

WORK SESSION

June 17, 2019

Council President Beverly Wolfe called the meeting of Pennel Borough Council to order at 7:30 p.m. with the Pledge of Allegiance.

Present at the meeting

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

Also present

Ben Hauser, Hill Wallack, Solicitor
Carol Schuehler, Value Engineering
Marie Serota, Secretary/Treasurer

Announcements

Beverly Wolfe announced that Mayor Bob Winkler was awarded the Mayor of the Year at the PSAB conference in Hershey, Pennsylvania. Congratulations to Bob.

Donna Caracappa received her certification for tax collector.

Barbara Heffelfinger thanked Kevin Burcz, who is the landscaper that takes care of borough hall. On her way home one day she saw him and asked him how much it would cost to mulch the front of the borough hall. He said he would take care of it for the borough. She wanted to thank him for that.

Announcement by Ben Hauser:

After how the meeting went two weeks ago, Dave Truelove and he decided that it would be good to put out a statement addressing some of the issues that were raised at the last meeting that he's seen in the minutes, which will follow his solicitor's report.

Solicitor's Report

His office is working on the initial draft TOD revision ordinance for the overlay revisions which is part of the revitalization plan which was presented and circulated to the borough's professionals for comment. They are updating the draft accordingly. They reviewed quite a few Right to Know requests. They have drafted various other documents including the resolution that was read last week and there's a few other matters of miscellaneous nature.

Ben returned to giving his statement. Just more than about two weeks ago, specifically a few days before council's June meeting, Council President Wolfe contacted their office about a rumor she heard. It is not uncommon for our office to hear rumors and hearsay that has been brought to them on many occasions. They were informed that there was a rumor floating around the borough regarding Ms. Levine and her property. As you all more than probably know, Ms. Levine owns or at this point, owned a number of properties in the borough at this

location, the proposed Wawa development. Unfortunately, as is apparent, the Wawa project did not come to fruition despite a number of years of effort by a number of councils including the one before you. During this council's tenure, a number of rumors and insinuations have been brought to their attention and perhaps unsurprisingly few of those have been grounded in fact. The rumor they had heard was that Ms. Levine, apparently frustrated that her properties were tied up under an agreement of sale with the developer slated to build a Wawa on that site, had found a purchaser vaguely described as being in the trucking business and that the deal was slated to close the Friday before the meeting. The rumor was not corroborated by any other source, independent or otherwise. Given that the deal was claimed to close that Friday, a mere day or two from when they heard the rumor and in the absence of any other information regarding the proposed event, cast further doubt on the rumor's accuracy. In any event, it had indeed closed. It takes some time for documents to be transmitted and made part of the public record through the Recorder of Deeds office. In fact, his office did not find the deed for the property until Thursday, June 13th which was the date it was recorded in Doylestown, as you all saw if you were at the last meeting. Mrs. Wolfe was out of contact on the day the closing was scheduled to occur and was not at the meeting. Given their experience, rumors are often common knowledge in small communities like Penndel and it was not a surprise that neighboring property owners raised their concerns at the time about the rumored sale. As his boss, David Truelove explained at the last meeting, the law does not permit the borough, a third party, to interfere with a contract or formation of a contract between two private parties. As you can imagine, many residential real estate matters occur in the borough without knowledge or interference by council and the same concept applies here. They have spoken to the borough's code official Mr. Italia who is currently reviewing the U&O application filed by the purported purchaser of the property. He is not going to get into their office's strategy at this time because the investigation is still ongoing. However, in the event action is required to enforce our zoning codes, such action will be recommended to council. In the other event that the prospective purchaser fully complies with the zoning code, it is important to understand the borough is constrained with a very limited set of options.

Mike Smith, 127 Dehaven Ave., asked how it was possible for someone to occupy a property without a U & O. How does that happen in our borough? You can't buy a house and move into it without a U & O. Ben Hauser asked what he meant by occupying. Mike said they are occupying the property right now. Ben said the deed that was filed was dated May 31st. The meeting was June 3rd. Mike Smith said he stands corrected. He said whether it's a house, a parking lot, an old building, whatever it is, council needs to put an end to this. Does our zoning allow for a trucking company to operate in the parking lot? Ben Hauser said in their preliminary conversations with Mr. Italia and the investigation is still ongoing, reveal they are permitted uses on that property. There are four parcels. Two are zoned industrial and two are zoned RC District. What they have been informed at this point is the trucks are on the industrial side of the property. Joe Dudash added they're bringing cars in. He spoke to Bensalem police and there is a gimmick going on. They said they are transporting cars in them and they have been trying to bust them over in the Bensalem area. He can't understand why they aren't doing anything to clamp down there because the trucks are in the commercial area. He knows Penndel Police were in there. When he was coming home from work on the 31st, he saw the trucks in there and two of our police cars. He is miffed over this and he doesn't understand why we're not clamping down on them. With the traffic, how are you going to get tractor trailers in there? Mark Moffa has explained the legalization of it with the traffic but where is Penndot? Hulmeville Ave. is closed so you have the traffic by the train and now the fireworks company, nothing against them because they are making a business but you are going to have a complete jam up. There is no way they can get those tractor trailers turned in there. They have to be going through the property owned by Thompson's. He's tired of playing games. You have to look at every law in

the book and use it. The worst of it is that most of the council sat here and got blindsided. If it wasn't for the residents they wouldn't have known about it. He knows that on the 28th, Mike Italia knew about it. He doesn't care if it's a rumor. In government, the senators and congressmen are kept aware of what's going on. Here it is always the last minute with the council being told what's going on and the residents are really lost. How are these businesses who are landlocked going to do anything? Somebody brought up at the last meeting about McHugh's property. It looks like a dumping site with boats and everything. It is time for this council to regroup and talk to these businesses. We need to have Mark's committee have a task force to find out what happened. He wants to know A – Z who knew the first rumor and everything else that was going on and let the residents know about it. He's mad at Bucks County. Where were they at the revitalization? He's hearing rumors now and Mark explained things to him. Why couldn't the borough buy it? Why couldn't we get a grant? He's hearing there are state grants so you can buy property. The county comes here frequently and we have all these plans. There are boxes of plans. Do we actually carry things out? It's to a point in Penndel where we have to do something. Look at things under Mark's task force committee because it is non-partisan. Like in D.C. Intel, they should know everything from their contractors, lawyers, everyone. Penndel is demoralized. Now is the time to look into it to see what they did wrong. This way people out there can see that this council didn't do anything negatively, but this is what they found out. If someone needs to be fired over it then fire them. Beverly Wolfe said let's look into doing an audit on this procedure. Do an independent audit on what just happened. Would that be agreeable? Joe thinks it should be the revitalization chairman and his committee because they worked on it and they know more about that district than they do. John Stratz agrees but you can't bend the rules and try to go around the laws because you're opening up Penndel to a lawsuit. Joe Dudash said he is saying to use the laws to the end limit and then go from there. It's to a point now that poor little Penndel has been beat up. He doesn't blame the business owners. He would sell. But what makes him furious about the whole thing is the business owners there have been working with the council and Mark's group, coming to every meeting, listening to them regurgitate this same stuff they've been doing since 2005. Beverly said the latest revitalization task force started in 2017 when she got them down here. Joe Dudash said prior to that. Mike Smith said the high in the sky one that they did. Barbara said that was when the market dumped and there was no money available.

