

COUNCIL MEETING

November 4, 2019

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

Mayor Robert Winkler swore in Patrolman Daniel Winter.

Present at the meeting

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

Also present

Dave Truelove, Solicitor, Hill Wallack
Paul Callan, Officer in Charge
Carol Schuehler, Value Engineering
Mike Italia, Barry Isett & Associates
Marie Serota, Borough Secretary/Treasurer

Announcements - None

Consent items:

MOTION BY BARBARA HEFFELFINGER TO APPROVE OCTOBER 21, 2019, WORK SESSION, OCTOBER 15, 2019 BUDGET WORK SESSION, OCTOBER 22, 2019 BUDGET WORK SESSION, OCTOBER 28, 2019 BUDGET WORK SESSION MINUTES AND THE FOLLOWING BILLS FOR THE MONTH OF OCTOBER 2019.

General Fund	\$ 39,592.18
Fire Fund	\$ 139.13
Refuse Fund	\$ 526.40
Sewer Fund	\$ 37,995.66
Capital Reserve Fund	\$ 76.50
Sewer Capital Fund	\$ 21,032.39
Liquid Fuel Fund	\$ 484.18
Escrow Fund	\$ 11,020.50
Payroll Fund	\$ 576.53

Payroll

General Fund	\$23,727.89
Sewer Fund	\$ 3,325.87
Refuse Fund	<u>\$ 554.31</u>
Total	\$27,608.07

Escrow Bills:

Mill Creek 2:	
Value Engineering	\$3,503.25
Adams SD:	
Hill Wallack	\$ 300.00
Schoolhouse Court:	
Hill Wallack	\$1,453.00
Value Engineering:	\$2,230.50
Auto Zone:	
Hill Wallack	\$ 720.00
Value Engineering	\$2,805.00
Petty Cash	\$ 8.75

Pre-paid Checks

Check #12887 dated 10/11/19 made out to Volunteer Firefighters' Relief Association in the amount of \$13,673.12 for 2019 volunteer fire relief

Check #12888 dated 10/15/19 made out to Comcast in the amount of \$175.38 for police department internet and voice services

Check #905 dated 10/28/19 made out to PECO in the amount of \$1,692.57 for street lighting electric

SECONDED BY JOHN STRATZ. All ayes, motion carried.

President's report

No report.

Mayor's Report

Mayor Robert Winkler read his report which is on file in the secretary's office.

Solicitor's Report

Dave Truelove wanted to bring this to everyone's attention and will ask for a council motion. After the last meeting his office was notified as well as on behalf of Pennel and other municipalities they represent that there is a class action opioid litigation that has been filed in the northern district of Ohio in federal court on behalf of counties and municipalities. The purpose of this is very similar to years back litigation that was filed on behalf of states, municipalities and counties to recover money basically for damages or any kind of cost that was incurred like as was tobacco only this is opioids. Tragically, you hear about almost every month in the police report about an opioid overdose or the use of Narcan, something like that. What has happened is that a class action filed on behalf of all municipalities, counties, etc. It is beneficial to consolidate because if you operate separately you have to incur the filing fees and expenses on your own as opposed to as a group. He doesn't have any idea right now what the potential recovery is. The deadline for opting out is November 22nd. It is his strong recommendation that you participate. He doesn't know what you will recover but you will recover something. It is based in part on where you are located. Sadly, in Southeastern PA the opioid problems are higher than the average in other places in the country. It's not the highest but it is high enough. The cost would be police admin staffing, Narcan, things of that nature.

Whatever you get and it's certainly the council's discretion to do what they want to do with it but it something that reflects what the costs of the opioids has done to entities. There are many defendants: Purdue (until they went bankrupt), Cephalon, Endo, Mallinckrodt, Actavis, Janssen, McKesson, Cardinal, AmerisourceBergen, CVS, Rite-Aid, Walgreens and Wal-Mart. Some are producers and some are distributors. So, there are manufacturers, distributors, pharmacies and some physicians who are involved because they were hired by many of the pharmaceutical companies years ago to puff up their PR so to speak. It is his recommendation that you have a motion.

