

Penndel Borough Council Work Session
Via Zoom Communications

October 19, 2020

Council President Barbara Heffelfinger called the meeting via Zoom Communications to order at 7:30 p.m. with the Pledge of Allegiance.

Present at the meeting via Zoom Communications

Mayor Robert Winkler
Council President Barbara Heffelfinger
Council Vice President Beverly Wolfe
Councilman Gary Nickerson
Councilman Mark Moffa
Councilman John Stratz
Councilman Joe Dudash
Councilwoman Laura Germain

Also present via Zoom Communications

Ben Hauser, Solicitor, Hill Wallack
Carol Schuehler, Value Engineering
Nick Foufas, Fire Marshal/EMC
Marie Serota, Secretary/Treasurer

Announcements

Laura Germain announced the activities for Halloween. The Activities Committee of Penndel will hold their normal parade at borough hall at noon on Halloween with all of the correct social distancing and giving out candy per the Bucks County Health Department guidelines. Also, on Halloween, Laura and her husband Matt are going to set up at least three drive by sites where you can drive by borough hall, the police station and the rec field and you can see these big decorative sites. They are working on that with electricity and everything. It's something for kids to do if they don't feel comfortable doing regular trick or treating. Going right now is the Penndel pumpkins where they can go to borough hall and get mini pumpkins and paint supplies and decorate them. They can bring them back to borough hall by the 28th and the mayor will pick a winner. There are quite a few people coming in to get the pumpkins. We've run out twice already. The winners will be displayed on the website and the Facebook page. Those are the Halloween activities that they're trying to provide to the residents. Barbara Heffelfinger said they had a couple of pumpkins come in today and they're really cute and creative.

Joe Dudash said before Barbara begins, he'd like to ask the solicitor something. He said it has to do with the whole council meeting and it's litigation. Barbara said they can't discuss litigation. Joe said he contacted the PSAB concerning her muting him on executive and council sessions and he was told by the PSAB that Barbara violated his constitutional rights and the Sunshine Act Section 710.1.a and he wants the solicitor to explain to her the fundamentals of running a council meeting where you cannot mute a council member in an executive session or a council meeting and that she must let the individual in the public finish a sentence within the three minute rule. She cannot just cut them off. Barbara thanked Joe for his comments.

Consent Item:

Gary Nickerson said it seemed like there was something missing from the minutes. He sent it to Marie because he felt that it was a typo. He wasn't disagreeing with it. It said Dave Truelove said he missed the executive session. The proposed change is Dave Truelove said this issue was discussed in executive session, but the motion would have to be made during regular council session. Barbara asked if they could just make that change. Ben Hauser said he doesn't sense that there is much disagreement among council so she may ask for unanimous consent and if there's no objection they can just make that change after taking public comment. Barbara asked if there was anyone who objected to that change and then asked for public comment. Mike Smith asked what it was in reference to. Barbara said it was the minutes that when they came back into session, Dave did not give his report right away and when the issue was discussed, it was discussed in executive session but if they made any kind of motion it would have to be made during the regular council session. Mike said that's normal. Barbara asked if she could have unanimous consent on that or was there a problem with that. MOTION BY BEVERLY WOLFE TO APPROVE THE MINUTES OF THE OCTOBER 5, 2020 COUNCIL MEETING. SECONDED BY JOHN STRATZ. A roll call vote was taken. Beverly Wolfe, yes, Mark Moffa, yes, Gary Nickerson, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Barbara Heffelfinger, yes. All ayes, motion carried.

COMMITTEE REPORTS:

Buildings & Maintenance

Joe Dudash reported that with Carol's help, they're going over some problems with the contractor with the driveway that they just put in. Adam Diabelko brought up the last meeting about that the contractor had broken this sidewalk and broke the apron over at the borough hall where the police station is which he sees repaired. There's the issue of the other apron where they had taken chips out of the expansion area of the apron which will cause damage later on with continuous water and salt running through it. There is a hump right behind that area and he sent all of council the photographs of all of this. There is pooling of water in several areas and one of them is where the shed is between Nick's house and the shed and as they can see in the photographs, also where the Langhorne Manor police cars were parked for a week which he still doesn't understand why the two cars were there because nobody would give him an answer. Barbara said they were paving their parking lot and had no place to put their cars, so we accommodated them with that. Joe said over at the police station where one of the drainpipes that is there in the corner where the pipe comes down there is a discoloration of patch. It looks like cold patch to him. He doesn't know if there's another cold patch or they didn't roll it after the asphalt was laid down which is over near the shed between Nick's house and the shed. There are several areas that they have problems with that need to be fixed. Carol is working on them. Joe said he knows this is grant money but still it's the taxpayer's money. The people in Penndel should know what's going on. Joe said to Carol since they went through this with the sidewalks, when she goes out and inspects these each time, the borough is not getting charged. He asked if the contractor was getting charged each time she goes out. Carol Schuehler said this is an ongoing and open contract and the contractor has been very good to work with on some of the problems they've encountered out there and to keep within the budget that's available from the grant funding. It's an ongoing project and they are trying to work out any details that aren't right and will bring that back to council when that's done. Carol said the contractor does not pay for the construction inspection. That would be a conflict of interest. Joe said so if they cracked the concrete and fixed it, she was out there three times maybe to inspect that one particular area. Carol said with regard to the Diabelko concrete that was fixed on Wednesday, she was in the borough to inspect that repair to make sure that the depth was proper and the material was proper. Joe asked if she would charge each time she goes out to

inspect that corner. Carol said there wouldn't have been multiple inspections. It was Wednesday. Joe asked if she does have multiple inspections, the contractor would have to eat that, correct? Carol said it is not set up that way that would be a conflict of interest if the contractor was paying for his own inspection. Joe asked who would pay for that. Carol said that's part of the borough's cost. Joe asked Carol for an estimate of how many times she had been out there so far with these re checks. Carol said the only thing she's been out there for repair on so far is the sidewalk and that was Wednesday. Joe said to correct him if he's wrong, but Carol's cost was \$130.00 for her to go out per hour. Carol said hers is \$102.00 and Jamie's is \$93.00 she thinks but would have to check. Joe said so basically, the residents of Penn del, because of the contractors screw up, would have to pay for her for the inspection of the work. Carol said yes. Joe said he's not begrudging her because she has to make a living. He's just trying to figure this out because you know with these contractors it's interesting to see how they screwed things up. Carol said it is required by the borough code to put these projects out for bid and they are required to award them to the lowest responsible bidder. They are out there making sure that they do things to the standards and specifications. It's a pretty straightforward process. Joe said he doesn't have any complaints with her. He's just puzzled because like anything else, like if he was doing our house or something, he sure as heck wouldn't be paying a guy if he broke his sidewalk up or something like that. He knows it's the lowest bidder but even Penn del has a reputation. If they are just going to take shoddy work, he may as well just go down in Philadelphia and pick somebody off the street and have them pave it for him. Carol said they don't have shoddy work. A piece of sidewalk cracked while they were out there doing the other work and they have paid a mason to come in and they put in a brand-new section of sidewalk. The same thing with the section of sidewalk on the Diabelko property. They immediately accepted responsibility for that and there is now a brand new section of sidewalk that is more than 4 inches thick because she checked the measurements twice and it's repaired so they've done their due diligence in doing the repairs for those damages that they cited to them. Joe asked about where it is pooling and stuff like that which will affect the integrity of the asphalt over the winter plus he'll get sued if somebody falls in between the shed and Nick's house with the ice patch there. He asked if that is the residents of Penn del's problem. Carol said this is not yet a closed contract. They are still working with the contractor to close out any concerns that they have. He asked if Carol knew any reason why the fire department called him that they needed a truck out there to flush out something. Carol said that's not exactly her. She said after the contract was awarded, she received a message during one of these meetings from a resident asking about a drainage problem with that drainpipe. She asked at borough hall if there was a known problem with that. She was advised that the only known problem is when it clogs at the very entrance and it needs to be cleaned out of debris. There was no drainage work in the scope of work that she was requested to prepare for the borough parking lot re paving and in her time out there, it seems like that pipe is draining. If somebody wants to try and flush that in some way to make it drain better that's fine but that's not her. Joe said with that pipe it's not one of these deals where they're going to be digging up the new asphalt for that drainage area. Carol said they didn't touch that pipe. The pipe was surrounded by concrete and they went up to that pipe and graded things to drain to that point, but the pipe was not part of this project. Beverly asked if the pipe goes directly into the street. Carol said she believes so, but she was never involved with that. Barbara said it does go to the street. Joe said he thinks there is an ordinance that it shouldn't be doing that but they've seen other stuff around here, so nothing surprises him. He asked Carol to keep them up to date on what's going on with the rest of this.