Amanda Mieluch, 16 Oak Ave., said it has been brought to her attention by someone who lives on Hulmeville Ave. that those trucks are going down that road now. That is a school zone so isn't there anything the borough can do to stop that. Beverly said it is a Penndot road. Amanda asked if we had some kind of agreement that trucks can't go that way. Beverly said they would have to apply to Penndot to allow us to put up signage if they approve it.

Kathleen O'Donnell, 28 W. Lincoln Hwy., said that she totally trusted this council. She came to the meetings. She thought they were doing a fabulous job but she was very let down at the last meeting. She doesn't know how many times she tried to ask the council what they knew. She said Joe and Mark said they did not know until they came to the meeting. She knows for a fact that people on council did know before the meeting. She was told that if she wanted to know, to call Sandy Farry. She had talked to her before she came to the meeting. When someone mentioned that she call Roberta. She said, why would she call her; that's private. She can sell to whoever she wishes. She would never call her and ask her about selling her property. However, that is why she is here. She is asking council. They were not told about the sale at that meeting until the very end of the meeting when she brought it up. No one was going to tell us. Her husband asked a few times about a use and occupancy and they were not told but she found it out that the zoning officer was here right before the meeting and they were sitting there asking about a use and occupancy. Nobody knew anything. She understands there was a use

and occupancy application handed in prior to the meeting. She feels very let down. A sewer cert was requested on Wednesday and settlement took place Friday. At the meeting on Monday, council didn't know anything. Who does the zoning officer answer to? Beverly said the entire board. Did anyone on the board know he was communicating with those people prior to the sale? Kathleen asked who on council knew. Joe Dudash said he didn't know. Mark Moffa said he didn't know until he talked to Kathleen. Laura Germain said she didn't know anything and had not heard the rumors. Barbara Heffelfinger said she was in Friday morning when the code enforcement officer was here. He was going there for a U & O inspection and that was when she knew. Frank McDonnell said he asked at that meeting because he knew what this was about. He said he knew it but no one on council knew about it? It was done by then. Nothing came up. They were going to go home without knowing about it as far as council was concerned. He said nobody knew anything. Barbara said it's on the tape that she told him she knew on Friday. Frank said he did not hear that. Amanda Mieluch spoke up and said she heard Barbara say that. Kathleen asked why Barbara didn't tell her. Barbara said it was not her place to tell them. She said she has no power to do anything about a private sale. Sam Simon said she was a liar because she said she didn't know. Mark Moffa said he heard her say she learned about it on Friday. Mark said everyone is frustrated. He was so excited about the plans for the parcel. When Kathleen told him, he was blindsided. He agrees with Joe that there is some kind of communication breakdown internally here because obviously someone had to know before the meeting and all of council should have at least known. They definitely have no power to stop the sale but maybe they could have had a statement for that night. They are failing on the public relations aspect of it because they have not dealt with you appropriately with this. They couldn't have stopped the sale but maybe they would have been a little more forthcoming with what we learned or through our code enforcement where his major concern lies. After the meeting, he called Mike Italia and asked how did this happen and no one knew about it. He said he had an inclination in April when the property owner started asking him questions. He works for us and he knew something was up in April. Mark said he had to find out from a business owner and that's a problem. Frank McDonnell asked, for the record, who knew and who didn't. Beverly said she found out a rumor on Wednesday the 29th that the property was going to sell and that settlement was Friday. Until it is signed on the dotted line, that may not go through. She was waiting for confirmation from somebody that the sale actually happened. Unfortunately, on Friday she was laying on an operating table under anesthesia and that whole weekend she was taking copious amounts of pain killers so by the time Monday came around, she had heard there were trucks parked there. She had no proof other than a rumor that the property had sold Friday. Then on Monday she got the calls from everyone and she thought ok, the sale did go through. Just so you know, there are so many rumors floating around the borough. Probably about 50 - 60% of what they hear is totally bogus and then the other, whatever it is, ends up being true and then they end up with egg on their faces. Like the Wawa project. People would come in and tell them things and they were like, when did that happen because they didn't know about it. It doesn't justify what happened here. For some reason, people knew things before they did and it wasn't communicated to them. Frank McDonnell said he wanted to continue around the board. Joe and Mark didn't know. Laura didn't know. Barbara and Beverly knew on Friday. John Stratz didn't know. Frank asked Carol Schuehler if she knew and Carol said she didn't know and she would not have anything to do with that. Frank asked Ben Hauser and he said he made that clear in his statement that they heard from Beverly when she called them. Frank asked the Mayor. Mayor Winkler said on Sunday morning he saw the trucks parked there. Frank said to Beverly that when you look at this, the people here should have been recognized, the business owners because they sacrificed to keep that thing going with sale agreements. This was poorly handled. Beverly asked when property is exchanged, how do we deal with that when there are property sales?

Should council know about every piece of property that sells? They have to figure out a procedure, where the line is. What do they want to happen, how do they want it to happen. Kathleen McDonnell, 28 W. Lincoln Hwy., said she's not an expert but she's been a real estate agent for 40 years, selling residential and commercial. You can buy anything. You can't stop people from purchasing. However, to run a business they do have to get a use and occupancy. Kathleen asked Beverly about doing an investigation. She asked if she could start with the zoning officer. He should have been here tonight because obviously people were going to have a lot of questions. Mark asked if a U & O has been issued. Beverly said no. Mark asked why a cease and desist has not been issued. Beverly said that was a question she could not answer. He said he asked Mike Italia that night to issue a cease and desist. Mark said it is his job to get his ass over there and issue a cease and desist if they don't have a U & O. Mark asked for it two weeks ago and he doesn't know why it didn't happen. Beverly asked Mark if, during his talks with Mike, why he didn't issue the cease and desist. Ben Hauser said the reported reason that was given to them why there was no cease and desist is what the property owner is doing at this point is all by right. Mark said don't they need a U&O. Ben said there is a law called the HB 1437 of 2016 that basically keeps you from saying you can't give a U&O. They don't want people holding up sales of properties. His understanding from Mike Italia is that he cannot preclude him yet for going onto the property and doing things. That is what he's heard at this point. His understanding is that they are still investigating. He got an update today that they are still looking at the U & O application. Mark Moffa said they haven't granted the U & O but we're allowing operations.

Bill Allegar, 22 W. Lincoln Hwy., met the owners and was talking to them in the parking lot. His daughter's bus was parked and they asked him to move it and they told him where to put it and he did. They told him they were going to have the telephone pole removed and they are going to level off where they did the boring for soil testing for Wawa for the tractor trailers to go in and they marked the parking lot for where they are going to line it for the tractor trailers. The driveway where they come in across from the Coffee Cup, they want to remove that. Bill asked if that was allowed. Are they coming to you asking about that? Also, the water that lays there, they are going to have the drains cleaned out. Can they do this on their own? Laura Germain asked if the solicitor can issue the cease and desist or does it have to be the code enforcement officer. Ben said it has to be the zoning officer. Bill Allegar said that they are cutting through Bruce Thompson's property and he's going to give them one week to stop. He thinks the new guys think they own it but its Thompson's. He doesn't think they know where their property lines are.

