

## WORK SESSION

November 19, 2018

Council President, Beverly Wolfe called the meeting of Pennel Borough Council to order at 7:40 p.m. with the pledge of allegiance.

### Present at the meeting

Mayor Robert Winkler  
Council President Beverly Wolfe  
Council Vice President Barbara Heffelfinger  
Councilman Joe Dudash,  
Councilwoman Laura Germain  
Councilman John Stratz  
Councilman Mark Moffa  
Councilman Rich Flanagan - absent (sick)

### Also present

Ben Hauser, Hill Wallack, Solicitor  
Noah Marlier, Rudolf Clarke, Special Counsel

Solicitor Ben Hauser reported on the executive session of council at 7:00 p.m. this evening which included council minus Rich Flanagan, Mayor Winkler and special counsel Noah Marlier. Ben Hauser was not in attendance because this matter concerns litigation for a property that his office has a conflict of interest.

MOTION BY MARK MOFFA TO AUTHORIZE SPECIAL COUNSEL RUDOLPH, CLARKE, LLC TO SUBMIT A PROPOSED ORDER TO THE COURT THAT IS SUBSTANTIALLY SIMILAR TO WHAT RUDOLPH CLARKE, LLC ASSOCIATE NOAH MARLIER, ESQUIRE, AS DISCUSSED WITH THE COUNCIL IN EXECUTIVE SESSION, IN AN EFFORT TO RESOLVE THE LITIGATION RELATED TO 424 BELLEVUE AVENUE IN PENNDEL, PENNSYLVANIA, 19047 AND DOCKETED AT BUCKS COUNTY CIVIL DOCKET 2018-05283. SECONDED BY JOHN STRATZ. Laura Germain questioned the wording substantially similar, if that was for word substitution. Noah Marlier, Esq. explained that there has been some communication between himself and the attorney for the property owner and they have a potentially proposed order that might resolve this matter. There is just a little bit of wording that needs to be ironed out. One particular issue that should not substantially change is the draft that was reviewed. The language of the motion is giving him some flexibility. All ayes, motion carried.

### Announcements

Laurie Germain spoke about movie night. She thanked the Mayor for funding it and Redeemer Lutheran Church for hosting it. There were about 40 altogether and the kids had a lot of fun. She's hoping to have another movie night next year in the summer and will hopefully have

more people. She also thanked Karen Kondrk for helping to set up and her husband Matt for helping with the technical stuff.

Beverly Wolfe announced the Christmas Tree Lighting will be held on December 1<sup>st</sup> beginning at 6:30 pm with Santa arriving at 7:00 pm. There will be a new choir from OLG singing this year.

Mark Moffa wanted to thank Tree Tenders for the tree delivery on Saturday. Some trees were planted on borough property and some trees went to some residents. He was the recipient of two of those trees. Thank you to Kory & Joe Dudash and the Mayor for dropping the trees off. Joe Dudash thanked Karen & Frank Flowers. They also had some help from the Watershed Institute of Pennington N.J.

#### Motion Items

MOTION BY MARK MOFFA TO APPROVE THE 11/5/18 COUNCIL MEETING MINUTES. SECONDED BY JOE DUDASH. The vote was 5 ayes, 1 abstention (Laura Germain). Motion carried.