Community Development

Beverly Wolfe said they made the presentation to the RDA on Friday and said she wanted to sincerely thank Steve Lowe for his preparation that he did so she wouldn't sound like a babbling

idiot. They were given less time than they were supposed to have they also had to get there earlier than they expected. All went well and they shall see what they award. They have less money this year and they've made that abundantly clear and in all their correspondence that they have a lot less money to divvy out to all those municipalities this year. Beverly said they are always looking for grant opportunities and now that the RDA thing is finished, she wants to drive Carol crazy and will take a look at the RACP application.

Community Relations

Laura Germain said they finished the newsletter and Barbara and her team are now putting it together. She said thank you because she knows how much work and how much time that takes. She thinks she said about a week or week and a half that they're expecting that to be out. Barbara said it is out as of today. Laura said that's even earlier than she thought. Laura said for the Halloween event, she got a few emails already but if anyone would like to be added to the list of drive by locations, she's including businesses and homes so you can comment on the Facebook page or shoot her an email and they're going to have a list that comes out the week before Halloween. She's already gotten two residents of Pennel who want their houses to be included which is pretty cool. Barbara thinks there are some who probably did not know about that who have really good displays and maybe it would just be a good idea to ride around and check whether the people have put their name in or not. Laura said that's a great idea and she can even slide flyers under their doors if they're not there. Barbara said she'd like to thank everyone who helped with the newsletter. John, the Nigra's, her husband, Danielle, Bob Winkler. It was a group project and they did it as quickly as they possibly could. Laura said thank you to Karen who always verifies the information which is always helpful.

Finance

Beverly Wolfe asked Ben Hauser if it was okay to make her motion now instead of under new business and he said yes.

MOTION BY BEVERLY WOLFE TO AUTHORIZE ADVERTISEMENT OF TWO BUDGET MEETINGS VIA ZOOM COMMUNICATIONS SCHEDULED FOR 10/26/2020 AND 10/29/2020 AT 7:00 P.M. SECONDED BY MARK MOFFA. Mike Smith asked if they were going to be open to the public and Beverly said yes. A roll call vote was taken. Beverly Wolfe, yes, Mark Moffa, yes, Gary Nickerson, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Barbara Heffelfinger, yes. All ayes, motion carried.

Beverly said she and Mark had a preliminary marathon budget scheduled to look at the things that were obligatory so we could take a good look at those and gather all the documentation and quotes and whatever they need for those. She sent out an email to council asking everyone to please have some things ready and over to one of them via email. She asked that they don't wait until the last minute. If anyone has their narrative and anything that they got quotes on for something, please send them early. Don't wait until the last minute. She's not going to be up until 2:00 AM and she doesn't think Mark wants to be either.

Insurance & Pensions

Gary Nickerson said they're going to be working on going through their update list and see if there are any revisions and sending these into the insurance broker and sitting down with him hopefully in the next coming weeks. Barbara said they're always the last ones. Mark Moffa said particularly the medical insurance. Beverly said Gary's gotten a lot of good information so far and he's given them a few things already.

Open Space

John Stratz said he wanted to thank Carol Schuehler for shooting him an email about a little something that is truly near and dear to his heart. She sent an article about Natural Lands Trust doing a boardwalk through their preserve and it's been something that really has had his attention for the past few years. Once again that pesky little problem of financing and money stands in the way of his happiness, but he now has something concrete to possibly look around for grants with and something concrete to send them on a grant application. Beverly said she knows how much he would like to make Taddei Woods something that would be pleasant to go through and the boardwalk is a great idea but she thinks they need to make sure that they have the dead trees under a little better control. If they could find a grant to help them get rid of some of the dead trees it would be much easier to put a boardwalk or some kind of walkway through it. Joe Dudash said to tag onto the dead trees, he got a phone call about another tree ready to go on people's property over there on Holly Ave. that runs along the fence line. He went over and looked at it and it's another hollow one and then there is another tree with the vines pulling on it. He had All The Above Tree Service go out there and they're saying \$1,800.00 to take care of it. Beverly said it's a big one.

MOTION BY JOE DUDASH TO AWARD ALL THE ABOVE TREE SERVICE TO CUT DOWN THE TREE AND SAVE THE OTHER ONE BY CUTTING THE VINES OFF AT A COST NOT TO EXCEED \$1,800.00. SECONDED BY LAURA GERMAIN. John Stratz said All The Above constantly has coupons and in magazines that get delivered around here so maybe they could use one of them. Barbara said like the Clipper magazine and John said there's also the individual envelopes that are like stuffed with 30 individual coupons. Beverly asked Joe how big his estimate was on this tree. Joe said it's so big Burcz Landscaping won't even touch it. It's like the one over at Chester's but it's wider than that. If it goes it's going to hit the fence and two sheds. Beverly said she just wanted to hear his estimation of how big it was and how big of a public safety issue he thinks it is. Joe said the other issue is all this brush that's growing in there. He went over there in the summer and there were yellow jackets so they're waiting for winter to come and kill them to get in there. A roll call vote was taken. Beverly Wolfe, yes, Mark Moffa, yes, Gary Nickerson, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Barbara Heffelfinger, yes. All ayes, motion carried.

Ordinance

Mark Moffa reported that he and Gary met again on ordinances as a follow up to some of the things they talked about at the last council meeting. They have some things to put before council, particularly on revisions to curbs and sidewalks and also to fences. For the revisions and for the overhaul on the curbs and sidewalks, their proposal is that they maintain the eight-inch height on the state roads but move the fail height to six inches. This is an attempt to alleviate that sort of rollercoaster up and down that they've seen folks are clearly unhappy with. On the non-state roads, they'd like to move the build height to six inches and keep that four-inch fail height. Again, just the two-inch differential in an attempt to alleviate that rollercoaster effect. For properties without sidewalks at all, their proposal is that they require those who do not have sidewalks to install them upon an application for use and occupancy. When the property is sold, they will need to put them in before a U&O is issued. It might not go into the ordinance per say. They would need to figure out whether it's just part of the borough policy or whether it's built into the ordinance. The whole issue of the advanced notice was well discussed with the plethora of notice they provided last time but it was also discussed that the notice, maybe some folks thought it was confusing or didn't realize when the real deadline was going to be because it kept getting extended. They need to figure out whether it's just an internal policy or it gets written into the ordinance. They want to make sure that when that notice goes out it has a hard and fast deadline and that they know at that time who the borough's contractor is who would be to

