if somebody walked through that door shooting people up. John said they have a marshal sitting there in the ready. Mike asked if they were going to have to buy metal detectors or will they have to frisk people walking through the door. Barbara Kirk said this is simply a motion backing this bill. Mike said it's another step towards taking guns out of legal people's hands. He thinks many people on Saturday would have loved to have had somebody with a gun.

Barbara Heffelfinger left the meeting.


Public Comment

Tim Weaver, said after the vote they just did, if he sees anyone of them in trouble and in need of help, especially with someone who is permitted to carry a firearm, he wouldn't piss on them if they were on fire.

Mike Smith, asked Bud how long ago the fence ordinance was written. Bud said in 2021. Mike said it still has not been brought to council. He asked John if he had made committees yet and if yes, who is on the Ordinance Committee. John said Gary and Bud. Mike said to put Robin on it because she's much better at this stuff. The Planning Commission tore it apart. There was no stone left unturned and Bud should introduce it.

Dave Cahill, asked Geoff if the DEP fined the trucking company for the spill. He said there's a truck in the driveway at the corner of Dehaven and Fairview. He believes that both of the secretaries live on Fairview and that the homeowner received a notification from the inspector because they had a vehicle that was totally stripped in the driveway. Now they have a pickup truck sitting in the driveway that's stripped out. He asked how many chances people get before they get fined for the same things when they just ignore the inspector. He doesn't understand why the secretaries haven't made the complaints and why he has to. He said there was a meeting at the firehouse concerning the handicap ramp on February 15th that Carol Schuehler and the borough manager attended. He asked if council voted to approve Carol going to that meeting and if they did not, he would like to see her pull out whatever charge that she charged the borough in her billing be removed. He said there was someone at that meeting that does what Carol does and he doesn't think she's right about the ramp. He asked Mark if he had any financial interest in 50 Hulmeville Ave. He asked Marie what the proper way is to protest their taxes. There are people in this borough that aren't paying their sewer and refuse bills and taxes. He thinks there is going to be a mass protest in this town and everybody's going to start protesting their payments and they're going to bankrupt council and get them out.

MOTION BY MARK MOFFA TO ADJOURN THE MEETING AT 9:15 P.M. SECONDED BY GARY NICKERSON. All ayes, motion carried.

Submitted by: 
Marie Serota, Secretary/Treasurer