

Penndel Borough Council Workshop Minutes

September 18, 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

Barbara Kirk, Solicitor, Hill Wallack
Carol Schuehler, Engineer
Marie Serota, Secretary/Treasurer

Barbara Kirk reported that council met in an Executive Session from 6:30 to 7:35 to review terms of a potential contract and to have discussions in light of the police contract expiring at the end of this year. No decision or action was taken.

Consent Items

MOTION BY BARBARA HEFFELFINGER TO APPROVE THE MINUTES OF THE SEPTEMBER 5, 2023 COUNCIL MEETING. SECONDED BY BUD MURPHY. All ayes, motion carried.

President's Report

John Stratz reported that the ADA ramp construction that was scheduled to start today, has been pushed back to Wednesday due to today's rain. They will be starting demolition on corners at Durham, Eastbrook and Monroe intersections. They will be replacing the ramps to bring them up to code. Last Wednesday, they had the Memorial Field celebration to thank those who helped fund the improvements by supplying grants. So far, Penndel has been able to improve the bathrooms, field lights, pavilion electric, brand new bleachers, basketball court lights, and the electrical closet. One thing that was brought out during this ceremony was that grants are the lifeblood of small towns like Penndel. Without such grants, it would be very difficult to get any of these improvements done, and the borough is very thankful to the county commissioners and all of the people who approved the grants.

Solicitor's Report

Barbara Kirk explained that in front of council is an application for a lot line change filed by the Cattani Brothers. Mr. Fioravanti is here, as well as the applicant. This application was originally filed but due to limitations on it being reviewed by the Bucks County Planning Commission as the borough does not have an active planning commission, the applicant's council did provide an extension until August 31, 2023, for the review of this matter. This was then scheduled in front of council. There was an issue with a notice being provided and the matter was continued tonight. She has proof of publication that it was published in the Bucks County Courier Times verifying that the hearing on this application is going to be held tonight at 7:30 PM as well as a

copy of the letter that she sent to both Mr. Fioravanti as the engineer for the project and Mr. Garton, the attorney who represents the applicant verifying that the matter is scheduled for tonight.

Fran Cattani, senior partner of Cattani Brothers stated they own property located from 305 – 325 W. Lincoln Hwy. They are here to hopefully be granted the opportunity for a lot line small subdivision. They've owned the property for over 35 years and have been receiving two tax bills for 35 years with the anticipation or the assumption these were two separate properties. The owners of the beer distributor wish to buy the property, but they found out that the lots are assembled under one but yet, they have two different tax bills. They wish to move the line to the middle of the easement of the driveway so they can have two separate parcels. Vincent Fioravanti stated there's really no change proposed to the property itself rather than relocating a lot line. This property was developed in 1990. There were two separate properties and as part of that record plan, they were supposed to have been consolidated. When you go back to that record plan and pull it out, these parcels will be consolidated into one and apparently it never happened, and Fran has had two tax bills for 30 years. He doesn't know what happened there, but they're still separate, so now they're looking to re-subdivide them into a lot that's a little bit different than the first. Mr. Fioravanti showed on the plans where they wanted to move the line to. This will enable them to create an access easement to share that driveway with the two properties. When they do that, the impervious coverages on both lots change. Lot 1 impervious is a little bit higher because it gets more paving, and it doesn't get green space. Lot 2 gets a little smaller, so the impervious cover drops but again, there's no change in anything really. The Value Engineering letter dated May 30th, that's essentially a will comply. He did note a couple of discussion items that merit some discussion and then two waivers and the rest would be -will comply. The first four items listed on the review he's calling discussion items. Item one because they're what they would consider to be existing legal nonconformities. The first one is about the impervious surface ratio for the lots. The zoning ordinance was changed in roughly 2005, and this development was built in 1990. Fifteen years later is when the zoning code was updated and that's why they'll see these nonconformities. He explained about the non-conformities with the impervious surface, the front yard setbacks and no parking in front yards. Since these are legal existing nonconformities from when it was developed in 1990, it says in the letter if it's agreed that there are nonconformities, no variances are required. There will be a 30 foot wide easement that they're going to create and conditions of the agreement have to be set forth. In the past, there was one owner and 50 years from now, it's going to be two different people and they might not even know each other and if something happens in the driveway, they have to figure out who's fixing it and how they share in the cost, so they need to get that in writing. There will be an agreement in writing, and they'll be drafting that together. Barbara Kirk asked if approved by borough council if that agreement will be submitted to her office for review and subject to recording with the Bucks County Recorder of Deeds. Vincent said yes, so that way they can document everything moving forward as there will be two separate owners. Vincent said loading will continue to be in the back for the beer distributor and the other building has paved access to all the rears of all the stores, so all the loading they've done in the rear doesn't interfere with anything in terms of the customers and the access to the properties in the front for sales. Barbara Kirk asked for them to submit something to the borough outlining the loading requirement so that the information is on file as to how loading presently occurs and should continue to occur in the event that one of the parcels, if approved as a lot line change is sold, and somebody down the pipe doesn't decide to change the loading requirements. Vincent said they would add that to the agreement. Trash management will continue as it currently is, and the expense will be shared between the two owners and that'll be contained in that agreement that they will be providing. They are looking for two waivers. One is for the street trees. There are a lot of utilities in the little green space between the sidewalk and the parking.