doing any work and that the contractor is named and the pricing is available so folks can know right up front what they're going to get hit with if they don't meet the deadline. Something has come up in their review of what PennDel has versus other towns have. They've been trying to make things a little easier for the residents so they had a discussion about the forms. He said Carol might not completely agree with this but they've been steadfastly requiring metal forms for the work and they've noticed that other towns are more lenient on that either allowing wood or leaving the ordinance purposely vague so that it can be up to the engineers determination when they go to the job as to whether the particular forms being used are sufficient. That simply requires putting language in the ordinance that stipulates that the engineer will approve the forms on the job so that's a way to sort of make the ordinance a little less onerous and gives our engineer more flexibility and gives the borough more flexibility. They could make policy changes as need be on that particular issue without changing your law every time a new council comes in and says no we want metal or no we don't want them. Another thing they discussed was the issue of what happens for a homeowner when a portion of their curbs pass and a portion of their curbs fail. Then on an individual property you're sort of forcing this up and down where maybe there wasn't one there. They found in some other towns there's language in their ordinances that suggests that and I'm just going to read this one sentence verbatim, portions of the curb which are replaced between two satisfactory sections shall have the same exposed surface and reveal as the existing curb when directed by the borough. Mark said in other words if portions of the curb passed because they're five inches and then there is a portion that fails because it's three inches, instead of making them build the failed part up to six inches and allowing the other part to stay at five inches, the whole thing can just be built to five because the passing part is five. That is another attempt to alleviate the roller coaster effect. The last but not least part of the curbs and sidewalks overhaul is actually not curbing or sidewalks at all it's the street opening portion of what they've been looking at. The borough repaves a road and someone wants to come in, whether it's a homeowner who wants to put a gas line in or more often a utility company that wants to come in and dig up the newly paved road for something, a lot of towns in the area have now imposed rules and regulations that in essence prohibit the opening of a new road unless there are steep fines and procedures for repaving the entire section that was just dug up. They looked at some samples. Langhorne Manor just did one and he and Gary actually prefer the one that Falls Township passed that seems to be a little less onerous on the residents and took a little more into account it will actually be simpler to understand as well. Also, the fines were what they thought was more appropriate. Their proposal would be in this draft that they'd like to start working on it with Hill Wallack. They looked at what Falls did for street opening and include that in the ordinance overhaul as well. It was a long report but he thought it was necessary to throw all that out there before they put an ordinance before all of council and that includes all of these things that no one's ever talked about. Considering this is a work session, he thought it was an appropriate meeting for it. Gary Nickerson said he just wanted to add, because he knows some will say you can't prevent utilities from opening streets, but there are provisions that would allow for emergency openings but the borough would have to approve that. He thinks other towns allow their public works but they could make it that council has to specifically approve the opening. The other issue Mark talked about was the specific provision that would allow for the reconstruction of curbs to not be at the six or eight inches. That is an important issue because that takes into account if you have a curb that's on the property line and your neighbor has a certain size curb and you have a different size curb. This would kind of ensure that if that connecting piece were to fail, that would be the same height as those so it's another strategy that would eliminate that roller coaster issue. They spent a lot of time on trying to figure that out but thinks Mark did a great job explaining this very complicated issue.

Beverly Wolfe said everything they are talking about is absolutely spot. This stuff needs to be reviewed and it's been needing to be reviewed. She's looking through the PennDOT specs

because she is concerned about the forms. She wants to make sure that it's not PennDOT specs and that they require it. Gary said they looked at maybe a dozen or so different municipalities because the contractor that a lot of residents had, the big thing was that everybody was saying this was the only guy in town that had metal forms. If you think about it, to have metal forms is a big investment and none of the adjacent towns municipalities require this. We are the only municipality that requires this and they are kind of putting the residents in a hard spot if none of the major contractors have this equipment on hand. That's why he particularly liked the language that Mark referenced that said it's up to the engineer to approve the particular forms that are being used. It allows some flexibility. They even did research and you can use wooden forms maybe a dozen times before not really being able to be used anymore. For some guys that don't do concrete curbs all the time, maybe this will allow them to do the job. If the engineer gets out there and says this form is a joke, you can't use this, then the problems would be solved. And the reason why they went to six inches is that most towns on non-state highways, they only use six inches. Beverly said she agrees with that Gary. A residential neighborhood with eight-inch reveal is ridiculous in her opinion. Laura Germain said she thinks it all sounds really good but she would ask that they work with Carol our engineer because she obviously has more insight than any of them would for instance the metal versus the wood forms. She might know a reason that they're not aware of why they might be preferable. As they don't mind running it by her, it sounds really advantageous for the residents. Mark said they can ask Carol right now about the forms. They did solicit input earlier in the year when they first started looking at this. Carol sent them some nice notes via email and they also received input from the former code enforcement officer on this when they were working on it earlier in the year. They've gotten input along the way from engineering and code enforcement. They have not pinged Carol yet on this issue of metal versus wood because they just talked about it last week and they didn't reach out to Carol yet. Mark asked Carol if they are off base on the possibility of writing an ordinance that does not specify metal and allows the engineer to use discretion on the job. Carol Schuehler said she thinks that's fine. The metal is actually cited somewhere in PennDOT 408, but they've had flexibility on that in certain cases. They've limited those certain cases to try and be consistent with everybody on state highways. Carol said she thinks this is something that would be easier to talk about in a committee meeting setting rather than a full work session while you're still developing the ordinances. She was really happy to hear some of what they talked about tonight. She thinks they have some really great ideas that are really going to be beneficial especially about meeting the curb height on either side when something fails. She thinks that would be a huge improvement to the situation they have today. She really likes that and once you start going to something other than an eight curb, they will have to digress from metal forms because the metal forms are all set for this. Beverly said the street opening thing is something that's been bugging her for a long time. You get a brand-new paved street and then they come digging it up. They should absolutely be looking into that issue. Gary said with the street openings, they will have to give residents so many months' notice to enact this and tell them they're going to have this prohibition but there's a lot of notification that's involved. Ideally, what would happen is they would know a year in advance when and which streets were going to be paved and once they know that, they would give residents advance notice and say just a reminder we have this street opening ordinance so if they're thinking about moving a gas line or doing something in the street, they would encourage them to do that now. They would also include in that notice who the contractor that the borough has already selected if they choose to do nothing. The borough contractor is going to repair your curb, but they are more than welcome to join with their neighbors or to get their own contractor and proceed. He and Mark agreed that they just have to communicate this just a little bit differently.

MOTION BY MARK MOFFA FOR COUNCIL TO AUTHORIZE HILL WALLACK TO WORK WITH THE ORDINANCE COMMITTEE ON THE DEVELOPMENT OF THE STREETS, SIDEWALKS AND STREET OPENING ORDINANCE. SECONDED BY GARY NICKERSON.

Terry McIntyre, 335 Hulmeville Ave., said he certainly understands the importance of ordinances. He said the frustrating thing in his many years living here is spot enforcement of ordinances on almost any level. You go down some of these streets and many of the neighbors put in curbs and some didn't and they said they are going to back charge the residents and yet to this day the curbs are still falling apart, connected to a brand new road. He said ordinances are important but if you're not going to enforce it fairly to everyone, he doesn't see the point.

Mike Smith, 127 Dehaven Ave., asked Gary how they would make neighbors' curbs be the same level to stop that up and down. Gary said it would be a situation where, and it's kind of hard to describe without a diagram but he believes the break in the curb is kind of close to the property line. If that's a situation where an adjacent neighbor has a six inch curb and the curb that fails has a four inch curb but the curve next to that is 5 inches, it could be tapered or hopefully that would be a situation where the engineer could make a recommendation. Mike said you're going to have that roller coaster effect if everybody doesn't do them at the same time. You're going to have that up and down no matter what you. Gary said there might be some slight deviation but they're trying to incorporate as much flexibility in this ordinance to minimize that. It's never going to be uniform but they're trying to build in the flexibility and it's hard because you're trying to basically write the exceptions. They are trying to brainstorm and if he has a suggestion or if anybody has a way to figure this out, they would love to hear them. Mike said if they are looking at Falls Township's ordinance, they make all the curbs come out. They replace them when they do a street so they're all uniform. If you're going to do it, do it right and not have what is on Bellevue Ave. which he knows a lot of people drive through here and he's sure everybody on here knows, everybody says the same thing. Who in the hell did that to that street because it looks horrible. And to Terry's point, there's one on Dehaven Ave. that was never done and the curb is under falling apart. Most everybody here did their curbs and sidewalks and the spot enforcement is just crazy. Mark said to piggyback on what Gary was saying in response to Mike, they did look at that and number one it is true that even with everything they're proposing, it will not entirely eliminate all rollercoaster curbing. It's an attempt to minimize the number of occurrences and how steep those are. He thinks their proposals would minimize the number of up and down occurrences and would also minimize the drop when that occurs. They did look at towns that do what Mike suggested which is they mandate that if they are paving a road, they are replacing the curbs, all of them no matter how tall they are. There are a couple of problems with that. They didn't like the one because what if his curbs are already the proper height? He is going to be a little ticked and what if he just replaced them recently and now you're going to make him tear them out. The big problem for towns that require that and have to deal with is who bears the cost. The most common solution they found was that the municipality pays for the curbs that would otherwise pass. Mike said he totally agrees with Mark. He was waiting for somebody to say exactly what Mark just said and that's why he threw it out there the way he did. Maybe you just specify and say okay all curbs are 6 inches and everybody else has got to come to that level. But again, it's got to be enforced. It can't be spot enforced. Mark said on the issue of enforcement, he thinks that's what caused so much aggravation on Bellevue Ave. They didn't let anyone go and so they were enforcing on every property and that's why people got annoyed. He thinks they have stepped up the enforcement game and that's what brought so much attention to this because they were strict on the enforcement. Mike said this has been going on for probably 40, 50, 60 years so this isn't a new problem. This is something that everybody over the years has struggled with. Joe Dudash asked Mark and Gary if they looked at Levittown's and Hulmeville's. Mark said Levittown will be Middletown and they did look at some of the Middletown ordinances. Falls is a