Steve Lowe, 409 Cynthia Ave., said he is going to sound like he's standing up for them but he asked what business are they in right now besides parking trucks. Beverly Wolfe said she looked them up and their licensing. According to the Department of Transportation, they are contracted interstate carriers which means they're gypsies. Apparently someone will call and say they have a load of sweaters or exotic cars to go to California. Steve said they trailers are not being loaded or unloaded there. Beverly asked if anyone has seen that. Joe Dudash said there are just cars and trucks parked there. Bill Allegar and Beverly said they thought they belonged to the owners. Joe said they are KMS out of Ohio. Beverly said she backtracked through DOT. Joe said he backtracked through phone numbers. He said to ask the neighbor next door. If you can get the plates on the side of the trucks, it has serial numbers, they can check to see who really owns it. Steve Lowe asked what kind of business is down there now. A truck and trailer leave and a truck and trailer comes back. What he does know about industrial areas is that you allow that. So where does the cease and desist come into play? He knows he sounds like he's sticking up for them but you are walking a very fine line and he thinks Ben would agree with him on that. You're walking a very fine line on what is zoned industrial and

what is allowed in industrial so part of your comment on Beverly asking council how do we go forward, take a look at your ordinances and what's allowed and what's not allowed. He has a lot more questions that he would like to ask but he doesn't want to drag the meeting on. There are a lot of other questions that he feels people are missing in the whole picture of things. Mark Moffa said to answer the cease and desist question, he's not saying it's because they are in violation of occupying the property without the license we grant that allows them to do that. He's not saying he has any knowledge that they are violating the zone. It is because they don't have a use and occupancy.

Amanda Mieluch, 16 Oak Ave., wanted to know if a use and occupancy is different for a commercial property than it is for a home. In 2012 she bought her house and she had work done in it before she moved into it. She had to have somebody from the borough come in and tell her she could move into her house. She asked if it applied to commercial properties as well. She said she could have decided to live in her back yard for a week as long as she had the ok from the inspector. Why couldn't she live in her back yard because that's basically what they are doing. They are occupying that property without the permit to do it. That's what she doesn't understand. Beverly said they all agree with that. They don't understand. Amanda said someone in the office knew that there were some kind of questions, some kind of paperwork that needed to come out of the borough to be given before those people went to settlement. That was mentioned at the council meeting. So somebody in the office knew that property was going to settlement on Friday.

Mike Smith, 127 Dehaven Ave., said he knows for a fact that it doesn't take two days for a permit to go through this office to the zoning officer. He asked what the date was on the application. At that point, one of the secretaries knew. He said to Marie that he wasn't saying it was her. One of the secretaries knew. He finds it very hard that that secretary did not speak to a member of the elected board. Also, if they purchase this property, doesn't it have to be brought up to code? Water runoff, storm water runoff. All of that stuff has to be done prior to them occupying the property. You can't use a property until it is approved to be used. That approval comes from Mike Italia. So how is it that our goddamn borough allows this crap to go on all the time? We just allow it and then say, oh ok. We'll clear it up later on. It's not just there, we had the same thing happen at the Getty station that he asked about two months ago and hasn't heard anything about. They have cars with no registrations on them everywhere and nothing has been done. It's been going on for years. Beverly said she did ask the question for him and she had it investigated twice and the report both times was they are allowable uses for the parcel. Mike asked about the non-registered vehicles on the street. Beverly said there was nothing observed that was not registered. Mike said go over there now. There are no tags on them. He gets what everyone says about the McHugh property. He thinks Bertrand's bought that property. If someone told him to clean it up, he would probably do that. He's going back to the parking lot. Storm water runoff. Look what happens down there. How many underground retention basins were supposed to be built by the Wawa? Beverly said several. Mike said there's runoff, they're going to repave it, and they're going to do this, do that. And we're not doing anything? It's time to fight. And as far as bending rules, everybody bends rules when they come in here. They just go around corners and do what they have to do. Talk to the right people. You can do this, you can do that. They get away with it. It has to stop. And no place better than what was supposed to be our golden child that was going to bring businesses and recovery back to this town. That's what that was supposed to be and if you don't fight for it now, you're going to lose it.

Betsy Allegar, 22 W. Lincoln Hwy., said what they said earlier about where you start. Do you have to check every sale of every piece of property in Pennel? No, but this is the Transit

Overlay District. That should be a place you should have known. You were telling them the zoning was going to change and they heard that months ago. If you had gotten that through, they couldn't have done that because they wouldn't be industrial anymore. Mark Moffa said the TOD overlay as proposed by the revitalization would continue to be an overlay and the underlying zoning wouldn't change. They might want to revisit that plan in light of this, but that was the proposal, to keep the underlying zoning. Beverly said to Betsy's point, where is the line, that is what this council is and whoever is going to be spearheading this audit, that's what they're going to do. They are going to have to figure out the properties that are commercial in nature, of special interest to the revitalization, they need the special attention they haven't gotten. Betsy Allegar said they are in the middle of the block and the whole length of their property is about 100 feet. Everybody else who fronts on Route 1 are about 50 by 100. She doesn't know about Bill the barber, the jeweler or the one in the middle. Their property stops pretty much behind their building, all that was considered RC, retail commercial. When they were putting a fence around their property, they were not allowed to put anything higher than a four foot fence in back of their property because they are retail commercial. Levine's told them if they want a higher fence, put it beyond your property because they are industrial so they got to put an eight foot fence up. The Levine's gave them permission to do that. Joe Dudash asked how much time for redoing the ordinances. Beverly asked if he was talking about the TOD ordinances or the ones that Mark's committee was working on. Joe said Mark's committee and he wrote up the maintenance ordinance that would control McHugh's property. He brought it up to Dave and he hasn't heard anything. Ben Hauser asked if Joe was referring to the code that revises the Property Maintenance code to the current edition. Joe said if they passed it, where is the other one. Ben said it was being drafted as he noted in his solicitor's report and has been circulated to the borough professionals. Joe asked when the residents and council can expect it to be done. Ben responded after everybody's comments are through and they've made those initial changes then it will go to the full council and perhaps Bucks County Planning Commission for additional input. He expects probably not more than 30 days. But there might be additional work to be done. Mark Moffa told Joe to keep in mind that nothing in that would have prevented what happened. Mark said if they want to try to prevent industrial uses in that area, they would need to further revise it. Ben said as Mark knows, you have to be very careful about that because this property is in there and change of zoning means they are grandfathered. If you try to target specific properties, that's what's known as impermissible spot zoning which could also get you into a lot of trouble. Kathleen McDonnell said going back to when Levine's put the property up for sale five years ago, she believes the back is industrial but somewhere from there on up to the front is retail commercial. Ben said she is correct. There are four parcels. The back two parcels are zoned industrial and the front two are RC zoned. She finds it very difficult to understand, was that the U & O that was filed two weeks ago and the entire council and the attorney don't seem to know what's in that application. What is it for, what is the purpose, and who purchased the property? Beverly Wolfe said as a normal course of business, council does not get copies of all U & Os. That is day to day business. Ben Hauser said neither do they. Beverly said this is what she was talking about earlier about where they start. We have to come up with something to advise council when a property is being bought or sold and what we know about it and when. They have to figure out what broke down. Mark said after the last meeting he did receive a copy of the U & O application. Ben said the deed is from May 31st but was not recorded until June 10th. Mark said the day of the meeting the U & O was filed. There is very little information on it. The owner's name and address, the property address, the fact that the owner is the person applying and what they want to use it for. They named three uses, office, mechanical shop and warehouse and they had to fill out a sheet for the police department that has emergency contact information. Beverly said they have more questions than answers and the person who can answer them is not here. They need the answers and the investigation done. Laura asked about them occupying the property without a U & O. Beverly said they are