There's a sanitary sewer line that goes right through there and there's a water main in that area, so they just think that it would be impractical to plant trees along the frontage here. The second one is regarding the sidewalk. The ordinance changes came after this property was developed. It's a 4-foot-wide sidewalk along the frontage and the ordinance requires a 7-foot-wide sidewalk. Again, they would be a sidewalk over a sanitary sewer, which authorities are kind of reluctant to start having concrete slabs on top of the sanitary sewers and he thinks there's really no need for a 7-foot sidewalk there since everywhere else around is 4 foot wide. The rest of the comments in the letter they will comply with.

Barbara Kirk asked if the Bucks County Planning Commission's review letters are different than what was addressed by the borough engineer. Vincent said no.

Mayor Sodano asked Carol if there was a provision that if trees are required, and there's an impediment like the sanitary storm sewers running under that area, if there was a provision that the property owner could agree to plant trees somewhere else to offset that as environmental credits. Carol said she believes there's a history in the borough of negotiating that in exchange for a waiver. Mayor Sodano asked if hypothetically, Mr. Cattani was to sell the entire property as it is, if the current waivers and any grants or nonconformity that are there would go with the property. Barbara Kirk said any variances that were previously approved for this property run with the land. Mayor Sodano asked if a legally existing nonconformity or if there had been zoning relief given in the past if that runs with the property too. This is only a question because he's requesting a lot line change. Barbara Kirk said a lot line change is treated as a minor subdivision application. Mayor Sodano said what they're considering is the nuance of whether or not this council chooses to look at it as these were previously granted and would go with it if he were to sell it in one piece or if they're going to nitpick over a lot line change and force regulations that have changed drastically since those original special considerations were granted. Barbara said yes. Barbara asked what the applicant's response to the issue of the street trees is and that maybe they could be planted elsewhere on the property. Vincent said there's not too much of an area they could plant them on, or they could consider a fee in lieu of if the borough would like to plant on another area where they could thrive. Barbara asked Carol if there was a provision to do that instead of planting the trees. Carol said she would need to check into that. Vincent said if approved and appropriate, a fee to be paid in lieu of the eight trees would be given and if not allowed, then a waiver. Mayor Sodano said directly west of his property, when it was developed, he wasn't able to plant the number of trees required because he also was required to put in a seepage pit, and he was instead allowed to plant trees in a public space. He believes that they were put in at the recreation field area. Something like that could possibly be worked out. They could use a new pine tree for outside here because this one has seen better days.

Joe Dudash asked if this gets approved and it is separated, will this get straight with the county. Vincent said if approved, they would record two new deeds at the courthouse and create two separate properties out of it.