MOTION BY BARBARA HEFFELFINGER TO PAY COMCAST BUSINESS INVOICE DATED 11/1/18 IN THE AMOUNT OF \$131.66 FOR INTERNET AND VOICE SERVICES AT 37 W. WOODLAND AVENUE. SECONDED BY LAURA GERMAIN. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO PAY KEYSTONE HEALTH PLAN EAST INVOICE #811071655331 DATED 11/7/18 IN THE AMOUNT OF \$3,787.07 FOR MEDICAL INSURANCE. SECONDED BY LAURA GERMAIN. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO PAY PECO INVOICE DATED 11/6/18 IN THE AMOUNT OF \$162.37 FOR 37 W. WOODLAND AVENUE FOR ELECTRIC AND GAS. SECONDED BY LAURA GERMAIN. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO PAY PECO INVOICE DATED 11/6/18 IN THE AMOUNT OF \$30.41 FOR ELECTRIC SERVICE AT THE RECREATION FIELD. SECONDED BY LAURA GERMAIN. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO PAY PECO INVOICE DATED 11/8/18 IN THE AMOUNT OF \$89.71 FOR GAS SERVICE AT 300 BELLEVUE AVENUE. SECONDED BY LAURA GERMAIN. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO PAY PECO INVOICE DATED 11/6/18 IN THE AMOUNT OF \$52.34 FOR ELECTRIC SERVICE AT 790 NESHAMINY STREET. SECONDED BY LAURA GERMAIN. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO PAY PECO INVOICE DATED 11/5/18 IN THE AMOUNT OF \$1,696.30 FOR STREET LIGHTING. SECONDED BY LAURA GERMAIN. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO PAY PECO INVOICE DATED 11/13/18 IN THE AMOUNT OF \$47.03 FOR TRAFFIC LIGHTING. SECONDED BY LAURA GERMAIN. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO PAY STATE WORKERS' INSURANCE FUND INVOICE DATED 11/1/18 IN THE AMOUNT OF \$2,737.00 FOR FIRE DEPARTMENT WORKERS' COMPENSATION INSURANCE. SECONDED BY LAURA GERMAIN. All ayes, motion carried.

President's Report

None

Mayor's Report

None

Solicitor's Report

None

Engineer's Report

Carol Schuehler was not in attendance

Committee Reports

Community Relations (Laura Germain)

Laura Germain said she has a rough draft of the newsletter. She is hoping to get it out before December since there are some events coming up in December. The website is being put off until 2019.

Recreation Board (Laura Germain)

Laura Germain said they had to cancel the last meeting because of the weather.

Ordinances (Mark Moffa)

Mark Moffa said you will see some of the work the Ordinance Committee has been doing under new business.

Insurance (Mark Moffa)

Mark Moffa said they are getting different health insurance quotes.

Long Range Finance (Mark Moffa)

Mark Moffa said council was told to think over the last 2 weeks of what they might want to instruct the committee to do. Council would be giving some direction to them which was lacking before. Mark was looking for input for what they should be doing. Beverly Wolfe said they are probably going to be facing significant storm water management issues which will require funding. She thought maybe looking into something intergovernmental with the borough's neighbors. Another thing would be borough finances in general as far as revenue. Mark Moffa mentioned an earned income tax. Joe Dudash said the storm water ordinance. If there is a new development, there should be a retention pond put in there, not put on the back burner and then the houses are built. Beverly said she thought we had some pretty robust

storm water management but we can definitely look at everything. Joe also mentioned impervious surface and the county taxes you on it so maybe look in to pavers. He also mentioned looking into the old business association where some of the business worked with the borough on growth. He heard a couple of businesses say they would like that active again. Mark told Ben Hauser that they need to look at the resolution that reformed the Long Range Finance Committee.

#### Refuse (Joe Dudash)

Joe said that bidders are still writing in a lot of questions. It's taking more time because they have to respond back to them. There are a lot of bids. Some of the companies he has never heard of.

#### Public Safety (Joe Dudash)

There was an allegation that the police department is not having full shifts. With the help of the mayor and the police chief, they went over timesheets and there is no proof of the allegation. The shifts were complete, there was no hidden overtime given out as the allegation was made. He just wanted to straighten that out. As far as the freedom of information act transactions, they are spending a fortune on them. If you want to see anything, just come to himself or Mark and they will pull the stuff for you and look at it. Ben Hauser told Mark he would counsel against that. He understands that right to know matters tend to be a very labor intensive process. Joe said he heard that he as a councilman can sit down under that and as long as the material doesn't leave the municipality can show the individual. Ben said he isn't disputing that, he is saying that you might want your legal counsel to take a look at what information is being released to the general public. Joe Dudash said it would be nonsense stuff like permits when the engineer has already approved it. Beverly said there is a legal time limit on everything. Mark Moffa said you want to be careful that it doesn't come off that you're trying to squash right to know requests. There have been some discussions in the budget meetings that maybe fewer things would have to go to the attorneys. Ben Hauser said you want to be very deliberate on what you are releasing. Mark Moffa said maybe they can come talk to them before they put in the right to know request and maybe can answer some questions and head off a request. Beverly said they have tried so hard to be transparent and open as much as they possibly can and let everyone know everything that is going on. They submitted letters to legislators asking them to please introduce legislation again to help out small municipalities like Penndel with this problem. Change something in the Sunshine Act to maybe give some state aid to small municipalities where the right to know threshold has reached an X number of dollars and to get some state aid. Ben Hauser said that we live in a particular area of the state that the number of individuals that are frequent flyers in terms of the right to know process and he is not sure what action Harrisburg can take whether there can be some sort of fee shift to those individuals to help bear the cost. It would be a good idea to talk to our local representatives. Joe Dudash wanted to know if he should make a motion to plant 3 trees at the rec field. Beverly asked him to table the motion. Barb Heffelfinger asked why we need permission to plant trees on our own property. Beverly Wolfe said it's because it is a rec board matter and they have the power to equip, operate and maintain all the recreation places in Penndel Borough. Karen Flowers said she was under the impression from the last