occupying the parking lot. She asked if anyone has noticed, other than cleaning out the building, if there was any other activity in that building. Bill Allegar said on Saturday they had a dumpster and were cleaning out trash. Beverly said Mike Italia said it was ok without the U&O because they were strictly getting rid of trash, that no work was being done. Laura asked if they were allowed to occupy the parking lot without a U&O. Ben read section 62 of the borough zoning code. A. A certificate of occupancy shall be required for any of the following: (1) Occupancy and use of any building or portion thereof hereafter erected or altered. He said that doesn't look like that's been the case yet. (2) Change in use of an existing building to a use of a different classification. (3) Occupancy and use of vacant land or change in the use of land to a use of a different classification. (4) Any change in use or extension of a nonconforming use. He would say it is for the zoning officer to determine if subpart 3 applies. Mark thinks subpart 3 applies. Using it for parking cars for people going to the Coffee Cup is not the same use as packing it with trailers. Beverly said someone mentioned Penndot and the main entrance and exit to the property is on a Penndot road. Perhaps they should contact Penndot and get their take on it. Laura Germain said she wondered if there was something they could do tonight. Beverly said the only thing they could do is authorize the revitalization task force, a non-partisan, unbiased committee to take a look at what happened, who knew what when and bring it back or come with a recommendation for a procedure to fix it for the future. They need to get Mike Italia to a meeting or call and it needs to include Ben. They need to do this now because if they are in violation of section 62, subpart 3 by even occupying the lot itself without a U&O, then something has to be done. Ben said they need to find out what Mike Italia's office has found. He needs to see what his office sees on the property.

Sam Simon, 126 Holly Ave., if Ben is working on this issue, he should be the one who responds back to them, not Truelove. Ben said that they alternate meetings. Sam Simon said instead of him telling Dave Truelove he and comes back and skips half of it. Ben said he could prepare a paragraph. Beverly said they will talk tomorrow and get Mike Italia on the phone. She will let council know when that is going to happen and will give them notes on what happened.

Mike Smith, 127 Dehaven Ave., said council has the right, right now, to cure this situation. Someone needs to make a motion because Mike Italia is an employee at will. You make a motion from this point forward that Mike Italia is to provide a list of all properties that are for sale in this borough and give it to Beverly. He said that will be the end of your communication problem. It won't fix what happened but it may not happen again in the future. There are properties in the borough that will fall under the TOD. Who knows what's going to be purchased and knocked down. But you guys should know what's going on here. He's at will. All you have to do is give him one statement 1:09:04 and he's done. Ben is sitting right there. He can answer whether it is possible to make that motion that when a permit comes into this office for a purchase or sale, that council is notified as soon as he is. Laura Germain questioned how the U&O procedure works.

Steve Lowe, 409 Cynthia Ave., asked if at the old PECO building, if their sewer lateral had to be videoed. Beverly said she doesn't know if it was. Steve asked Carol Schuehler and she said to the best of her recollection, she had nothing on it. Steve asked how you could approve anything if she hasn't said if it passed or failed. Beverly said if it is not done before it is sold, there is a mechanism in place that the new owners have to do it.

Joe Dudash asked Carol, since we have the MS4 issue, is there something because they are bringing this stuff in here. Carol said it's not so much about the MS4. If they are not adding impervious surface that would not be the MS4. The bigger question is if it is land development then we would have a lot going on. That has to be determined by the solicitor and code officer. Carol said for the record, the engineer will not be investigating anything until this goes to zoning and code.

Frank O'Donnell, 28 W. Lincoln Hwy., said he has heard a lot of conversations and maybe this can be fixed tonight. He asked what needed to be done for this to be looked at carefully. What

happened here? The zoning officer's relationship with the board. What happened there? The purchaser of the property, does he have to the right to rely on what the zoning officer tells him? If the zoning officer tells him everything is fine then ok. Ben Hauser said the purchaser can have some sort of good faith reliance on the representation of the code officer. Frank said he thought that that was a very important question. Frank asked what the code officer said and Ben said he could not answer that question. He's not trying to take anybody's side, he's just trying to be clear sighted. Frank asked for Ben to explain. Ben said they first have to find out what the code officer's investigation yields on the property and that's where it stops at the moment. Mark Moffa said his other question about the relationship with the code enforcement officer and council is not something the attorney would head up, that's something that they, as a council, will have to look at.

Monica Mongillo, 732 Bellevue Ave., asked how much of the property is zoned industrial. Ben said it's not a large part of the borough. He said it is buyer beware. You need to know what you are buying. Carol showed the audience the zoning map that shows the zones.

MOTION BY BARBARA HEFFELFINGER TO AUTHORIZE MARK MOFFA AND HIS GROUP TO THOROUGHLY INVESTIGATE THE SITUATION AND REPORT BACK TO COUNCIL AND THE PUBLIC WITH THE FINDINGS. SECONDED BY JOE DUDASH. All ayes, motion carried. Steve Lowe asked when they can expect the results of the investigation. Mark said first they would schedule a meeting with the group and find out what happened,

MOTION BY JOHN STRATZ TO APPROVE THE MINUTES OF THE JUNE 3, 2019 COUNCIL MEETING. SECONDED BY LAURA GERMAIN. The vote was 5 ayes, 0 nos and 1 abstention (Beverly Wolfe). Motion carried.

MOTION BY BARBARA HEFFELFINGERTO APPROVE CORRECTIONS MADE TO THE MAY 20, 2019 WORK SESSION MEETING MINUTES. SECONDED BY LAURA GERMAIN. Steve Lowe asked what the corrections were. Marie Serota said it was names of people who spoke. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO PAY THE FOLLOWING INVOICES:

Independence Blue Cross Invoice #190607408063 dated 6/7/19 in the amount of \$5,022.82 for medical insurance installment

PECO invoice dated 6/3/19 in the amount of \$154.03 for electric service at 300 Bellevue Avenue

PECO invoice dated 6/4/19 in the amount of \$59.96 for gas service at 300 Bellevue Avenue

PECO invoice dated 6/7/19 in the amount of \$1,679.50 for street light electric

Gettysburg Benefits Administrators invoice dated 5/31/19 in the amount of \$174.93 for dental insurance installment

State Workers' Insurance Fund invoice dated 5/31/19 in the amount of \$1,780.00 for fire department workers' compensation insurance installment

SECONDED BY JOHN STRATZ. All ayes, motion carried.