MOTION BY ALAN DASHOFF TO APPROVE THE REQUEST FOR A LOT LINE CHANGE WHERE THE PARCEL IDENTIFIED AT 305 W. LINCOLN HIGHWAY UNDER TAX PARCEL NUMBERS 32-3-53 AND 32-3-54 SUBJECT TO COMPLIANCE WITH THE ITEMS LISTED IN THE BOROUGH ENGINEER'S REVIEW LETTER DATED MAY 30, 2023 NOTING THAT ITEMS 1,2,3,4 OF THAT REVIEW LETTER ARE EXISTING NONCONFORMITIES, FURTHER NOTING THAT ITEMS 5, 6 AND 19 COMPLY SUBJECT TO THE DRAFTING OF AN AGREEMENT AS TO A COMMON DRIVEWAY EASEMENT ALLOTING THE PROPORTIONAL RESPONSIBILITIES FOR MAINTENANCE AS WELL AS RESPONSIBILITY FOR TRASH

REFUSE AND LOADING AND UNLOADING AREAS AS PRESENTLY EXIST TO BE REVIEWED BY THE BOROUGH LEGAL COUNCIL AND THEN RECORDED WITH THE RECORDER OF DEEDS SUBJECT TO APPROVAL OF THE WAIVER REQUEST AS TO THE SIDEWALKS THAT THEY ARE ALLOWED TO BE 4 FEET WIDE IN ADDITION TO ALLOW A FEE IN LIEU OF REPLACEMENT OF EIGHT STREET TREES IF SUCH FEE IS PROVIDED UNDER THE BOROUGH SUBDIVISION AND LAND DEVELOPMENT ORDINANCE. IF NO SUCH FEE IS PERMITTED IT WOULD BE A WAIVER AND THEN THE BALANCE OF THE ITEMS WILL BE ALL WILL COMPLIES AND THAT THE SUBMISSION OF A FINAL RECORD PLAN TO BE APPROVED AND RECORDED WITH THE BUCKS COUNTY RECORDER OF DEEDS. SECONDED BY JOE DUDASH. Carol said comment #12 spoke to locations of existing underground or overhead electric and communication lines. She asked if it could be incorporated into such agreement. Barbara said it can be included with the new deeds saying that it is under and subject to the same easements and restrictions of record to the extent that those items remain in full force and effect. Barbara said they can amend the motion to include that.

MOTION BY ALAN DASHOFF TO AMEND THE MOTION. SECONDED BY JOE DUDASH. All ayes, motion carried.

New Business

MOTION BY BARBARA HEFFELFINGER TO ADOPT RESOLUTION #2023-7 AUTHORIZING AND APPROVING A MUNICIPAL GRANT PROGRAM APPLICATION TO THE BUCKS COUNTY REDEVELOPMENT AUTHORITY FOR PENNDEL BOROUGH POLICE DEPARTMENT PATROL VEHICLE. SECONDED BY BUD MURPHY. Joe Dudash said when they put these RDA grants in, from what he understood from talking to them, if number one is the police truck, number two is the utility truck for maintenance, number three is for the ambulance and then the fire company. He heard that they go in order of granting them. Last year or the year before, the ambulance got something, and the fire company didn't, and it was because of the order it was in. He would like to see the fire company get moved up and the ambulance goes last. Same thing for the maintenance personnel. The utility truck should be first and then the police vehicle. That's what he was told by the RDA.

John Stratz said he's always been told that they evaluate these just on their merits. Joe said it's a combination of merits and how it's in order. Mayor Sodano said having attended previously, he doesn't remember there being any order preference. As far as vehicles from his perspective, last year he and the chief specifically requested of the council president at the time, was for a police vehicle. They have a 2018 and two 2019's. It's not like they have new vehicles and she adamantly said no, they needed doors, so they didn't get a police vehicle. Now they are in a situation where they're well over 50,000 miles on the two black and whites. They're asking for a vehicle that they sorely need. 50,000 miles on a police vehicle is 100,000 miles of roadway because of idle time and they're on borrowed time. He's not saying that Lou doesn't work hard and he's not saying that he doesn't need the truck. He is just saying that if you look at it chronologically, they were in line and got kicked to the curb last year. The department needs a vehicle or they're going to be looking at the real possibility of exorbitant repair fees because nothing's in warranty anymore.