council that even though they take care of the rec field, the borough owns it so they have to get permission to plant them. Ben Hauser said under the borough code, the borough may provide for a recreation place, etc. It also designates its power to oversee all of those areas to the recreation board. That authority has been delegated to the rec board as an arm of the borough. That is as long as it is in the rec board's budget. Beverly said that is why they got the wish list from the rec board and if the council puts the money in that line of the budget and council approves it then it's ok. Only if it exceeds their budget they should come to council. Mark Moffa said so then the rec board is basically given authority to do as they want or need but that doesn't mean that the council does not have also the authority to do what it wants to do on its' own property. Has the borough completely seceded the right to do everything to the rec board or if council says the rec board doesn't seem interested in doing this but they think it needs to be done, they can do it because they own the property. Beverly's reading of the ordinance does not encompass the question you are asking. If there was something that needed to be done that wasn't being taken care of and council views it as a safety issue, can council just go in and do it or can they just tell Laura and she will take it to the rec board meeting? When they shut the playground down because it was a safety issue, council said shut it down. Laura Germain asked about renting out the pavilion. Beverly said that is in the fee schedule. Ben Hauser said by the way the ordinance reads, it appears that the borough has delegated entire power to the rec board, but he will take a look into that. Laura asked if they wanted to rent the pavilion to outside parties, would that be up to the rec board. Mark Moffa said the only overriding power council would have would be in the case of safety. Ben Hauser is going to look into it and said that council could revisit the ordinance. John Stratz asked who would get the money if the pavilion is rented, would it be the borough or the rec board. Beverly said it is in our fee schedule so it would go into the general fund. Karen Flowers said it would be nice to take that money and fix the place up. Joe Dudash said the Wildcats have not paid the fire inspection fee. Karen Flowers thought that Marie could sit on the \$100.00 deposit given at the beginning of the year.

#### Finance (Barbara Heffelfinger)

Barbara said the budget is almost done and they have been working very hard on it. They are still waiting for figures on insurances. They haven't heard anything from the RDA yet and they are waiting for the refuse contract bids.

#### Streets & Sewer (John Stratz)

Today's meeting with KLS Lighting was postponed to next Monday so he will have final figures for the budget meeting that night. The Elcon proposal for Falls Township has reached its' final approval state by going before the DEP after attempting and failing to get approval 3 previous times. Their plan is to incinerate toxins and poisons and store the sludge on the premise. Pressure treated wood, cannot by law, be burned due to the release of toxins. They cannot guarantee safety. His suggestion would be to take it somewhere and test it that would not affect millions of people. If this goes through, it can potentially affect our drinking water from the Delaware River. This proposal affects 3 intake inlets to the water purification plant. It is not prepared to handle that amount of potential toxins. He is asking for council's approval to submit Pennadel's protest. Beverly said they can send a letter to the authority. John said the

information on it is eye opening. Beverly asked if it was council's desire to send a letter to the DEP opposing the Elcon project.

MOTION BY JOHN STRATZ TO HAVE COUNCIL PREPARE A RESOLUTION TO THE DEP OPPOSING THE ELCON PROJECT. SECONDED BY BARBARA HEFFELFINGER. All ayes, motion carried.