Steve Lowe, Penndel Fire Co., asked if that would be open to fire departments and ambulance personnel. Dave said they haven't indicated that so his guess is no but that doesn't mean there isn't going to be a separate class for that and that is actually a good question. But it depends on the relationship between the fire department and those departments and the municipality. Somewhere down the road there may be a question of that and he will make a note of that. Some fire departments are directly under the umbrella of the municipality, they are employees of them. He will make sure that question is part of the inquiry when they go into that.

George Krushauskas, 510 Dehaven Ave., asked if it is an automatic win. Dave said yes and the question is how much not if. George asked if there was a chance of a loss. Dave said he doesn't see that happening. He said the advantage is consolidation because they want to get through this quickly. This is not saying that Penndel's claims are not worthy. They certainly are. A law firm to take on an entity as small as Penndel by itself would not be economically feasible.

MOTION BY MARK MOFFA TO NOTIFY CLASS COUNSEL AND/OR REPRESENTATIVES THAT PENNDEL BOROUGH WILL OPT IN TO THE OPIOID LITIGATION CLASS ACTION FILED IN THE US DISTRICT COURT, NORTHERN DISTRICT OF OHIO. SECONDED BY BARBARA HEFFELFINGER. All ayes, motion carried.

Dave Truelove said they had an executive session that started at 6:45 tonight. The council members that were present were Mr. Dudash, Mrs. Wolfe, Mrs. Heffelfinger, Mr. Stratz and Mrs. Germain. It was related to litigation, personnel, which was discussed at the executive session and ended about 7:20 p.m.

Engineer's Report

Carol Schuehler read her report which is attached.

Chief's Report

Officer in Charge Paul Callan read the report which is on file in the secretary's office.

Zoning/Code Enforcement Report

Mike Italia read his report which is on file in the secretary's office.

Dave Truelove asked in terms of what they passed this year in updated codes, was it the uniform construction code. Mike said yes. Any municipality has to have a uniform construction code in place. They shall establish and appoint a code order of appeals; it is similar to a zoning hearing board. It hears appeals on alleged code violations. It is a separate board but it has a similar function. Under the Pennsylvania Code UCC regulations, we have to have a code court of appeals. It's his understanding they haven't had a standing board recently or better. He is announcing this because they need people to serve on the code order of appeals. Ben Hauser will help get us through this. We need to see who meets the technical experience required and should be no fewer than three and no more than seven. He asked Mike if that was about the

right number and probably an alternate or two and Mike said yes. It doesn't have to be everybody on there but it helps if there was somebody who is licensed or trained as an architect or has experience in the construction industry or has experience as an inspector or plan reviewer. Members of council cannot be on it. We have to get people interested in this and establish a resolution or ordinance, whichever is the best way to go. They may not have to serve very often. Another municipality that he represents, they probably met four times in the last three or four years. They don't meet a lot but when they do it is usually on something very important. Mike Italia said if you are unable to fulfill it, you can have a regional agreement with Middletown or another municipality to help you out. Dave said to contact Middletown and the other boroughs to see what they do or maybe all work together if there isn't enough interest here. Beverly asked about the people who are on the board of appeals, can they serve on the planning commission or the zoning hearing board. Mike and Dave both thought they could not. Dave said members of the municipal's governing body and code administration cannot serve. You can also appoint somebody on the board who is a qualified person who resides outside the municipality if you cannot find a person within the municipality to satisfy those requirements. That's happened in other places as well. Zoning and planning cannot serve. Mike said it would create a conflict in his opinion. Beverly said they would post it to see if there is anyone with the required expertise who is not currently serving on something else. If not, they will use Mike Italia's suggestion of contacting neighboring municipalities and enter some kind of agreement with them.