Gary asked Mayor Sodano since the police vehicle is idling 50% of the time, has there been any consideration to an electric vehicle. Mayor Sodano said that so far, studies on that have been less than stellar for the simple reason that police vehicles do require an exorbitant amount of idle time and when they're idling, oftentimes at an accident scene for instance, they have a lot of electric lights, etcetera running and they haven't held up well yet. That's not to say that some of

the new battery technology that's right around the corner won't fix that but the study so far is that's where they suffer the most, in idle time because it drags the systems down really quick.

Tim Weaver, asked for a definition of police vehicle. He asked if they were talking about a cruiser, a truck or an old-fashioned car. Mayor Sodano said they are talking about an F-150. Tim asked if they could get the budget down a little and maybe get two for the price of one. Mayor Sodano said with the cruisers that they have which are the Ford Explorers, putting the barricades that they use for emergencies, etc., they don't really fit in the back and there isn't really an easy way for the police to transport those. Tim said Hulmeville just bought a new truck. He asked if it is similar to the one he's talking about. Mayor Sodano said it would be identical. Tim asked if they could get some feedback from their department on how well this truck operates. Mayor Sodano said Hulmeville is using theirs as their everyday vehicle, which is what they intend to do and so far, the feedback from their officers and their chief is great. They love the vehicle. It has the same interceptor motor that's in the Explorers. Tim said they're talking about \$90,000 or \$100,000.00 without retrofitting. Mayor Sodano said it's \$90,345.00 with everything. They need to make a change and in today's market, an Explorer \$65,000.00 and change outfitted. Tim said he's not against it, it's just an astronomical amount of money. As for the electric vehicle, it doesn't work with municipal vehicles, patrol vehicles, ambulances, fire vehicles because of all the lights flashing, etc. They require too much energy and they're too heavy. The only people that can maintain these cars are actually the dealers because no mechanic wants to touch them and the liability of a fire hazard on top of that is something else to consider.

All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO ADOPT RESOLUTION #2023-8 AUTHORIZING AND APPROVING A MUNICIPAL GRANT PROGRAM APPLICATION TO THE BUCKS COUNTY REDEVELOPMENT AUTHORITY FOR PENNDEL BOROUGH PUBLIC WORKS DEPARTMENT MAINTENANCE PICKUP TRUCK. SECONDED BY GARY NICKERSON. Joe asked what the cost was for that vehicle. John said \$51,179.92.

Mike Smith, asked if they sold the dump truck yet. Mayor Sodano said it wouldn't be wise to sell it until they're sure they have a replacement because they need something. Mike asked if they investigated its value and are moving to find out who would be interested in it. Mayor Sodano said yes, but they can't pull the trigger because they need something until they get a new one.

Tim Weaver, said stuff they purchase just seems to sit and wither away in the toilet that is now known as the municipal property that looks like shit. Mr. Stratz and Mr. Winkler have been at the helm of this thing for many years. The other pickup down there looks like it's been pillaged, and it's been sitting at a scrap yard. It used to run great. The dump truck runs fine. He asked what the preventative maintenance measures are going to be for this vehicle if they do acquire it. He asked if they are going to keep it out of the weather or if they're going to beat the tar out of it and throw paint on it and throw shit in the back of it and just abuse the hell out of it or if they are going to require people actually take care of the stuff that's an asset to this borough because in the end, the taxpayers are holding the dime to repair this and pay for this. A free truck does not include repairs, new tires, and basic maintenance, so everybody here still has to pay something for that vehicle. And he's not joking that the municipal property is a wreck. Everything is rotting away. Barbara Heffelfinger said she hasn't been down there, but Lou has been working very diligently to clean the place up. She will speak to Geoff and ask if he has some kind of a plan or priorities that he's working on down there.

All ayes, motion carried.