President's Report

The Mayor was at the PSAB conference and brought back some great information as he always does. She will read it over and distribute copies to council. There is some information on the borough codes, grant opportunities, etc.

On the \$500,000 Multi-Modal grant that they have pending, they are still working closely with the RDA, Borough Engineer and the Bucks County Planning Commission to find out the best way to use it. They parlayed it into the next application that is going in. Jeff Darwak is going to do it; the deadline is July 31st.

Mayor's Report

At the PSAB conference they asked for our support for House Bill 1400 which would preempt PA municipalities from certain wireless facilities in your right of way that you couldn't control. Ben Hauser said the state law changed where they can put these small, pizza shaped boxes on any kind of utility pole, etc. that's in the public right-of-way. It will limit our ability to regulate them. Bob Winkler said you may want to adopt a resolution on this. Beverly said to get the information together and they will vote on it at the next meeting. Bob said he handed out literature and there is a delegate resolution packet. These are the resolutions that the State Mayor's Association and the PSAB is forwarding to the senate and the house. Governor Wolf was there and presented Restore PA. He would like support from you. He gave everyone a copy from APP&I. That would be electric and gas if you are interested. There's another one on the borough code and there are some changes in that. He has one extra copy of the borough's annual audit training and he gave it to Beverly.

Mark Moffa said they instructed Ben to draft a resolution to regulate the pizza boxes. Do they want him to do that? Bob said it's a lot of money in grants. Mark said that Bob said that the governor is seeking the municipalities to support it. Part of the bill is the severance tax. Mark asked Ben to draft a resolution. Ben said the recommendation is to oppose. Bob said some of the stuff on Restore PA is high speed internet access, storm preparedness and storm recovery, demolition and revitalization, green infrastructure, transportation and contaminated remediation.

Ben Hauser said that council would like his office to draft resolutions opposing resolution 1400 which opposes the cap on fees for installation of 5G and then to support the Restore PA initiative.

Engineer's Report

Carol Schuehler read her report which is attached. Since the grant for the lights at the Memorial Field is only for \$120,000. Carol needs to revise the grant application. She met with Ray Sizer to figure out what they can do. They are looking to do the lights around the ball fields and tot lot and path and will look to see if they can go any further with the grant funds.

COMMITTEE REPORTS:

Public Safety

Joe Dudash asked how they made out with the police interviews since he was sick and couldn't be there. Bob Winkler said there was a total of six but was narrowed down to three. One was outstanding. Bob told the Chief to get started on the background checks. There is one that could start because he is from this area. He lived in Penndel for a while.

Taddei Woods

Joe said he met with Bill Young on Saturday at the Taddei Woods and they reviewed the trees that need to come down on Holly Ave. With the markings, the tree is on our property. He loves the people in Pennel. They spray painted some extra trees. Bill Young said they are healthy trees. There are only five that have to come down, and weather permitting, he will try to do them this week. The homeowner was out there and he was very appreciative of council taking care of the trees. Carol Schuehler said on the topic of extra trees, stakes can be moved so when they put the stakes down they put paint down on either side of it so you will know.

Building & Maintenance

Beverly asked about the roof. Joe said it's done and that Barbara told them they it needed to be done in two days. It was done in two days. Barbara said they came back to put the flashing on. Joe said he saw the copper. It looks like he saved the copper snow stoppers. Beverly asked Joe about the windows. He said he took their questions and sent them to the contractors and is waiting to hear back.

Revitalization Task Force

Mark Moffa said apparently revitalization is going to be meeting again.

Finance/Admin

The Long Range Finance meeting did not occur this month for lack of a quorum. They will be meeting next month and they will be bringing Donna Caracappa our tax collector to the next meeting to look at all ways they can do tax collecting. He just finished his review of the employee handbook. He sent it to everyone about an hour before the meeting. There were comments from multiple people.

Beverly said recently she started listening to the recordings and doing some research on something and unless you are a bat and have super ears, there is stuff being said on the recording and you cannot figure out who it is and half of what they are saying. So she had two contractors come in and look at our sound system which is archaic to say the least. She knows this is the least of their problems but it kind of ties in. The criteria was very simple. Council people can't share a microphone and the actual sound system itself had to have the ability to have the recording taken directly off of it. Plus there would be pick up mics for the audience. If you went into voice to text software, you could actually understand everybody. They tried that with the recordings the way they have them. The software just gets confused. It was fine when she was reading into it but at a meeting, with people in the audience, it could not figure it out. She got two quotes on that. They were staggering. She had no idea that nothing that we had could be used. It's 25 plus years old. She got one quote of \$17,000.00 and another for \$22,000.00. That was to rewire, new speakers, everything. Nothing could be reused. Budgetary, not cool. So she looked at transcribing services. These are companies you can send your recordings to and they have people that transcribe them for you. They were averaging \$1.29 a minute to \$1.49 a minute. It would cost \$500.00 a month if you have two meetings a month. The whole point here is for the public record. The minutes from 2017, 2016 and before, are nothing, they're just a summary of what was said, not exactly what was said. So then you have to go back and listen to the audio and listen to it over and over to get every word. She just wanted to bring that up to the administrative committee that that's what she found out. To do it in voice to text service, \$1.29 a minute for a five day turn around. It's a \$1.49 for a two day turn around. That's with an actual person doing the transcribing. The automated system will have the same problem. Mark said you do get what you pay for. The automated service prints out a lot of garbage. Beverly said if they did it directly from a system

into a recording device and into the software, hypothetically, it should work. That's a lot of money to gamble on that. Mark said he knows this group has gotten very comfortable just having a discussion, Beverly said there would be one microphone for each council member and pick up mics in the audience and for the podium. It was making sure everything gets on the device. Make sure every voice is heard and not garbled. You should listen to it sometime. She knows who the person is talking and it is still sometimes difficult to hear it. Mark said maybe they should have all the meetings at the dais. Beverly said it was done this way to make it more informal. She listened to work sessions because they were the ones that were most lacking which is why she had to go back to the recordings for more detail. Marie can give her one from a council meeting during that period and she can let him know if it is better. Mark will check with the people his company uses for pricing. John Stratz, in trying to save money, what about getting two microphone stands and 30 foot cables? He can go up in the roof and disconnect this one speaker. It will leave the rest of the room fine. It will take care of getting rid of that one speaker and will take care of all of the problems he has. He can mic. this table and give him two days to figure out what kind of cable he needs. They can record directly from the board, directly into that machine. Beverly said she would meet John so he can show her what he's talking about. It really is important that they get these recordings. They need to look into other ways of transcribing because it is tedious.

Barbara Heffelfinger reminded council that budget is coming up. Start thinking about what you want and what you're not going to get. If you can, give her the description of what you want and the dollar amount.