#### New Business

MOTION BY MARK MOFFA TO SIGN THE LAND DEVELOPMENT AND FINANCIAL SECURITY AGREEMENT AND SITE IMPROVEMENT SECURITY AGREEMENT FOR PHASE II OF SCHOOLHOUSE COURT PROJECT. SECONDED BY BARBARA HEFFELFINGER. All ayes, motion carried.

We received a check for the escrow. They have secured and given us the documents for financing the next phase. They are authorizing her to sign the agreements so we can accept their escrow and let them move forward. Joe Dudash asked if they were going to be putting in the retention basin. Beverly said they are required to do the storm water management and retention basins and all the things that Carol Schuehler told them about at the last meeting. John asked why they didn't do it the first time. Beverly said she couldn't answer it and that it is part of the proposal. John said it is flooding the neighbor's basements. Ben Hauser said his general understanding on these types of agreements is that you are taking a level of security, which is in the form of a letter of credit almost for the amount of \$500,000.00 that will be held so that before the borough signs off on everything, it will have financial recourse to make sure that if certain work is not done, the borough itself can hire a contractor to do it. Beverly said that the issue was to be encompassed in phase II retention tank and it was also the fault of the builder who pointed those release pipes the wrong way. This will all be taken care of. It is in the agreement about the soil erosion, sediment control and control of water. The borough engineer is the one that grants or doesn't grant anything in there and it is in writing. Our engineer knows our desires and our codes on this. Joe Dudash would like the basin to be done first before any house goes up and asked what the recourse is if that doesn't happen. Ben said the developer is depositing a large sum of money with the borough where it has a letter of credit with a financial institution that has money held. Most developers typically want their escrows returned upon satisfactory completion of the project. Ben said if you look at the land development and financial security agreement page 17, article 19, it says the developer has to complete all improvements within 12 months from the date of this agreement unless they extend it. John Stratz asked if they could hold that money in an interest bearing account. Ben said it depends on the nature of the security. The developer here is basically providing a letter of credit with First National Bank & Trust of Newtown. The borough may draw against the letter of credit. Beverly said there is also a check made out to the Borough of Penndel for almost \$61,000.00 to fund the cash escrow for legal and engineering fees as required in the paragraph of our land development agreement. Ben Hauser said if the borough was thinking about putting this in an interest bearing again, it would not fly.

MOTION BY MARK MOFFA TO ACCEPT THE GRANT THE EXTENSION OF TIME TO CONSIDER THE MINOR SUBDIVISION APPLICATION FOR PENNDEL PROPERTIES AT 152 MONROE AVENUE TO FEBRUARY 2019. SECONDED BY JOE DUDASH. All ayes, motion carried.

Ben Hauser said under the municipality planning code we have a certain amount of time to consider a land development application otherwise it is deemed approved. The developer has agreed to extend that time which is a common practice in the land development world so that they have more time to take a look at this so that they do not accidentally give a deemed approval.

MOTION BY JOHN STRATZ TO APPROVE THE PROPOSAL FROM K.E. SEIFERT, INC. DATED 8/13/18 FOR SNOWPLOWING AND SNOW REMOVAL SERVICES FOR THE 2018-2019 SEASON IN AMOUNTS NOT TO EXCEED WHAT IS ON THE PROPOSAL FOR MAN HOUR. SECONDED BY JOE DUDASH. All ayes, motion carried.

We have a proposal from K.E. Seifert to have the following equipment available for snow plow services: plow truck at \$150.00 a man hour per truck, shoveling rates of \$85.00 per man hour. They are going to try to put something in place to alleviate that one but that's what's on the proposal. Salt for the walkways at \$41.00 a bag. A backhoe if needed with an operator at the rate of \$197.00 a man hour per machine, dump truck with snow and salt spreader at the rate of \$150.00 per man hour plus the cost of salt at \$120.00 per ton. In addition, a front end wheel loader at a rate of \$310.00 per man hour. This is the proposal for snow plow services for 2018-2019 covering the borough, borough hall, the police station and the walkways down at the rec field. Mark Moffa asked if there were other bids and Beverly said there were not. It was going to cost us money to put it out for the bid process and then we ran out of time. They reached out to other entities and municipal snow plowing is problematic. John Stratz asked about the front end loader and could they give final approval to bring out that kind of equipment. Beverly said absolutely. Amanda Mieluch asked about the part time maintenance person shoveling the walks instead of paying them to shovel. Beverly said they are looking into that. Mike Smith said you have a truck, put somebody in it. If you're not going to use it then sell it. It is sitting down there rotting away. You have a backhoe. As of December of last year there was no problem with it. All of a sudden this year there is a problem with it.