Finance/Administration/Cable

Mark Moffa said mostly the council president has been working on the budget and they have been touching base with various questions and they have a meeting coming up. They are aiming at a November 18th introduction on the budget. Beverly said if they can get a preliminary done, they might call a special meeting sooner than that.

Insurance/Pensions

Mark Moffa said he met with the broker and they are working on numbers for next year. They are anticipating an approximately 4% increase but need to find out exactly. Also, for insurance they are looking into requirements for our snowplowing contractor. We have a guideline.

Public Safety

Joe Dudash had no report. Barbara Heffelfinger said they are proud to have that new young man and the police have done a fantastic job.

Community Development/Open Space

Barbara Heffelfinger said they submitted a grant to PECO Green Region through the Natural Lands Institute for Taddei Woods reclamation. The maximum amount that they will give you is \$10,000.00. Any amount of money that we get, we do have to match it. We passed a resolution saying we would match the grant if we were warded whatever amount. Hopefully we can put that to good use, to clean the swale or cut down on the water, put the trail back in, whatever. That was due on Halloween. Beverly said they are waiting for several grant announcements within the next 35-40 days.

Ordinance

Mark Moffa said the professionals have been working fast and furious on the TOD ordinance. He is not sure where we are on it as he didn't have a chance to look at all of the emails.

Streets & Sewers

John Stratz said everything has been hammered out with the street lights and we will have them in a few more months. The sewer committee met last week with Carol and Beverly. We have problems on Bellevue Ave. that they wish to get addressed before Bellevue Ave. gets redone.

Refuse

Joe Dudash had no report.

Buildings & Maintenance

Joe Dudash said the windows are in but we have two windows that have problems and the manufacturer is coming out to replace them. They are looking at a new sound system with the help of Beverly's husband going through all of the contractors they we brought in to look at it. Beverly said they are close and will be done by the end of the year because of the grant requirements. Beverly thanked Joe for getting all of the quotes from the local guys.

Community Relations

Laura Germain said she is working on the next newsletter that should come out late January, early February. She is planning events for 2020. One thing she is looking into is partnering with Bucks County Community College, one of the colleges she teaches at to try to get some interns to do some cool stuff with our website, take some pictures, video tours, that sort of thing. Talking to professors they are going to try to offer that in their classes for the next spring semester. Beverly said she reached out to the company to try to sit down and have them teach her how to use the website.

Recreation Board

Laura Germain reported that they did not have a meeting last month.

Long Range Finance

Mark Moffa reported they have not met since the last council meeting but he did forward the questions that the Long Range Finance Committee came up with at the last meeting for Keystone to address when it addresses this board on November 18th. He is making sure they come with a little more information then they had when they presented to Long Range Finance. As a reminder to everyone, Keystone will be here on November 18th.

Revitalization Task Force

Mark Moffa reported that they have not met since their last meeting. Beverly Wolfe said they are waiting for the TOD.

New Business

MOTION BY JOHN STRATZ TO ADOPT RESOLUTION #2019-32 REQUESTING A PA SMALL WATER & SEWER PROGRAM GRANT OF \$205,070.00 FROM THE COMMONWEALTH FINANCING AUTHORITY TO BE USED FOR UPGRADING APPROXIMATELY 1,425 LF OF EXISTING UNDERSIZED SANITARY SEWER LINE. SECONDED BY LAURA GERMAIN. All ayes, motion carried.