portion of Levittown. They looked at a lot of towns and we did some scouring. They didn't just stay local. They looked at Red Hill Borough which was for the fence report. They were digging up stuff from all over that looked like it would apply or could apply to our town. They were trying to figure out if it makes sense or does not make sense and how they could tweak this to be best applied to Penn del. Gary said he thinks one of the issues that kind of complicates this is that it's not like there's a section and it's not necessarily stated in ordinance that all curbs are going to be replaced when a street is paved. Usually that's a policy because most codes state that at any time, the borough can provide a resident notice that their curbs need to be replaced and they have to be fixed within 30 days. Usually municipalities do that in conjunction with when the street is being paved. A lot of times you would read the code and then you'd have to do some Googling and some searching to see if there's communications or if they have information or public works and actually how they implement this 30 day policy. Usually they provide way more than 30 days because that's kind of crazy. A roll call vote was taken. Beverly Wolfe, yes, Mark Moffa, yes, Gary Nickerson, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Barbara Heffelfinger, yes. All ayes, motion carried.

Mark said he thinks most of us are aware of some of the peculiarities with our fencing ordinances which were revised not too many years ago. Some of you probably remember off the top of your head that in that recent revision, they created some conflicts now because it was not a complete repeal and replace of the fencing code and so there are some contradictory portions particularly when it comes to front yard fences. There are three distinct areas of the code that would appear to allow what council was trying to not allow with regard to front yard fences. One of the things and they actually did receive some input from the former code enforcement officer on this as well, is eliminating the conflicts in the existing code particularly with regard to any confusion on what's allowed with front yard fences. Some of the other issues are they require fences to be one foot off the property line. Towns struggle with this. This is a constant problem because different towns have different preferences. One foot off, while not uncommon, they also found that is more common to allow a fence on a property line. The one foot off rule would create a two-foot space between fences if both neighbors want a fence and then there's the issue of who maintains the two-foot space. Typically, that burden falls on the second person to put the fence in but then you have some sticky situations there. What they have found is it's more common to allow a fence on the property line. But then the question arises if your neighbor puts a fence on the property line and you don't like their fence and you share the line, what happens if you want to put a fence up against their fence because you don't want to look at their fence. Then they have two fences up against each other. That's a question that he and Gary did not finish figuring out. They were kind of hoping for council input. But to help resolve that issue, they did notice that other towns require surveys to put fences up and Penn del has not previously required surveys. It was sort of the input of their former code enforcement officer that the Bucks County GIS is pretty good and we can just use that. Pretty good still leaves you like a little wiggle room especially when you're talking about a foot here a foot there. They don't seem to have any problem forcing people to spend thousands of dollars to replace their curbs but they're afraid to make people get like a \$400.00 survey to put a fence up. Mike Smith said he hates to jump in but it's \$1,200.00. Mark said he's out of order. Mike said you need to hear this because you get one survey and then you get a second to verify. Mark said his experience with surveys is that they're not that much and it is of course a common real estate practice so they would move to require a survey. If you want to put a fence in then you're going to get a survey so their proposal is they require surveys, they allow fences on property lines and they do not require a permit if they are just replacing an existing fence meaning that you're keeping the same posts. They have to eliminate the portions of the code that have the front yard fencing conflicts and then the other biggie is the section of the code that deals with pool code fencing. It is a mess right now and so full of contradictions. There's way

more language in there than any other town has regarding pool fencing. It can be pretty straightforward if you look at the UCC and Boca Code as to what the standards are nationwide. Other towns pretty much lift that language directly. The proposal would be to pretty much completely replace the swimming pool portion which is 405-28 with what seems to be the norm regarding Boca and UCC with full fencing which is a four foot fence and regulates the opening so kids can't easily climb. Gary said the other big issue is what is a swimming pool. He believes they settled on the definition because of what defines what a pool is. There's a lot of kiddie pools and inflatable pools so they looked at a lot of different definitions of what a swimming pool was. He thinks the definition they settled on was 24 inches with a filter or structural parts. Beverly asked what that meant. Mark said there's a lot of these cheap inflatable pools. Mark said you try to give some leeway to someone who bought the cheap little Intex thing and you try to figure out what the reasonable definition is of what a pool is that should be protected by a fence. Like if he bought a little blow up thing and you know it's not that deep. Gary said they looked at what other towns do to define this. Beverly asked if they looked at fishponds because according to the swimming pool code, anything deeper in the ground than so many inches is considered a pool and needs a fence. Gary said they did not specifically look at that issue but said they can look at it. He asked Beverly what her take on that was. Beverly said in the ordinance it specifies so many inches below grade or below ground and she thinks it's something shallow like 20 inches which most of the big koi fishponds are. One of her neighbors down the street has a beautiful one and in the middle it's at least three feet but it's a fishpond. According to the code if she reads it right, they should have had a fence around them. Mark said the zoning officer is supposed to inspect everyone's pool like once a year. That is literally how it is written. Beverly asked if they thought that they should make people put a fence around a koi pond. Mark said he thought her question was what the current ordinance requires. They are trying to redefine what a pool is. Beverly asked if they would spell it out. Mark said if it needs to be however, they can just define what a pool is and say this needs a fence and hopefully that definition well written enough that there aren't those ambiguities. Mark said if you try to carve out like this doesn't and this doesn't and this doesn't and this doesn't, you are kind of getting into a little quagmire. Beverly said she thinks the water features are really great that people want to put in around their homes. It makes it look better and environmentally it might even be a little helpful. The herons will come and eat all your expensive koi so you're feeding them, but I think to encourage more of those kinds of things, maybe this might help a little bit. Mark said he loves koi ponds and would not want to discourage people from putting them in. Gary said he would still like to hear council's opinion on the line issue and the fence on fence, one fence adjoining another fence because someone doesn't like the fence and they want to put up their own fence. They could use some help with that. Barbara said her suggestion would be to have council think about it and come back at the next work session. Beverly said she also wanted to think about it. Barbara said she knows they have worked hard doing this, but she thinks they need to think about this and talk about it at the next work session. Mark said they can move ahead with the sidewalks and street openings and come back either next meeting or the meeting after to see what they have for them as far as their thoughts are. Gary said or any of the other issues too.

Public Safety

Joe Dudash said he couldn't tell you what's going on with public safety. But he's dying to see what the mayor and the chief come up with the budget because he doesn't have a clue what's going on. But they better have some cost savings in it. Barbara said it be would presented at a budget work session.

Gary asked Joe if he knew what was going on with our Emergency Management Coordinator. He asked if they have a contract with Nick. Beverly said they are close to having the mutual

cooperation agreement ready to go over to the fire company and discuss it with them. She and Nick had a long discussion about the job and Mark is reviewing the job description for both that and the fire marshal. The one thing that was a stumbling ground that she and Nick found out was without a mutual agreement with the fire company, he's kind of limited in some of the things that he could do particularly as a fire marshal. Just because he's a member of the fire company doesn't mean that he can go over and borrow things. Ben has been working very hard on it with her. It's been kind of dragging on a little bit, but they are very close to having it done and going over to talk to the fire company about it. They will put the mutual cooperation in writing when it's revised. That way both parties know what's expected then if they approve it when Mark read over the job description, then they can move ahead with doing an agreement with Emergency Management Coordinator who happens to be our fire marshal. Joe said now that they are getting into budget season, the poor man has a zero budget. Beverly she and Mark discussed that and they will talk about that a little deeper at the first budget meeting. But rest assured that they did talk about funding Emergency Management. Covid sure did teach them that. But also funding him with what he needs to do the job the right way which is substantially more than they allow him right now. Covid has shown them how totally unprepared they were. Penn del was not the only municipality. That particular section has been neglected. They will finally have an agreement established with the fire company which they should have had. Joe asked if that been settled already. Beverly said they are close to having the final draft ready to go and all of council will get a copy when it's ready to go present.