MOTION BY JOE DUDASH TO PURCHASE THE SECURITY CAMERA AND ACCESS CONTROL SYSTEM FROM DIGITAL CONSULTANTS FOR THE SEWER PLANT PROPERTY AND FOR BOROUGH HALL IN AN AMOUNT NOT TO EXCEED \$3,900.00. SECONDED BY BARBARA HEFFELFINGER. All ayes, motion carried.

Joe Dudash said they are having a lot of break-ins at the sewer plant. They are putting in a camera system that will alert the police on their cell phone and they will be able to see what's going on, if it's a deer or whatever. That comes out to \$3,709.79 which is a one-time shot. Beverly said because of the old analog system at the borough hall, they can't integrate it with anything else which is why the whole thing needs to be replaced. Laura Germain asked if it was replacing what is in the office as well. Beverly said yes it does. She asked if only the police will be notified and will it be in the police station or just on their phones. Joe said motion sets it off and they can watch from the police station or from their phones. If they are out on patrol they can see it. Beverly said in the features section, the system will have the ability to be used by a user or group that has permission to view and play back by only those cameras by permission of

the administrator. It might be police matters so they can't have everybody looking at it. Laura asked who the administrator was. Beverly said it wasn't decided yet but she imagines that it would be Chief Perry since the primary objective of this is surveillance at the sewer plant. Karen Flowers said with all that is happening at the park, wouldn't it make sense to put a camera down there now with this system. It's borough property and people get hurt down there. Beverly said another camera would be about \$200.00 and hard drive would be another \$200.00 - \$250. It looks like a very flexible system they can change and add to. They can check with the company and ask what it would cost to add another camera. John Stratz said they can add cameras to the sewer set up. You would need another hard drive. The money can be taken out of the sewer capital fund. Beverly said they are authorizing this with a cost not to exceed \$3,900.00 plus maybe a little extra in case they run into something with cabling. The company has been in touch with the Mayor and we will ask for a supplement to this. Nick Fofas asked if their quote included anything for signs for the property for surveillance because it should be posted. Beverly said it is not public property. Ben Hauser said the reason people like to have signs posted for cameras, if they take audio is to defeat the idea that there is any kind of audio taken by the camera because there is a Pennsylvania wiretap act which creates a criminal offense for recording people's audio without their consent. The signs say you're on camera, you can't expect it to be private. Beverly said we will get a ruling on it and if we have to put signs up, then we will. Mike Smith asked Joe how good the cameras were on record. He bought a system and his cost a lot more than that. He said it sounds awful cheap. Bob Winkler said it is the same as what the police department has. Beverly said it is a 4.0 outdoor torque camera with a 100 foot radius, 4.0 megapixel C 5 foot IP vandal proof mini dome camera and 3D digital noise reduction through the cameras on the hardware and the software. Mike Smith said when you zoom in, it gets all pixelated and that is the problem with distance cameras. Beverly said the cameras are just video. The digital noise reduction has nothing to do with audio. It's for reducing pixilation. Mike Smith said he tried to get a license plate off of a car and it is hard so don't be fooled by it. Beverly said it is 50% deposit and the remainder due at the completion of the installation. If we're not happy, you're going to fix it. Mark asked Bob if he was happy with the quality of the cameras in the police department and he said it is very good. Mark said we've had previous experience with this company.