Community Relations

Laura Germain said the website will officially be up in July. She sent them some news articles to go in the rotating space. If anyone has any other ideas, let her know. They are working on photos and will get the one down that nobody likes. She and Barbara talked about a site access plan meaning who should have access to it. They are taking off names because it should be transferrable to whoever so they thought it should be the community relations committee, the council president and the office here because they work full time. Community relations may not be reachable and there may be something that needs to go on right away. The people in the office need to update it right away. Anyone else on council can email or call any one of them.

Recreation Board

Laura Germain is going to put up a poll to see what movies residents want to see. The movie night is July 19th with rain date July 20. The last movie night was geared towards kids so this movie is more for adults and kids. The rec. board will be meeting Thursday. Beverly asked Laura about the website photos. Laura said she would reforward the dimensions for the site but it can't be the big cover ones at the very top. The big one was of commercial buildings which was boring. They want more things that look nice. Beverly asked if there's anything about storm water management for the residents. John Stratz said there are some gorgeous pictures of the Taddei Woods on Google. It's his vision of what he would like Taddei Woods to be again. Maybe it will inspire the residents to volunteer.

Streets

John Stratz said this Wednesday he will be attending another conference from DVRPC on PECO street light rates and regional street light bill updates. This webinar will cover rates, how to decipher your PECO bill and the PECO bill update process during the procurement process for the street lights. This will allow our bill to be downsized immediately.

There is an article in the May 26th Philadelphia Inquirer of lantern flies. It shows it as a giant moth. Danger lies in these little bugs. They are no bigger than his pinkie nail. Beverly said if you are on Facebook, go to Value Engineering's Facebook page to view pictures.

Old Business

Discussion on letter from the BCPC regarding potential bike infrastructure improvements for Hulmeville Road (Bellevue Ave.)

Beverly spoke to a gentleman from the DVRPC. We have a lot of questions about parking. And it is Bellevue Ave. they are talking about. He assured her it was going to be done by Penndot at no cost to us. Penndot is going to do a layout of a plan of where they want to put them and bring it before council so they can tell them some people have no off-street parking so you have to consider that. Hulmeville Borough is already committed to it. Plus she thinks it is part of the overall walkability which is everything they want to do eventually. All this would be is they want our permission that we would consider putting in the bike path. Penndot has to bring it to us before they do anything because there might be certain portions of Bellevue Ave. where people park that have no off-street parking. We have to take that into consideration. Since the DVRPC is involved, they are going to come back to us with a plan and we tell them yes, no, we can't have it here, whatever. Mark Moffa said one of the things on there was that it didn't just involve a traditional bike lane but something they called sharrows. Beverly said it might not necessarily be where we want it or where it's needed. This is Penndot. They don't know us like we do. When they come with the plan, we can already have it scoped out. We just have to let them know we are interested and we would like Penndot to take a look and bring it to us.

MOTION BY MARK MOFFA TO LEARN MORE ABOUT THE BIKE INFRASTRUCTURE IMPROVEMENTS. SECONDED BY LAURA GERMAIN. John Stratz said in viewing these bike lanes in other municipalities, especially in Philadelphia, there is absolutely no law against parking in a bike lane, so parking is not really affected. Beverly said she would like to make absolutely sure and would like Penndot to show us. Amanda Mieluch asked if this would help with any flooding that we get. Beverly said it is just painting lines on a bike lane. Mike Smith said you might want to check the new little law that is coming out. Beverly asked if it is coming out or is it a law. Mike said it was introduced in the PA House – bike lane protected by car parking. Mike said you can't park in the bike lane. That's what this is saying. Mark Moffa said a bike lane protected by car parking is a way of doing a bike lane. That's not what they've been shown in the pictures. All ayes, motion carried.

New Business

MOTION BY JOHN STRATZ TO AUTHORIZE BOROUGH ENGINEER TO PREPARE AND SUBMIT ARLE GRANT APPLICATION DUE 07/01/19 AS PREVIOUSLY DESCRIBED IN THE ENGINEER'S REPORT. SECONDED BY LAURA GERMAIN. Beverly said this is for the beacon out on Route 1 for the fire company to come out. The one they tried to get before. Mike Smith said, not that he's against the light but he went to the rescue squad and watched them. The light blinks for so long then when it finally changes, nobody stops. He's also noticed that the rescue squad, he's not saying the fire company, the rescue squad is so used to pulling out of there that they don't change the light. He comes that way every day and he oblivious to that light because it is always blinking. Just something to think about. All ayes, motion carried.

MOTION BY MARK MOFFA TO AUTHORIZE BOROUGH ENGINEER TO SURVEY, DESIGN AND PREPARE PERMIT APPLICATIONS FOR REPLACEMENT OF THE SEWER PIPE

ALONG NESHAMINY CREEK AND AUTHORIZE A HABITAT ASSESSMENT FOR THE (THREATENED SPECIES) EASTERN REDBELLY TURTLE AS REQUIRED BY THE PA FISH AND BOAT COMMISSION NOT TO EXCEED \$25,000.00 TO BE PAID FROM THE SEWER CAPITAL FUND. SECONDED BY JOE DUDASH. Joe Dudash asked Carol how the PA Fish and Boat Commission got dragged into it. Carol said they are required twice over to do the PNDI search thing, once with the Act 537 and then they have to do it again with the permitting for design and construction of the sewer line. When you do the PNDI search you put the area on a map and say this is the area we're working in and they send it out to different agencies including Fish and Boat. They came back immediately and they had a species of concern in that area. We sent them photos and more information and we just got the response back and we have a threatened species called the Eastern Red Bellied Turtle that may have a nesting habitat in the area. What we have to do then is hire a biologist who specializes in this to go look at the potential nesting area so they can tell us if it is a potential nesting area and if it is, what we do. They were discussing other projects when this came up in the local area. What it meant was they could not work in the potential habitat area during certain months of the year. If they do find a potential habitat, they just have to avoid it at certain times of the year. Joe Dudash asked if they needed a special permit because they did the study in 2011 for the natural areas inventory update and a turtle was in there. Two suggestions he got was since the whole thing is with the sewer pipeline, and he knows we're in MS4, but we can have back up problems so technically, we're SSO in the turtle area. Carol said we don't know if it is a turtle area until they do the investigation. Joe said they don't need to do an investigation because he spoke to an environmental lawyer. You can get a special permit saying here's the options. We're doing the sewer line and the lawyer gave him two ways to get out of it. One, you can say we either cut the flow of SSO which would be to get rid of Middletown and leave the pipe the way it is which is ten or you make the pipe bigger. You can get a special permit because of the fact that the Neshaminy is rated as a pollution type area. Carol asked Joe to send her the information. Joe said the two things are in October they would have to do the construction and in May. It wouldn't affect the nesting because the turtles are hatched then. The other thing is the guy that did the study for the Bucks County Commissioners was Marlin Corn and he is up in the Churchville Nature Center. He is the only expert with this turtle. So we can find out if there is a special permit and claim that we are a SSO and have been dumping there which can affect the nesting areas and if we have to, get this guy in here and get it over with because he knows what he is looking for. Carol said she has the name of another firm who does these locally as well. Special permit sounds interesting and if we can do that it's less expensively than having the biologist go out. Her suspicion is the only wetlands we are dealing with out there is Mill Race. It's going to be a matter of having someone come out and look at Mill Race and tell us if it is a habitat or not. She thinks that if we go his route and we have a problem out there, it's probably not the most efficient path to be in. Joe asked how does Adventureland continue if this is such a high priority turtle area. So technically, they should be shut down. Their hatching season is from July to October then they have a late one from October until May. This guy is approved by the commissioners and the Fish and Boat Commission. Beverly asked what the cost of the permit was for the replacement of the pipe, the survey design. Carol said the whole thing, soup to nuts is \$25,000.00. That should include the Red Bellied Turtle biologist which would be a few thousand out of that \$25,000.00. Carol said they need permitted plans to go after additional funding. Steve Lowe said you are paying this from the sewer capital fund. Beverly told him that was the next motion. Mike Smith said even though the line needs to be replaced and he said he trusts Carol, he has a difference of opinion on what to do down there and he trusts her but if we do not get Bucks County Water & Sewer to straighten out their end of the receptor, it doesn't matter if we put a big four foot tall pipe down there, we're still going to be backed up because the interceptor will not accept it. During surcharge, everything backs up. Go down to manhole 45. He'll tell you exactly where it is. During a rain event, pull the manhole and the water is