Public Works

John Stratz, at the mention of budgeting, that is what they are working on these days. They will need to get estimates for snow plowing and will be going over street sweeping for next year and just working on general budget constraints.

Refuse

Ron Rudy, 115 Hulmeville Ave., said he owns the Victorian building next to health food store. He purchased that in 2013 and at the time it basically was zoned residential and commercial which is how he used it so he was paying both those fees for refuse as well as sewer. He had a business downstairs and a one-bedroom apartment upstairs. The tenant moved out last July and the tenant downstairs, who was running the salon has requested that space so therefore he doesn't need the residential services he's been paying for. He has a dumpster on the property and Joe is working to resolve that issue. His main issue tonight is the sewer. He's paying both residential and commercial and he only needs commercial at this point. It's a 1,500 square foot building and it's all being utilized by one tenant. He's clarifying that there's only one pipe, one sewer line and if anybody wants to come over and inspect, they are certainly welcome. Barbara said she thought that was a good idea. before they resolve this issue. The next bill doesn't come out until January. We can get the inspector to come out and double check that so they have a basis to go on. Ron said that means he's paying six months of service that he doesn't need. Barbara asked if he paid the October bill and Ron said he didn't because he was waiting for this meeting so he could hopefully remove that residential fee. He doesn't have residential there. It's pretty cut and dry and he hasn't had anybody there since July. Beverly Wolfe asked if he has only one lateral going into the building and he said yes. He said it was formally a residence. It is in the commercial district. Beverly asked if he was paying a commercial rate for the lower floor which was a business and the upper was a rented apartment and now it is no longer a rental. Ron said his tenant is now renting the whole thing. Beverly asked if there is a meter. Ron said there is a standard residential meter which he's been paying both sides of. Beverly said there are some commercial accounts in Penn del Borough that actually have a meter on the sewer. He said it's about a 1,500 square foot Victorian building built in 1892. Barbara said she would talk to our zoning official and inspector and they will get back to him

before the end of this pay period. Ron said it's been three months since that tenant's been out of there. Beverly said that council should refer to Pennel Borough Code 322-10 Item 2. It pretty much specifies what Mr. Rudy is saying.

Tom Sodano, 126 W. Woodland Ave., asked about the connect and disconnect for the property that Ron Rudy was talking about since Bucks County Water is involved in the billing for water and sewer. That's how they figure the sewer rates for the borough based on water usage. He asked if they look at that as two connections. Barbara said currently he has one lateral that she's aware. Tom said if he's paying two sewers then somewhere he has to be on County records as a commercial and a residential. They wouldn't be able to have billed him without the County having him on record as having both in that building. Beverly said she has no idea how to answer that. Tom said the reason he asked is if he is officially on Bucks County records as both a residential and a commercial hookup and he eliminates one of those, it will cost him \$2,000.00 or better to ever get it changed back because it will be a disconnect and then the reconnect fee is exorbitant. They need to know ahead of time. They can't unilaterally decide to do that as a borough unless they're sure whether or not he's listed in the county as having two connections. He said before they jump the gun on that and okay something that might end up costing him or the borough money.

Terry McIntyre, 335 Hulmeville Ave., said basically it doesn't matter if you have one lateral or five laterals, the sewer ordinance is based on EDUs, equivalent dwelling units so you have four units hooked up to one lateral, that's four sewer bills. That's how that is done. He's seen where somebody had a barber shop in a home and they eliminated the barber shop, so they were able to revert back to just a home. However, if they ever want to go back and have a barbershop, they would have to go in front of the zoning hearing board and he believes that connection fee now is \$8,000.00 if you were forced to have to reconnect. Obviously, you're not doing that, you're working through one lateral so he thinks that would be more of a zoning hearing board type of thing. They would have to explain to whoever wanted to do this. Mr. Rudy being an example, that this is what he's looking at if he goes ahead and disconnects that as a residential. He would have to go in front of the zoning hearing board more than likely even if he doesn't sell the houses or residential out of business, he may have to do the same thing. Barbara said she's appreciates that but she will make sure it's investigated. Beverly said as with any of the others during her tenure, they did that with any of the others that wanted to disconnect. Like if they went down from two apartments to one house and reminded them that they were giving up an EDU and what it would cost them to reconnect. That way they have all the information so if they decide to do it then they have the right and it's not on the borough, it's on them. They really have to understand that. Terry said in his situation if he's not using it as an apartment and he wants to make it one business then so be it, but they have to be aware of what they're giving up.

Mike Smith, 127 Dehaven Ave., said to Gary and Mark, obviously they know that he knows what's going on here with the different ordinances, especially the fence ordinance. The corner lot is spelled out specifically in 355.14 and 405.22B. He said he would be more than happy to go over with them if they'd like but it states corner lots have two front yards. Case in point and he's sure they know where he's going with this. His neighbor has a fence which is two feet off in the easement which is a foot and a half off the sidewalk. If they're going to change this ordinance, they need to not allow any fence taller than four feet high along a sidewalk. That is a given. They made a mistake years ago, himself, Barbara and some other ones. They allowed all this and he will tell them that this is a nightmare, especially if you have a driveway alongside a fence. He will be more than happy to let anyone of them come over and back his truck out of his driveway. He is not suing anybody. He doesn't want anybody to think that he is, but he

needs this council to understand where this is at. They have to be very careful on this fence ordinance. He could give them the other five items that this fence violates. He thinks they have a letter from him anyway which basically outlines each one of the violations that the borough has refused to enforce. He wants to thank Terry for bringing it up about specific violations and how they are handled. The day the fence was put up, the borough should have made it stop immediately and be moved back. He doesn't know how else to get this council to see what's going on here. He's telling them this is a problem that it's not if it's going to happen, it's when it's going to happen. Beverly said oh come on. Mike said really, Bev? Beverly said she was sorry. Mike said she really needs to come over and said she wants to sit here and argue with him. He said she doesn't have any idea. Barbara said his time is up. Mike said he should get at least five more seconds because Beverly interrupted. Beverly said they can talk later because she has some stuff for public comment herself so he can argue with her then. Mike said he is looking forward to it.

Long Range Finance

Gary Nickerson said they met last Wednesday but they don't really have an update for council. One of the topics that did come up that they discussed was the ongoing budget. One thing that he just wanted to remind council was to recommend for the committees to consider partnering with any other municipality on major projects, contracts or purchases. If they are doing anything big, they can reach out to our neighbors to see if they want to get in on that or help them to look for any sort of cost savings. The other issue was that on Saturday, members of council went down to the sewer plant. For him, it was an educational experience. Carol the engineer came and she brought some maps and kind of explained the history of the site and its decommission process and how the existing sewer pipe was constructed and where it's located. There's a lot of property that's down there. There are some vehicles that are no longer being used or are out of operation. There's some equipment that doesn't really appear to be being used. In his opinion there's some items down there that the borough could possibly sell and make a little bit of money on. There's a salt spreader that the borough has and it appears it's not being used. In his conversation with the mayor, he said that it has been used Bob said that it still works. He did some quick Googling on that and the salt spreader is a couple thousand dollars. He doesn't know if anybody else on council had any interest in moving or parting with any of the things down there but they didn't really appear to be being used. They could sell them either through Municibid it or advertise them. It looks like the borough could probably sell a couple of items and make a little bit of money, especially during budget season. It would be nice to recoup some of that, especially with what he would imagine they could have some shortfalls with the you know the recession that's accompanied the pandemic. He wasn't sure if anybody else had similar opinions or had any questions about any of the stuff they saw down there and could maybe have a group discussion. Barbara said they need more than that because the entire council wasn't there to say sell this or sell that. She thinks that's something that has to be a little bit more definitive than what he's saying. Gary said that's why he brought this up at a work session. He asked if anybody had any opinion on selling any of the items that are currently down at the sewer plant that aren't being used. Beverly asked if he had anything that resembled an inventory. Gary said he sent pictures to all members of council. Beverly said maybe an inventory would be helpful and she could help write one up. Barbara said that's a good idea. Beverly said rather than having it sit and collecting the mud and not being used, before it corrodes, if they're not going to use it why are they keeping it. Mark Moffa said those were his thoughts as well. He thanked Gary for organizing it. He thought every council member was going to attend and wasn't sure why some folks couldn't make it. Beverly said she couldn't make it. Mark said Joe was under the weather but had already been down there and had seen all of the stuff. Mark said he found it enlightening and liked wandering through the woods to find manhole 50 with Carol and Gary. That was the highlight of his council career so far. He's heard