Mark Moffa said when you look at Ordinance #2018-6, this is an ordinance amending Chapter 350 which is streets and sidewalks, Article 2, curbs and sidewalks construction, repealing and replacing Article 3 which is snow and ice removal. There was an effort to put some teeth into our snow removal ordinance. Mark deferred to the mayor on this as he probably sat down with the chief about enforcing moving vehicles off the street. Bob said he asked the chief and public safety committee to look at it to see what they could do. Bob went on the PSAB website to see what they had and gave it to the chief to see what needs to be changed so that we can enforce no parking during snow so that we can write a ticket or tow and that is what they came up with. Ben Hauser said the borough is requiring curb replacement in various parts of the borough and potentially sidewalks and certain elements of the borough's ability to lien which was non-existent in the ordinance. They wanted to make sure the borough could recover costs such as attorney's fees or with other costs. With doing so, you have to have certain procedures under the Municipal Claims and Tax Lien Act. It shows this is the procedure the borough is going to

follow before it decides to slap a lien on you for not doing your curbs and sidewalks. We're going to give you a number of days to pay up and if not, we're going to send a letter and then the lien. He suggests council make a minor amendment to Section 27.2 where it says \$1,000.00 then \$600.00. He would have council change it to \$1,000.00. That is the maximum penalty per borough code. Beverly said it is for the snow emergency route which lists streets by name, once a snow emergency has been declared by the Mayor. Mark said they are combined into one ordinance because Ben Hauser pointed out they were working on these two things and they are contingent sections of the code so it would make sense to do them as one ordinance, therefore saving fees for advertising, codification, etc.

MOTION BY MARK MOFFA TO AUTHORIZE ADVERTISEMENT OF ORDINANCE #2018-6 AMENDING CHAPTER 350 STREETS AND SIDEWALKS. SECONDED BY JOE DUDASH. Laura asked if they could amend it afterwards for Woodland Ave. and she was told yes. All ayes, motion carried.

Dave Cahill asked what it says. Beverly asked if she needed to read the whole thing. Ben said it will be advertised in the Bucks County Courier Times and it is here at the borough hall. Dave asked if they thought they were wasting their time with the curb and sidewalk replacement ordinance because haven't you set the precedent that they let people go when they did streets in the borough and they claimed they were going to put liens on properties and they did not. How is that going to shake down in court? Beverly told Dave they talked about fixing it. Dave said they would lose because they already set the precedent. Once a homeowner goes to court and present the evidence that the borough did nothing and said they were going to do something, you're going to lose. Ben Hauser said the borough has prosecutorial discretion as to who and when it enforces its ordinances. And by the facts presented he can't speak any further on the matter. Mike Smith said he's part of the system that notifies people. Everyone else isn't in there. Is everybody going to be notified? What if they are not on the system to get notified? Barb said they have to sign up. Mike said on snow removal, has everything for Woodland Ave. been thrown out like the odd and even? Barb said those people have no place to park. Mike wanted to know if they were leaving it in or taking it out. Beverly said it is creating that street as a snow emergency route. Mike asked if that meant everyone needs to be off the street. Beverly said yes. Mike said they are going to be asking where they are to park. Mark Moffa asked what the current situation is there. Mike said one side of the street has to remove their cars then the other. They were given relief because they are row homes. Dave said whatever day it was, if it was odd or even, they would plow that side of the street first and then you would have to move your cars to the other side. So if it snowed on the 10<sup>th</sup>, you would move your car to the odd side, they would plow the even side and then plow the odd side after the cars moved back. Dave asked if they got rid of that and Mark said what they have now would turn it into both sides but that could be changed. Beverly said everyone comes and complains about the plows going around the cars so they are trying to fix that but it only pertains to certain streets. Dave said the cars on his street don't move and you can't plow the street right. Everyone on Cynthia Ave. can move their cars in their driveways. Ben Hauser asked how often Bob declares a snow emergency. Bob said it depends on how much snow they are calling for. He doesn't call one for every snow storm. Amanda Mieluch asked if it is only when it is a snow

emergency that they are not allowed to park on the street. Beverly said that was correct. Amanda asked if was for every street and Beverly said it is for every borough owned street. Amanda asked how they would get notified. Bob Winkler said the borough website, Facebook and Bucks County Ready Notify. The last one that was put out it went to 1800 people and only 300 or 400 confirmed they got the call. Barb said you have to sign up. Amanda said she didn't get a phone call. Beverly told her she needed to sign back up. She wanted to talk about Dave Cahill's and Mike Smith's claim that Woodland Ave. is not named in the ordinance. Beverly read Section 390-41 from the Borough Code. Dave Cahill said they were told tickets couldn't be written because it was not a snow emergency route but you still have an alert. Beverly said a snow emergency declaration. Dave said you are still not solving the problem.