Beverly Wolfe said everyone should have received the quotes by email. Mark Moffa asked if Beverly had a recommendation. KE Seifert is at \$150.00 an hour for snowplowing. Burcz Landscaping is \$147.00 an hour. Late this afternoon they were still waiting for an insurance quotation from their agent on the certificate requirements. The third one was from Grimmer Construction, LLC and they are \$143.00 per hour. They have agreed to abide and provide us with the correct certificate of insurance. We laid out what our insurance carrier said. The

standard set by the previous contractor. Mark asked if she was thinking Grimmer. Barbara Heffelfinger said they got a notice from Burcz that they were not notified of the dollar amount on the umbrella so they couldn't get it from their agent. Barbara asked if they could delay this until the work session. Beverly said she talked to the agent today and he was asking questions about the standards that we received from our insurance agent. She gave them to him and he was going to try very hard to see what he could do so that Kevin could revise his quote for this evening. It's expensive so it would still put him at the minimum of that if not higher per truck. Grimmer provided her with a list of who they did work for before and are at \$143.00 per hour per truck with the salt provided by the borough which we get from Middletown. Beverly said for Grimmer Construction the truck for just salting is \$143.00 per hour per truck no salt included, salt provided by Pennel Borough. Shoveling is \$60.00 per hour per man. Snow blowing is \$75.00 per hour per man. ATV with plow is \$90.00. Sidewalk salt is \$42.00 a bag. Backhoe for snow removal if necessary is \$190.00 per hour per machine. Skid steer is \$175.00 per hour per machine. Front end loader \$280.00 per hour per machine. They will conform to our requirements. Burcz Landscaping which we don't have the insurance but that is \$147.00 per man hour per truck. Shovel rates were \$82.00 per man hour. Salting walkways is \$38.00 per bag. Truck with salt spreader per man hour per truck is \$147.00. Pennel Borough will provide salt through Middletown. If backhoe needed, \$197.00 per man hour per machine. KE Seifert plow truck at a rate of \$150.00 per man hour per truck. Shovel rates are \$85.00 per man hour. Salt for the walks are \$45.00 per bag. Backhoe with operator \$197.00 per man hour per machine. Dump truck with salt spreader and plow is \$150.00 per hour plus cost of salt at \$120.00 per ton. In addition, front end wheel loader at \$310.00 per man hour. Joe Dudash asked if that was all the bidders and Beverly said it was all they got. Beverly said this is a record for us getting quotations. Mark wanted to make the motion for Grimmer. Beverly asked if they wanted to entertain the third one to come back to them with whether they can meet our insurance requirements or not at the quote that they made. John Stratz said yes. Mark Moffa said he wanted to make the motion for Grimmer.

MOTION BY MARK MOFFA TO ACCEPT THE QUOTATION FROM GRIMMER CONSTRUCTION, LLC AS PREVIOUSLY READ INTO THE RECORD. AWARD THE SNOW PLOWING BID FOR THE 2019-2020 SEASON. SECONDED BY JOE DUDASH.

Mark said it's November 4th and he doesn't want to wait any longer because they are already predicting snow. John Stratz said he personally would like to wait for the work session just to give this person time in deference to somebody living in the borough and being very aware of the borough streets as opposed to he doesn't know where Grimmer is from. Mark said he is from Pennel. Beverly said they have an office on Lincoln Hwy. next to Paul's Pizza. Laura Germain said Grimmer is the only one requiring that we include salt. Beverly said no, we usually purchase salt from Middletown Township. Laura said even though it doesn't say it on the contract. Beverly said Grimmer's says salt provided by Pennel Borough. Laura said the Seifert one says salt for the walks, \$45.00 per bag. Beverly said they are talking about two different salts. Laura asked if we were buying salt for all of them and Beverly said they would. The road salt is what we provide from Middletown. The salt for the walkways is the bagged stuff. Laura said she didn't see anything about Grimmer saying that. Beverly said sidewalk salt \$42.00 a bag. Bob Winkler said Garden State just sent him a quote for salt at \$9.00 a bag. Beverly asked if we would have to pick it up or if it is delivered. Bob said it is delivered. Beverly said they should look into it. Barbara said she thinks they should let Kevin Burcz get his umbrella insurance in because they did not have a dollar amount and he did not get it to us. Beverly said they sent it out last week to all of them. Barbara said he didn't get it.