going back up the pipe. It doesn't matter what you put there. You can put in a 48 inch pipe, two 24 inch pipes, the interceptor is not going to accept it. Why are we spending all that money before we have Bucks County Water & Sewer straighten it out? Carol said what's happening right now is that most of our SSO's are the initial surge coming through from our system with a 12 inch line and an 8 inch line going in to this manhole and a really flat 8 inch line leaving. That's happening a lot. That's manhole 50. She's had some arguments herself with the people associated with the interceptor that when we have a backup below manhole 50, she also thinks that's evidence that they have a problem in their line that is not easily solved by us, it has to be solved by them. They are working on their line. They are doing things to their line too. They are upsizing portions of their line, they're lining portions of their line and each of the other contributing municipalities, like Pennedel, is working on reducing the I & I into the Neshaminy Interceptor. They are working on their part and what this is going to resolve is when our surge comes through to manhole 50 and pops that lid, as part of her design, she is intending water tight lids coming up the system. So there's going to be more head supporting us pushing through to the Neshaminy Interceptor. Mike Smith said the problem that he sees is that years ago he went over to Bensalem and followed the interceptor coming out of Bensalem and it looked like Niagara Falls coming out of there. Everything meets on our side of the Neshaminy Creek. Until that's curtailed over there, we are going to have this problem. He has a feeling that if we keep backing up, we're going to back up to manhole 51. He knows it's quite a ways up the hill but the possibility is there. He thinks they need to put in a secondary pipe alongside of it. It will save us money with the transfer pump and pumping all of that while this line is shut down. Carol said the benefit is if we go down in the same trench, it's all pre-dug so we don't have to worry about a rock clause in the contract, it's all just nice, soft fill. They will be able to dig down into the existing trench and replace that line. In her initial estimate she assumed they will replace the manholes also. The one she popped was in surprisingly good condition for the age of a pre-cast. But while we are down there, we update those structures too. After looking at it, she did take that suggestion into account that it would be better to do a parallel pipe. The problem is a parallel pipe will be virgin dirt we are digging in and it's probably outside the easement we are digging in and we would need more easement. We don't know what's down there whereas with an existing trench, we know they've dug that before and it's easy to dig again. She thinks the best bang for our buck is going to be to replace that line. Mike Smith said it was suggested by Fred Ebert to go right alongside the pipe we have and that's why he's bringing it up. Carol said this is why she thinks it's not. The pipe we have, we know it's been dug down. It's diggable and we know that's easy. We know we're not dealing with bedrock at this point because whoever put that line in in the 1950's or 60's, dealt with all of that so that takes all that cost away from us. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO CREATE A LINE IN THE SEWER CAPITAL BUDGET USING THE DCED GUIDELINES IN ORDER TO ADD THAT TO FUND FOR THE AFOREMENTIONED PROJECT. SECONDED BY MARK MOFFA. Laura Germain asked Beverly to explain how it would amend the budget because it would be sewer capital. There are a lot of specific rules governing it. Beverly said according to the Fiscal Management Handbook by the DCED, there are guidelines that boroughs can use to amend a budget and are under specific conditions. This plan in the budget should be carried out to provide the service within your revenue limitations. Changes are usually only necessary under conditions such as: number 1, an emergency, situation creates new needs not apparent when the budget was originally approved. This is something we had no crystal ball to anticipate, this expenditure and part of the motion is using the DCED guidelines. We also had the solicitor's office take a look at it to make sure. We're going to add in that the DCED tells you how you can construct an account. So they have to create a new line for this expense and it will be done per the guidelines of the DCED. Its pages 25 and 26 out of the Fiscal Management Handbook. Betsey

Allegar asked if it was going to raise their \$639.00 sewer bill per quarter. Beverly said it would not. This is from the reserves in the sewer capital fund and they are more than enough to cover this anticipated expense. All ayes, motion carried.

Recreation Field/Spring Valley Fence removal

Beverly said this has been a topic of conversation between herself, Barbara Heffelfinger and Paul Kopera who is the new Parks and Rec director who replaced Debbie Lamanna at Middletown. The Spring Valley Project which includes Penndel Borough is the farm property adjacent to the Memorial Field. They have a very ambitious plan for that property which includes walking trails, an amphitheater, improved traffic control and a wooded low land where you can have a bird watching roost. This is phase one. Because of the walking trails they have to take down the Memorial Field fence from Dalola Ave. to the gap in the fence behind the basketball court and clean out all the invasive species. He wants to kick this project off because it has been put on hold for a while since Debbie left. He's going to take down the fence, the trees and all the invasive species. We put in a grant to do most of that work. This is at no charge to Penndel Borough. If we get the grant we can use some of that money to fix the other side. Joe Dudash asked if they were taking down the entire fence. Beverly said from Dalola Ave. to the gap behind the basketball court. Steve Lowe asked Beverly where the house was and she showed him on the map. Joe Dudash asked how that was going to keep the riff raff out. Beverly said this is phase one. They are using grants and will start work immediately with walking trails. They have live in staff down there. This is a multi-year project. It's going to be made into a complex. The benefit to these folks in the end is that there is going to be an amphitheater, they are going to fix the traffic problems on Dalola with a little round-a-bout, traffic softening stuff, widening it, additional parking, a soft walkway with some storm water management coming through another property from Bellevue and then Walnut St. is going to become two way so that everything isn't flowing out onto Dalola to that horrible intersection at Hulmeville. They are going to allow Penndel and the resident to have access to it at any time. They will allow us, if we ask, to host a special event. If we would like to use the amphitheater or the events green orchard which is near the concession stand pavilion and restrooms you need for a special event. They will allow us to use the parking if there are tournaments or if we have something going on at the Memorial Field. Joe Dudash asked if they wanted the ball fields. Beverly said they are interested in Penndel keeping it what we want it to be recreational on our property. Whatever we want it to be. They did not want to tell us that we can't have ball fields. Mark Moffa said part of this is a pedestrian bridge and walkway to Rumpf Ave. That gives us a direct access. Mark Moffa said there is a section that is a "romantic embodiment of Bucks County Farm Meadow". Its right next to the bird watching roost. Barbara Heffelfinger said this is the master plan done by Middletown. It provides for everything they are going to do down there. Everything was purchased with open space funds and \$80,000 from a donor. \$225,000.00 was our open space grant funds and the rest was Middletown's and we purchased Spring Valley Farm with this. It's very historical. It's very possible it should have been on the National Register. Part of the agreement was if we help them purchase it that we would have access to this property for the uses that are provided. It would be no different for us than it would be for Middletown. We are as much a part of this plan as Middletown. Laura asked if the power point would be good for the new section of the newsletter. Beverly said absolutely. Monica Mongillo asked who would be responsible for it if there are any problems. Barbara said it will be Middletown's problem. The original thought was to take the walking trails from Delaware Park through Taddei Woods to Spring Valley Farm and out to the creek. There is a caretaker on the property who will be responsible for maintaining it. Joe Dudash asked if they were going to clean up the trail and Barbara said they are getting to that. Beverly asked how council felt about them taking down the fence. Barbara said they actually agreed to that years ago. She said they have to put it out to bid tomorrow and that's why they are coming for our