MOTION BY MARK MOFFA TO AUTHORIZE ADVERTISEMENT OF ORDINANCE #2018-4 TO ESTABLISH CERTAIN NEW ZONING USE CLASSIFICATIONS, PROVIDING FOR THE CREATION OF REGULATIONS RELATING TO MEDICAL MARIJUANA DISPENSARY USES. AMMENDED SECOND BY JOE DUDASH. All ayes, motion carried.

The reason we need a medical marijuana ordinance because if someone wants to locate here, we would have very little power to enforce violations. The state has enforcement powers but the borough would like to have its own. They will be allowing dispensaries in the RC and SC, Retail Commercial and Service Commercial Districts which is the Business Rt. 1 corridor and a little off and in the Metropolitan Business District. For growing and processing they are only looking at the Industrial District for that. Ben said it would be very important to note that these are not outright permitted by right. They have to go through the special exception process which puts them before the Zoning Hearing Board to satisfy certain criteria. Under the state law, there's a certain number permits that can be issued. They have to be evenly distributed across the state. There is one in Bristol, Falls Township and Sellersville Borough. There is a limited number of licenses to dispense it and being that Penndel is located near Rt. 295, Rt. 1, Business Rt. 1, the rail lines, it is an attractive place to set up shop if you don't have a regulation. The longer we wait the more we invite someone to do this and would come in and take advantage that we have no regulations. If the state allows it and you ban it, you better have a very strong case. Joe Dudash said he sees they have the police in there but you need to put in there the fire marshal for fire plan and inspections. The police are listed because they are asking for a security plan. That is above and beyond the normal U&O. The normal U&O would require the fire marshal to look at the facility. Nick Foufas said that a fire inspection is not always done as in the case of Penndel Auto Parts. Ben Hauser said they can amend it to add it to the special exception requirement. Beverly said it would be site plan approval by the borough engineer, building code official and the fire marshal.

MOTION BY MARK MOFFA TO AUTHORIZE ADVERTISEMENT OF ORDINANCE #2018-5 TO ESTABLISH CERTAIN NEW ZONING USE CLASSIFICATION, PROVIDING FOR THE CREATION OF REGULATIONS RELATING TO SOBER LIVING FACILITIES USES. SECONDED BY JOHN STRATZ. All ayes, motion carried.