Tom Sodano, 126 W. Woodland Ave., said he is curious, not being a member of the democratic party, which everyone up there is, when these bids were put out was there any consideration to whether or not these contractors are paying fair labor rates? They are charging us \$60.00 an hour for someone with a shovel. Wouldn't we be curious whether or not they're paying their labors some fair rate out of that \$60.00? Barbara Heffelfinger said they hired Burcz for the Heritage Society to do the planters and the memorial at \$36.50 an hour. That's what he's charging them but they're not a borough. Tom Sodano said many of the democratic members and constituents are union members. They are not working for \$7.25 an hour. Dave Truelove said we don't have an ordinance that indicates certain requirements and the contractors wouldn't be subject to prevailing wage or anything like that. Dave Truelove said Tom's point was well taken in terms of fair wage. What that fair wage is, is they have to report anyone they employ. Tom asked Beverly if they ever asked Seifert that question. Mark asked have we asked that question of any contractor? Beverly said not that she is aware of. Mark asked Dave if he knew of any municipalities that require certain wages for their contractors. Dave said he has not seen that. Usually contractors have to comply with federal and state laws. If you want to make that a condition to provide proof of at least paying minimum wage, it's entirely up to you. Beverly said we don't have anything in place right now requiring that.

Steve Lowe, 409 Cynthia Ave., said he would like council to define a bag of rock salt. He can go to Acme and Shoprite and buy a 10lb. bag. He can go to the hardware store and buy a 50lb. bag. He can go to Davis Feed Mill and buy 80lb. bags. When you say spread a bag of salt, he thinks you need to be a little more definitive. Beverly asked Bob what size bags he was talking about and he said 80lb. bags. That's what the streets committee used to buy. He thinks there is still a couple down at the sewer plant. Beverly said if we go to Garden State to buy it, we want to make sure it is apples to apples. All ayes, motion carried.

Resolution #2019-33

Dave Truelove said what's occurring all over the Commonwealth, municipalities, school districts, authorities etc., is that you have entities that are seeking information. They have a right to do it but it is very time consuming and Marie and Karen can attest to this, is they get these requests and because of the time frame, and their office assists with this in crafting responses, even if you get the extensions, it takes a lot of time to get the information, put it together, it takes away from all the other stuff they have to do. In one of the paragraphs it says a current trend of for-profit, non-constituent requests of governmental and public agencies for this and other information has resulted in countless hours of labor and preparation by these agencies to fill requests designed to data-mine public records, to be repackaged and sold for profit. Its data gathering for their benefit which is not technically illegal. The resolution is to petition state representative, senator, even the governor and lieutenant governor to safeguard the financial and personal safety of our citizens by amending Pennsylvania's open records laws to exclude the personal information or our agency employees and to allow for a fair, recuperative fee to be charged for labor time spend on non-constituent request.

MOTION BY MARK MOFFA TO ADOPT RESOLUTION #2019-33 SUPPORTING SPECIFIC AMENDMENTS TO PENNSYLVANIA'S OPEN RECORDS LAWS. SECONDED BY LAURA GERMAIN. All ayes, motion carried.

MOTION BY JOHN STRATZ TO AUTHORIZE THE BOROUGH ENGINEER TO CONTACT THE DEP TO INQUIRE IF THE WALKER AVENUE HYDRO PROJECT WOULD BE ELIGIBLE FOR THE GROWING GREEN GRANT FUNDS AND IF SO INITIATE PREPARATION OF THE GRANT DOCUMENTS. SECONDED BY BARBARA HEFFELFINGER. All ayes, motion carried.

Persons to be heard

There were no persons to be heard.

MOTION BY MARK MOFFA TO ADJOURN THE MEETING AT 8:40 P.M. SECONDED BY JOE DUDASH. All ayes, motion carried.

Submitted by: _____
Marie Serota, Secretary/Treasurer