approval. Mike Smith asked if they are rebuilding the fence from the basketball court to the backstop of the little field also. Barbara said it's from Dalola to where the batting cage is. Mike Smith said there is a retaining wall there. He asked if it was going to be protected once the fence comes down. Beverly asked what it was protecting. Steve Lowe said it is a 7 – 8 foot drop, pretty close to the old red barn that was there. It's a big drop off because that's where he broke his arm. He asked who becomes responsible if someone gets injured. Barbara said Middletown and Steve said to make sure you get it in writing. Mike Smith said there is a dugout there. Beverly said the president of the Pennel Wildcats already approved this. Mike asked if they realized that it was going to be open now. Beverly asked how council felt if they authorized it and got something in writing for the retaining wall and drop and who is responsible. Ben Hauser asked if the retaining wall and drop are located in Pennel or Middletown Township. It is located in Pennel. Barbara said she has the cooperation agreement and everything. The property is titled to Middletown Township. We got access by putting money in. Beverly will talk to the Parks and Rec director who she is sure will put everything in writing. She asked Ben Hauser if they could make the motion contingent upon getting it in writing from Middletown. Ben Hauser said it looks like it has downgrading behind the dugout. You can make that motion. The question would be if some person would go down this downgrade and injure themselves on borough property that may require an additional inspection by the Borough and evaluation under the Tort Claims Act and Recreational Use of Land and Water Act in which you get some immunity shields. Perhaps if you can get Middletown to indemnify you for those things and he doesn't know why they would. Mike Smith said any code will for any drop off has railings. You have to have something there. Whether you ask them to leave that section of fence there that might be your option. Ben Hauser asked if that fence prevents any injury now. Steve Lowe said there is a drop off and if you don't think there's any concern then there's no concern. Forty years from now it could come back and bite you. He said it's by the field and a ball rolls and a kids goes to get it and falls down, then you have a parent knocking at the door saying why didn't you have a fence there. Ben Hauser asked if anyone knew if that was natural grading or did someone from the borough put that there. Bob Winkler said there was concrete dumped there from Bellevue Ave. curbs. Mark Moffa said they can do it on the condition that Middletown mitigate the drop off.

MOTION BY MARK MOFFA TO APPROVE THE REMOVAL OF THE FENCE UNDER THE CONDITION THAT MIDDLETOWN AGREES TO MITIGATE THE DROP OFF PRIOR TO THE REMOVAL OF THE FENCE. SECONDED BY JOE DUDASH. All ayes, motion carried. Beverly said she would talk to Paul tomorrow and everyone will get an email on the entire discussion.

Persons to be heard

Frank O'Donnell, 28 W. Lincoln Hwy., thought the whole process was very vague. The most critical person is the zoning officer. Nobody has talked to the guy and nobody knows what's going on. A statement needs to be taken from him. He asked who was going to take the statement from him. Ben Hauser said that he and Beverly Wolfe would be having a discussion with Mr. Italia tomorrow, to understand the situation on the ground. He is our eyes and ears officially. Frank said the question was not being answered. He asked who would be taking the statement. Ben Hauser said he is not law enforcement. Frank said he is a contractor of the township and you want to bring him in and ask him what happened in writing so he can't deny it. Beverly said they would be taking notes on the whole thing producing a document on what was said. Frank said there are some critical parts to this statement. One is he provided an application to this trucking company without mentioning trucking. That's his understanding. Number two is why no one on the board knew. He would be incensed if he was the president, that the whole program of rehabilitation and you haven't even talked to him, not even today. He would not be working for the township if he was working for him if he was in your position. A

detailed statement is very important. Beverly said everybody up here wants to know what he has to say about this entire thing. Frank said Beverly has been very nice to them. Maybe he's been a little hard but that's his training. He's heard that building is being subleased. Beverly said that's a new one that she didn't hear that. Frank said he just means the building. He doesn't know if that is true. He got that from another source. He would like for the public to see from a transparent situation who said what to who. He believes that Beverly has been forthright with them and he is not accusing anybody here but that the public has every right to know what this guy said to who. Beverly said her heart goes out to them and the property owners. Frank said there is also due process. This guy bought a piece of property and if he's in the right, what can we do. Beverly said they are going to find out the facts.

MOTION BY BARBARA HEFFELFINGER TO AUTHORIZE THE DELAWARE VALLEY FACULTY AND STUDENTS TO HAVE SIGHT VISITS TO TADDEI WOODS. SECONDED BY LAURA GERMAIN. All ayes, motion carried.

Mike Smith, 127 Dehaven Ave., asked if any of council takes a ride around to see how many street lights are out. He said to John Stratz that he's the streets guy and asked if he does that. John Stratz said no, that street light outages are supposed to be reported to Karen. Mike said all of the streets people before him drove around and in fact, Bob even did it. Mike said to John that he hasn't done it. He comes here talking about ELCON doing all this stuff. Mike said why don't you spend a little time here and on the storm water system. Mike asked John if he walks around and looks at the storm sewers. John said yes. Mike said obviously he doesn't and that he should look at the storm sewer in front of his house and see why that's not flowing storm water, why it fills up with water that flows over the top and goes down to the next one. Mike said it is clogged. You need to get it jetted. We might as well do all your work. For two months the one in front of his house has been like that. Beverly asked him if he reported it and Mike said he is not reporting it. He knows what he used to do. Why can't John. He talks about going over to Falls Township for ELCON.

MOTION BY JOHN STRATZ TO PUBLISH NOTICE FOR ACT 537 PLAN. SECONDED BY MARK MOFFA. Carol said to advertise to start the 30 day comment period on the Act 537 Plan. Then she will give council a presentation in August. All ayes, motion carried.

Mark Moffa asked if they could get Mike Italia to come to the next council meeting. Beverly said absolutely.

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

Submitted by: _____
Marie Serota, Secretary/Treasurer