a lot about this manhole and now he has a picture of it. He thought it was very valuable to get the lay of the land. The property is much larger than he realized. He doesn't know what state of disrepair it's been in over the years but right now it seems like it's been cleaned up very nicely. He thought it was in very good shape. The garage where he thinks the mayor and Anthony tinker with things is in good shape and there's a lot of things in there and looks like a very organized public works space. They don't have a public works department but have a public works space but that's an issue for a different day. Gary's point about the stuff that is there, he would support moving a few of those pieces before they are worthless. They have this stuff and they're not using it. The salt spreader was the most obvious one. It seems like it's in good shape. It's protected in the garage from the elements right now. There are two vehicles down there that are not operational. They've heard about the battery in the backhoe for quite some time. The other, the mayor said the mice are eating the wires on the truck that doesn't work. Those are two pieces they can just sell for scrap because they are just wasting away and not being used. He thinks that backhoe might be worth something if someone got it operational. The salt spreader would be a good place to start. The other odd thing which they can talk about which they keep putting and it makes sense now that he's seen the space, it makes sense to heat the garage. He had been wondering why they heat it but the garage is nice and has some nice things in there so they should heat it. The other building which is the abandoned pump house, he doesn't know why they are paying to heat that space. The water line is broken and the bathroom doesn't work. There are pumps in there they could maybe sell for scrap or on Municibid unless they are too old and nobody wants them. That building seems like it's a waste to pay for security because there's a security camera in there. And the heat, there's a separate oil tank in there for that separate building. That seems like a discussion they should have at some point. He agrees with Gary. Every time they bring it up it's like, yeah, ok, we'll get to that. He feels like they've been talking about it for a year since he ran Long Range Finance. He thinks it's good that they have these discussions. He thinks they pay too much for security down there. That bill of a hundred and something a month seems unnecessary. Barbara said she agrees with most of that but not everyone was down there so they should have some kind of an inventory. Mark asked, besides the mayor and Carol, who is equipped to do the inventory? Barbara said all she wants them to do is what they recommend and put it down on paper. Joe said he and Gary will go down and make an inventory. He said this is what Mark and they have been saying. What is this, the golden goose down there? This is taxpayer's money sitting down there rusting away, let's get rid of it. There is so much potential down there and they're in a budget crisis here. They're talking about saving scrap? Sell it. Bob Winkler said the gentleman that gave a bid on the pickup truck has contacted him about it and he is still interested. Joe knows him so he can contact him and talk to him.

Revitalization Task Force

Mark Moffa reported that they met and it was a small meeting. It was he, Barbara, Gary and Adam Diabelko and they talked about an idea they had like an event for the borough to publicize the revitalization efforts. They talked about what they would like to accomplish with such an event. He's not really ready to give a full report. They are still kind of batting these ideas around. They are still trying to get things together and it's going to be Covid dependent as well. It would be for next year and would be targeted towards attracting some developers but also have a public celebration type of component to it so they're going to continue to work through that on committee and when they have something that they can talk to the public they will report on that.

New Business

MOTION BY MARK MOFFA TO ADOPT ORDINANCE #2020-4 AMENDING ORDINANCE #2020-2 CREATING NEW SECTION 88.1 – “EXEMPTIONS” TO PROVIDE FOR AN

EXEMPTION TO THE EARNED INCOME AND NET PROFITS TAX. SECONDED BY BEVERLY WOLFE. Barbara Heffelfinger said this motion means that people earning up to \$12,000 would not be paying earned income tax. Ben Hauser asked Marie Serota if the borough published a notice of intent to amend this income tax ordinance with respect to the exemption. Marie said that was correct. Ben asked if it was published for three successive weeks and she received the affidavit from the Courier Times attesting to that effect and Marie said that was correct. Ben said he would like to have that affidavit marked exhibit B1. Ben said at the time the first notice of intent to adopt was advertised in the paper, did she place the ordinance out for public display in the rear vestibule at borough hall. Marie said that was correct. Ben asked if she also received a letter from the Bucks County Law Library attesting that a direct copy of the ordinance was filed with the library in anticipation of tonight's meeting. Marie said that was correct. Ben said he would like that letter marked as B2. Ben said the ordinance itself was advertised in the Bucks County Courier Times on October 2, 2020, one time. He asked if Marie received the affidavit attesting to that effect. Marie said yes. Ben asked that be marked as B3. Gary said it's not as clear cut as Barbara stated. You're going to have people that are going to be affected by this and are actually going to have to request a refund. He just wanted to clarify that. That's why they didn't include this because it's a complicated factor. In situations like this, they would have to request a refund at the end of the year because some won't know if they are going to make over \$12,000.00. Barbara thanked him for that clarification and said it's a fair factor. A roll call vote was taken. Beverly Wolfe, yes, Mark Moffa, yes, Gary Nickerson, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Barbara Heffelfinger, yes. All ayes, motion carried.

MOTION BY BEVERLY WOLFE TO ADOPT RESOLUTION #2020-37 OPPOSING THE OVER-THE-LAND TRANSPORT OF LIQUEFIED NATURAL GAS. SECONDED BY MARK MOFFA. Barbara said they discussed this a lot at the prior meeting. Langhorne Borough has requested that they support them in this. Joe Dudash said he doesn't know anything about this and how it's going to benefit Penndel. Barbara said it will benefit Penndel and there are a number of factors. She said he should have gotten the ordinance, and everything sent to him. The liquefied natural gas comes from fracking. They have decided to send that over public highways which would be down Rt. 95 and also down the Delaware River to a dock in Gibbstown on the Delaware. The train cars that they are using have not been proven to be secure and safe. They are about 40 years old and they have not been tested. There are like 5 different routes that they would be taking over land and down the river. They would be coming down Rt. 95 for one and they would be coming down Rt. 295 for another. With liquefied natural gas, if they had some kind of accident or explosion or whatever, you would not even know that that gas travels for sometimes up to five miles. If there was an accident within a five-mile radius, we'd be done. The people in Langhorne have done a lot of research. She would be happy to copy everything and get it to him, but she thinks it's appropriate because it is a big environmental issue. She spoke to Nick about it and he did not think it was an Emergency Management problem but it was definitely an environmental problem or could be. That is why they're supporting this and actually there is a process here where it has to go to the state that we have supported not sending this liquefied natural gas through our area. It also would pollute the Delaware it would be unloaded at Gibbstown. They are building another dock down there and that's where it would be unloaded and loaded onto other vehicles. We don't like this coming through our area and we feel it's an environmental issue. She thinks every day when she sees that train goes through with all God knows what in those tank cars. They could have a real problem and they don't need those problems. She can send him Joe said thanks, that she summed it up for him. Beverly Wolfe said it scares the hell out of her with these railcars coming through here and having this stuff on them. Barbara said you wouldn't even know because it's clear gas that could hit you and you'd be done and you wouldn't even know it's coming.

Beverly said she certainly doesn't want any of that coming through the area. There's enough junk going through here with the stuff on some of those tanker cars. She's seen the hazardous placards on them and that bothers her but she knows they have to do it but she doesn't like watching it roll right past her window. Mike Smith, 127 Dehaven Ave., said Steve Lowe can fill you in on that or what comes through the town and it's probably worse than any propane to go through here. Barbara said it's not propane it's liquefied natural gas. Mike said it's basically the same thing. Barbara said she doesn't think so but she doesn't like either one.

Steve Lowe, 409 Cynthia Ave., said since Mike brought it up, there is a lot more stuff that goes through there. The one thing is they are never going to stop the railroad because they are federal but the one thing that goes through this town at least twice a week is called becken crude. Becken crude is raw oils made of methane, propane and any kind of gas type thing that you can think of. You're not going to stop it. There is a lot of stuff that goes through this town but again, it's the railroad and they are federally funded.