MOTION BY ALAN DASHOFF TO ADOPT RESOLUTION #2023-9 AUTHORIZING AND APPROVING A MUNICIPAL GRANT PROGRAM APPLICATION TO THE BUCKS COUNTY REDEVELOPMENT AUTHORITY FOR PENNDEL-MIDDLETOWN EMERGENCY SQUAD CPR/CHEST COMPRESSION SYSTEM. SECONDED BY BARBARA HEFFELFINGER.

Alan said he's actually used the older models of these and the survival rate around what we call Ross return spontaneous of cardiac for circulation is much higher with an automatic machine. They probably have a version one that was what the county issued years and years ago. This is version 3 and it's more adjustable to the current protocols as far as its rate goes and also it does do incident tracking for quality assurance and has major advantages. The old ones were probably about worn out.

All ayes, motion carried.

MOTION BY JOE DUDASH TO ADOPT RESOLUTION #2023-10 AUTHORIZING AND APPROVING A MUNICIPAL GRANT PROGRAM APPLICATION TO THE BUCKS COUNTY REDEVELOPMENT AUTHORITY FOR PENNDEL FIRE COMPANY PARKING LOT IMPROVEMENTS. SECONDED BY ALAN DASHOFF. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO ADOPT PBA RESOLUTION #2023-11 MEMORANDUM OF UNDERSTANDING WITH THE PBA. SECONDED BY BUD MURPHY.

Tim Weaver, said he doesn't understand why they're voting on an MOU and not the contract itself because it's been going through the wash for months. He said it is probably going to go into arbitration. Barbara Heffelfinger said not necessarily. Barbara Kirk said the MOU is a memorandum of understanding to modify the terms of the current contract to allow for an increase in the police officer's salary from October 1st until December 31st, 2023. The Executive Session tonight dealt with discussions about the new potential contract and the terms and that's what the council is still working on. It doesn't expire until December. Tim said it is going to arbitration. Barbara Kirk said not necessarily. If they did not file letters for arbitration, the PBA then waives its right. If they didn't comply, that doesn't mean it's going into arbitration. It's just a notice of intent if a contract is not reached. Tim said he doesn't understand why this thing was moving along so smoothly and then it's held up.

All ayes, motion carried.

Public Comment

Tim Weaver, said there are reverberations out there on the street that there may or may not be some people possibly conspiring on this dais to possibly procure the old American Legion building and there's rumors that they may divest themselves of the municipal property in some kind of trade. He said if they are going to do any actions like this, at least put this up to a plebiscite so that people can decide what's going to happen to their borough and not everybody here unilaterally taking it upon themselves to dictate what assets we will and will not have. They don't realize the importance of that municipal property. That is a strategic piece of property located on Neshaminy St. It's not worth giving up. They can contact him in public and he will tell them how important that piece of property is and what they need to know about it. Barbara Heffelfinger said they haven't made any offers on that building. She did research grants to see if they could acquire that for a Community Center which would have been great for PennDel, but the borough schedule and theirs did not work out plus, the fact they could not come up with \$850,000.00. And it wouldn't be the borough. It would probably have been the Heritage Society

but it's not going to happen. They had someone who made an offer, but he wanted to do things they didn't want plus he wanted to settle in 45 days, which wasn't feasible for the people in there now. For the property on Neshaminy St., they had a survey done years ago by Carol's prior firm and what happened with the sewer property was that it really wouldn't be feasible because they could only put a couple of houses on it. The property is open space recreation and so there's only a little spot at the top of the hill to do anything with. And they don't believe that PennDOT would have ever given them any access because it's not easy to get in and out of there. So, they're not going to sell it. Tim asked if he could have exclusive hunting rights down there. He's willing to sign a waiver. There's a lot of deer down there and his freezer is running a little empty. Barbara said she doesn't think that's going to happen. He will just have to go to the Acme.

MOTION BY BARBARA HEFFELFINGER TO ADJOURN THE MEETING AT 8:37 P.M.
SECONDED BY ALAN DASHOFF. All ayes, motion carried.

Submitted by: Marie Serota
Marie Serota, Secretary/Treasurer