Ben Hauser said unfortunately the borough does not have in its code at the moment for sober homes. This one was tricky because municipalities have been sued over the fact that they don't have sober home regulations and courts in this commonwealth particularly criminal courts, really want to see the mechanisms in place to allow individuals to recover and clean themselves up. There are a lot of questions about how sober homes are run and managed, where are they going to be able to set up operations. Chief Perry said one has already set up in the borough prior to the enactment of the ordinance. Sober homes are favored by the policies of this commonwealth so prohibiting them is basically going to get us in trouble. In federal law, if you keep out people with disabilities, and the law does treat recovering addicts as disabled if they are clean. You can run into other issues that can open up the borough to potential liability. Mark said they need to figure out where they can go and how many can live in a facility. Hill Wallack asked if we want to include a fee waiver in this that is something we would offer in exchange for maintaining Narcan on the facility. Ben Hauser said if this ordinance is challenged, you're trying to kick these type of individuals out, we can say no, we want them to be there and we are trying to encourage them to be in a safe situation where we want them to have Narcan on the premises in case there happens to be a relapse and we as a borough are, in some ways, eating some of the cost. He knows that is a touchy subject and he can sense in general, a lot of people tend to have a different view on this kind of issue in terms of the people who have opioid addiction. If this ordinance gets adopted and somewhere down the line we say maybe it is a good idea, we can do it at that point. Mark said it is more restrictive and we will be requiring them to have Narcan on the premises. The ordinance allows sober homes as special exceptions in the RC and SC districts and also in the Professional district. It does not allow sober homes in any residential districts. They are not allowing them in R1, R2 or R3 and he believes that is more restrictive than most. Ben Hauser said they could still seek a variance in those districts but the zoning hearing board could prevent that. These homes tend to be in places with mixed uses like near transportation. A lot of people are saying you are zoning them into a little corner of your municipality and that violates the Fair Housing Act because you are basically shunning them from the rest of the community. Where you don't have an ordinance, you invite the fact that this is blank prohibition on a legal activity. They are hard to stop but we are saying, this is where they are permitted. Dave Cahill said Tina Davis passed a law in the last 2 years that it is a voluntary ordinance that anybody that sets up a sober home in Bristol Township, notifies the township. Those municipalities who don't have an ordinance in place have had a lot of inquiries. He can't say an ordinance is perfect but it will go a long way insulating the borough going forward. Mark Moffa said municipalities can limit the number of people living in the facility. Beverly said no more than 8 residents including staff and no more than 2 individuals share a single bedroom. They are not going to turn into a tenement house. Ben Hauser said they are trying to be flexible enough so that when the court looks at the ordinance, you did something but you made it impossible. You can always tweak things down the line. Beverly asked Ben if there was a mechanism in place making sure they are adhering to the rules they are putting in place, some kind of inspection. Nick Foufas said he tries to enforce the applicable ordinances and codes when he does fire inspections. Under the International Fire Code 2009 he can deem if it needs to be inspected more than once annually. Ben said if there is already a sober living home in operation before the ordinance, it is grandfathered in. Mark said this ordinance requires applicants to have written policies and procedures and notify

family in case of an overdose and this provision is to ease the burden on law enforcement. The applicant is responsible for contacting individuals who would otherwise try to locate the resident by calling the police. Also the provision is for contacting emergency responders. It is put on the applicant to go through all of those processes. It would not be allowed to not call 911. Even if you revive the person, they still have to call 911. Joe Dudash said the only suggestion is to change the professional zone. There used to be doctors down there but it is residential now. Ben said this is where you are going to run into the Fair Housing Act issue. It doesn't want you discriminating against people locating near residential type areas because you are not crazy about that type of person moving in. Dave Cahill said he heard if you try to fight them with the Fair Housing Act you will bankrupt the borough. Mark said the reason that zone is included is because it is somewhat of a residential area. Ben said they were trying to balance the entire borough as a whole. Frank Flowers asked if the places that are going to be opened up, are they tax excluded? Are they going to have to pay taxes? Ben said he doesn't see why it would be tax exempt. John Stratz asked if it would be residentially taxed or business taxed. Ben said it is not under the zoning ordinance.

#### Persons to be Heard

**Dave Cahill, 462 Cynthia Ave.** told Laura Germain that he was going to give her until the end of the year to make a date with the zoning hearing board for the variance she needs for the addition she put on top of her garage. He said if she doesn't, he is going to file criminal charges if she doesn't make a date with the zoning hearing board. And his advice to her was to not use the borough lawyer because if she does, it's only going to make matters worse because it is called corruption. He said he would file charges for corruption. Laura Germain said she was glad he brought it up because she did see Mike Italia. Joe Dudash asked Dave Cahill why he was leaving because Laura was trying to talk to him. Laura said Mike Italia went through her entire plans with her and he said the 3 conditions where you need a variance were not necessary were the height, the impermeable amount of land. In 2017 it was approved by that building inspector and in 2018 a new employee from the new company came and inspected it again and then after Dave brought it up, she went and saw Mr. Italia and he also saw her building plans and said they do not need a variance and that if Dave has any other questions he is welcome to talk to him. Dave Cahill said again he is giving her until the end of the year to make a date with the zoning hearing board to get the proper variance he will be pressing charges against her. Beverly said he is threatening her. Beverly read the email from Michael Italia which is attached. Ben Hauser said his office that is all that is necessary to adjust this record should any person disagree with that, they are left to their own recourses.

MOTION TO ADJOURN BY MARK MOFFA. SECONDED BY JOE DUDASH. All ayes, motion carried.

Submitted by: \_\_\_\_\_  
Marie Serota, Secretary/Treasurer