Pat Dicken, 35 Oak Ave., asked where the liquefied natural gas is originating from. Barbara said from Wyalusing. It's from fracking from all over the state but it's shipped from Wyalusing which is up by Reading and it comes down and has about five different routes that it takes and you don't know specifically what routes they are taking. That's where it originates from and goes to this plant in Gibbstown which would then transfer it out to usually down to the shore to that area and she doesn't think people in Jersey are going to like that either. A roll call vote was taken. Beverly Wolfe, yes, Mark Moffa, yes, Gary Nickerson, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Barbara Heffelfinger, yes. All ayes, motion carried.

Gary Nickerson said he had a comment and really wasn't sure where to put it. He wanted to know why we are doing complete transcripts of the meetings as opposed to meeting minutes. He didn't know if this has been done for a while but to him, getting a copy of meeting minutes that are long isn't really helpful. He thinks there's more of a chance that there would be an error. He would just prefer if they were succinct, summarized minutes of the meeting. Beverly said that was something that she implemented based on things that other municipalities did. The one thing that they noticed when problems were coming up and they needed to do research, record keeping is not always the best, and she was finding that notes in her minutes during the time when she was just sitting on council as a council member, didn't always match the meeting minutes that were published. There were a lot of subjects and a lot of material that were left out so it's like let's just publish everything and the ultimate transparency, if you can't come to the meeting you can read all about everything. That was the reason behind it. Gary asked if everybody sits down and thoroughly reads the 20 pages. Beverly said she does. Barbara said she does too. Gary said he was the only one that found the typo. Beverly said yes, he was the only one that caught the typo. Gary said if they like having 20 pages of this stuff, that's great. Beverly said it has come in handy. Barbara said it was not a typo. She said Mr. Trulove speaks very quickly and it was not coming out on the tape so that's the reason that happened.

Persons to be Heard

Steve Lowe, 409 Cynthia Ave., asked if the borough streets committee could look at the intersection of Rumpf Ave. and Fairview Ave. and fix that part of the street. John Stratz said it's right at the end and it's that big square that the water company left with the explanation that it needs to settle. It has settled at least an inch and a half to two inches from when they first put it in. It doesn't seem to be finished because he hits that every time he rides his bike and at night he doesn't really see the edge and he hits it royally and can attest that it is still sinking. It is Bucks County Water & Sewer and they have promised that they will get back to it when it

finishes to put a final cap over the top of it but they have not told him when exactly that final cap will be forthcoming. Carol Schuehler said she had a call today from a contractor for Bucks County Water and Sewer. They're going to be working on the restoration of that accessible ramp at the very beginning of November so hopefully that indicates the problem is on its way to being done.

Tom Sodano, 126 W. Woodland Ave., said he wanted to revisit a point from earlier. There was some discussion on a survey and to Mike Smith's point, the survey that Mark was referring to is common in real estate which is location surveys. The next step up from them would be what they call corner marking. Neither of them are any good in court. He had both of them and still lost \$8,000.00 in a property line dispute. If you're going to have an actual survey done where you go to the point of monuments, you're probably looking, as Mike said, closer to a couple thousand. If you want to make it a point, you're going to lose. He knows you guys all recommend that in your industry to your clients but if they go to court with a location or a simple corner marker and it's an actual property line dispute, it won't stand up.

Terry McIntyre, 335 Hulmeville Ave., said at the last meeting he had asked about the problem they discovered, the two tanks over there at Schoolhouse Court. He said maybe Carol can answer if there is any reason why those tanks weren't removed before all that construction since everybody seems to have known they were there. Carol said she didn't personally know that they were there. She doesn't have any reason to believe that the contractor knew they were there. It certainly raises an expense for them that seemed to be unexpected. There's a procedure that they have to go through to satisfy DEP that includes testing the soil and properly disposing of the soil and making sure they get in a disposal location that will accept the material. All that takes some time so that's the delay right now. The situation is under the purview of the DEP. The Bucks County Conservation District was aware of it as well as her staff and the building officials' staff. The frustration is it's taking a long time to get resolved but everything is being done in the proper manner at this time. Terry said he feels bad for all parties from the borough to the contractor. Everybody loses on this because it holds up everybody. Time is money and the neighbors just want to get on with things as well. Terry said he appreciates Joe's comments about the accountability about the damage from the contractor. Things do happen and he's just asking for accountability. He asked if this contractor posted a bond and if so, if you have to keep coming back to look at things, like if you figure this curb would take you maybe four visits and it takes you eight, is there any way to take that money out of the bond instead of the taxpayers. Carol said there are bonds for the project and the project is not yet closed. The contractor is working with the borough so let us keep going forward with this process and get everything resolved.

Mike Smith, 127, Dehaven Ave., said to Mark, just so he knows, there was a monument on his property and the monument was removed when that fence was put in. He has pictures of the monument being there prior to that going in. That is a violation of the state law to remove that. It is Title 18, 2312. He's still waiting for Bev to tell him all this fine information she was going to tell him. He's giving any one of them the opportunity to come here and back his truck out of his driveway and then they'll find out why they need to make sure that whatever they do with this fence ordinance is correct. Anyone of you are more than welcome to bring your own car over here and back out. Something is going to happen. He cannot see down the sidewalk and Mr. Phil Flatch was walking down the sidewalk tonight and it was very close. He's asking this council to do something. It should have been done already. There is selective enforcement here and this needs to be taken care of now. As far as the property line goes, he doesn't care about the property line. He told the gentleman next door that when it began, when he came to him, and told him about the fence. The only thing that I was worried about was the front

because he knows. He was part of the ordinance committee that wrote that. It's not fun and that's why he's telling you four feet on that side especially if there's a driveway there. He doesn't care if it's chain link or the black aluminum fence, but you can have a six-foot fence on that side. You can't do it and if you go over this borough, you have fences in front yards. Right across street from Beverly. That was never taken down and no one ever pushed the issue. Beverly said she did push the issue. Mike said it should have been taken down. The borough code and ordinance definitely states no fences in the front yard. They don't have to change that part but for whatever reason this has not been done. Barbara said they understand his problem, but they have to move on. Mike said understanding it and doing something are two different things. Mike said to Barbara he's the one living it not her. Barbara said she emphasizes with his problem. If it were her, she would be the first one pushing to have it moved. He said to go ahead and mute him. Barbara said she was not muting him. She's telling him she understands how he feels. Mike said this council is elected to represent the residents of the borough. A resident is asking them to do something and they're doing nothing. Barbara asked Ben Hauser to explain that to him. Mike said to Ben that he is not filing suit. He said he never said that. He said if he has to, he's going to because they're not leaving him any choice. The fence should be moved back at least three panels that's all I'm asking for. Move it back three panels which is 18 feet.

Tom Wheeler, 151 Bellevue Ave., said he received the bill for the concrete and has a couple of questions. After the last meeting he was able to attend, he met Beverly, Barbara and he believes John Stratz came out right as they were finishing up. When he met them out there, they agreed that some of the work was unacceptable. Beverly said she asked him to get her a quotation on repairing it. Tom said he knows but he's been tied up and had some medical issues. Beverly said she knows that now. Even though they know that the property was not satisfactory, they managed to bill him for the entire project which is OK. To eliminate any liens or other fees attached to this, he would like to pay this, but have it put in escrow until they work it out. He asked if that was possible. Ben Hauser said it's something that could be explored. He's not his counsel. He has to throw that caveat in there. Upon paying the bill if you are due recompense from the borough he certainly encourages him to reach out to an attorney of his choosing whether the borough uses those funds and puts them aside pending any kind of result and I will defer to the borough, he doesn't see a problem with it. At the same time that's something they haven't explored yet. Tom said he would like to but it can't be resolved within the 30 days that he has to pay so he'd like to pay it but put it in escrow because once you cash the check, obviously he has no recourse because there's no reason for you to settle with him so he'd like that money put in an escrow account. Beverly said she wants to settle it with him very much and she's sorry what he's gone through over the past few months. She said maybe somebody in his organization can get her that estimate to fix the things that they have the photographs of. She said she didn't hear from him and didn't know what was going on. Tom said he doesn't want this to go on and he gets liens. He's asking how they would like him to resolve it within the 30 days without getting liens. He's trying to work with them. He said he'll write the check but have Marie put it in her drawer or put in an escrow account or whatever they want to do so they can work it out. Beverly told him to get the estimate for her. Tom said and then they can work it out between him and council. Mark Moffa said to Ben that a lien is not automatically filed after the 30 days, that he has to actually physically file the liens on the property. Ben said there's a certain rule under the Municipal Claims and Tax Lien Act which requires the lien to be filed within a certain period after the work being certified by the borough engineer. Beverly said If he pays it and they just kind of hang onto it. Ben said you can hang onto it and if the borough were to decide later it needs to provide some recompense to Mr. Wheeler, that would be up to the borough. However, as Mr. Wheeler notes, once he pays, he's kind of leaving it up to the borough to do the right thing. Beverly said she thinks that there's

some legitimate complaints and concerns with Mr. Wheeler's property with the work and she was very open with council about it and with Mr. Wheeler. She was waiting on the estimate and she thinks if he does give them a check, that they figure out a way to hold onto it until he can get this estimate done on making the repairs. Ben said the check would satisfy the fact that there would be no attorney's fees or other fees that are chargeable under the act that would be upon the filing of the lien. But again, Mr. Wheeler realizes that he does have the opportunity to talk to counsel on his own if he so chooses, to understand his rights. Ben said he can't do that for him but if he's willing to pay the check, how the borough treats that check and whether it does the right thing with the check, he can make no representations. That's something council has to do. Tom said he has no interest in getting counsel involved in this. A \$2,000.00 bill is not worth getting counsel involved. Beverly said they can ask the other council members how they feel about this. Her recommendation is they get the check from Mr. Wheeler and they hold onto it until he can get the estimate for the repairs for the stuff that she and Barbara and John looked at and agreed it's not what we want in front of one of our business owners establishments. Barbara agreed. Ben asked Marie if they decide not to file a lien upon the receipt of the check and the time passes, is she able to deposit that check and keep that money sequestered. Marie said she can put it into an escrow account. Joe Dudash said he agrees. Mark Moffa said it seems like it's a reasonable solution if Marie can put it in escrow while they work this out. His only thought to add to that discussion is, with all due respect to Mr. Wheeler, is that maybe there be some sort of reasonable timeline or deadline provided for them to get that quote from Mr. Wheeler so this doesn't continue to be open ended. If they could have a date by which they would have that number, then he agrees. Tom said he would have the estimates by the end of the month which is next week. They won't have it resolved before the deadline is set. Beverly said but they will have accepted it and put it in escrow and will relieve him of that. Ben said that is correct and then that would discharge his obligation. Gary Nickerson said he agrees. Laura Germain said she agrees. John Stratz said he can accept that.

Dave Cahill, 462 Cynthia Ave., said he had three questions. The first question is for the Chief. He asked if there has been an arrest for the murder at the house on Cynthia where the overdose happened. Beverly said the Chief isn't here. His second questions is if the renaissance celebration is for chasing away the Wawa and that question is for Mark Moffa. His third question is for council. He asked if the borough enacted an EIT to condemn the old PECO building property and take the property from the trucking company eminent domain. Barbara said she doesn't know where he got that from. Dave said there's a rumor floating around that they have plans to condemn the trucking company at the old PECO building and chase them out of town and take their property eminent domain. Barbara said she doesn't know who's talking to him but the answer is no. Dave said he'd like an answer from the Chief about the murder arrest for the overdose death on Cynthia. Barbara said if that's still being investigated, he'll have to wait until the case is done. Dave asked her to relay a message to the Chief for him to get ahold of him and let him know. Barbara said she will relay the message that he is concerned.

Beverly Wolfe said one of the reasons why it's very frustrating for her is because Mr. Smith, being a former council member, knows that there's a specific process for things considering that with the zoning officer who unlike any of our other professionals, and you don't hear Carol being called an engineer officer, enforces the zoning laws for lack of a better term. She said you're welcome to read 405-56 of the code about the zoning officer's duties. It's kind of vague but one of the things it does mention in Item 11 is at the request of the borough council, the Planning Commission or the Zoning Hearing Board to present the facts, records or anything that the council would need when requesting information with specific concerns. There's nowhere in this section that doesn't state that the Borough Council can or should be involved with a dispute with

the zoning officer before the due process. That is why she will not go over to Mr. Smith's house and back out of his driveway. Back on 9/28, emails to Mike Italia and other people were copied, claiming non-compliance with code, those were being investigated. On 10/1, a very long email where litigation was mentioned six times in the email, that email was responded to by the zoning officer only and our attorneys Mr. Hauser and Mr. Truelove because of the sheer number of times litigation was mentioned. On 10/2, on the advice of the attorneys to cut off discussions because Mr. Smith had hired an attorney with the specter of litigation. That's a direct quote. It is very inappropriate to discuss this issue in open council considering they have been advised not to. And it's even worse for them to go over and back our truck out of his driveway. They all get it. She doesn't think there's one council person here who hasn't gone and looked at it. They have to wait because of all these things that she just mentioned. This is a process and they have to get the OK from the attorneys on what the next step is. The only reason they have to wait is because of all these mentions of litigation. No one is disputing his problem or the anguish he's having with it but for her, she has to wait until one of the professionals or attorneys says it is now time to move to the next step. Mike Smith said there was litigation mentioned because nothing was being done. He couldn't get Mike Italia to do anything and he's got a feeling that's part of the reason why he got fired. As for him hiring an attorney, he never said he hired an attorney. Mike said he told her he consulted with several attorneys. He wants to make sure that it's exactly right. Mike said just like she consults with their attorney. He had to also know he wasn't overstepping his bounds so that's where he got the information from. Out of the three attorneys that he did speak with and he wanted to make sure he got from all different sides, not a one of them said they would not take the case. One of them actually said you know what this case is and he said what's that. They said cha-ching. He's sorry if he's yelling but he's very frustrated in the way this went down. He doesn't wish any bad things happening to Dan or Ashley. He really wishes that Mike Italia or Rick would have done their job to begin with. Never use that GIS mapping because if anyone has used it and he's sure Mark knows how to use it probably better than the rest of them, but if you look at Dan's property, it slopes into his driveway. Go to Arleen's property and his property slopes into hers and so on down the line. He had a survey done and in order to prove that it was valid, he had a second one done and if they all drive by they will see where the 60 foot mark is across the front of my property which means that the corner of his fence is on his property. It's not off 12 inches but he really doesn't care about the backyard and he's said this to many of you and you can all hear it again in this public meeting. They just have to move the fence back at least 18 feet because he can't see. Beverly said 18 feet. Mike said it's in the right of way. Beverly said she would like to get an update on where they're at with the situation. Mike said he would too. Beverly said she's looking at probably a good 15-20 emails in this sequence between Mr. Smith and Mr. Italia and she can't make hide nor hair of it. Mike Smith said the last he heard from Mike Italia was that he was meeting with Mr. Darnley. After he met with him there was some yelling happening on the street about the visibility triangle which is part of the code. Mike Italia said he would have an answer for him within a couple of days but as you're well aware, it's been a lot longer. Beverly said she thinks that was on September 28th based on the email trail she's looking at. She said she feels like she can't comment any further only because of this. Mike said she can comment because he has not hired an attorney to sue the borough. Beverly said her solicitor has advised her and all of council not to discuss it. Beverly said she has it in writing from the solicitor that this is not to be discussed in public by any of the council members but she would get an update and pass it on to everybody.

Joe Dudash said that Mrs. France told him she dropped off paperwork to you for the matter of what the council was handling with her. He wanted to know if it has been resolved. Barbara said it was given to Marie and she will make sure it was forwarded.

Dave Cahill, 462 Cynthia Ave., asked if it comes down to sending the Darnley's a letter to move their fence away from the sidewalk, wouldn't you have to send letters to everybody in the borough that has a fence out near the sidewalk that's similar to Mr. and Mrs. Darnley? Barbara said she cannot comment on that on instructions from the solicitor. Dave said he would hope that if they have problems with the ordinance and fences are in the wrong places, that not just the Darnley's get notified but that every resident who has a fence in the borough that is not conforming to the zoning ordinance should get a letter to move their fence.

MOTION BY JOHN STRATZ TO ADJOURN THE MEETING AT 10:10 P.M. SECONDED BY BEVERLY WOLFE. A roll call vote was taken. Beverly Wolfe, yes, Mark Moffa, yes, Gary Nickerson, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Barbara Heffelfinger, yes. All ayes, motion carried.

Submitted by: _____
Marie Serota, Secretary/Treasurer