

Penndel Borough Council Work Session
Via Zoom Communications

January 19, 2021

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

Also present via Zoom Communications

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

MOTION BY JOHN STRATZ TO APPROVE THE MINUTES OF THE JANUARY 4, 2021 COUNCIL MEETING. SECONDED BY MARK MOFFA. A roll call vote was taken. Barbara Heffelfinger, yes, Gary Nickerson, yes, Mark Moffa, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Beverly Wolfe, yes. All ayes, motion carried.

President's Report

Beverly Wolfe reported that she wasn't quite finished with the committees and would have them for the next meeting.

Mayor's Report

Mayor Winkler read his report which is on file in the secretary's office. Beverly Wolfe asked Bob when the fundraising project was going to start for the memorial at the rec field. Bob said he has a few phone calls in and figures that council would want to approve it since it is borough property. There will be fliers going out for the fundraiser. They would like to do bricks with names on them.

Public Comment on Agenda Items

Beverly Wolfe said this is a new procedure. They will have public comment on the agenda items only at this time and will still have public comment at the end.

Jay Moser, 525 Hulmeville Ave., asked about the hiring of a part time employee for right to know requests. He asked how many they get a year. Beverly said it wasn't how many but the depth of the research that needs to be done for the requests. She said they've had the position for about three years. Jay asked if it was advertised for the general public or just one person. Beverly said they had a part time clerk and needed someone to step in. They didn't know she wasn't coming back. Danielle Serota stepped in because she knew the job and filled in with literally no training. The former clerk officially sent in her resignation and Danielle expressed

interest in becoming the permanent replacement and she is already trained so that is why she was considered to be hired.

Tom Sodano, 126 W. Woodland Ave., said the link for the meeting that worked last time did not work this time. He could only see the first page of the agenda. Laura Germain said they are meeting with the website people tomorrow night and will mention it to them.

Jay Moser, 525 Hulmeville Ave., said he had a problem tonight using Edge, so he backed out and used Chrome and it worked.

COMMITTEE REPORTS:

Gary Nickerson reported that Martin Luther King Day is not a holiday for the trash company so they will be picking up trash on Wednesday. There was an issue with the trash not being picked up on Walker and Glen Avenues. The truck was full, so they had to come back the next day. The best way for them to know if anything is missed is to call the borough hall and let Karen know. There was a hiccup with them picking up Christmas trees. This is the third year of the contract and they didn't have an issue before. They had to be reminded that they are responsible for collecting them so they should be picking them up. Gary thanked Karen for making sure they came out the next day to pick up the trash. She did a good job making sure the contractor fulfilled the contract.

For Long Range Finance, they did not have a meeting because they didn't have enough members for a quorum. Amanda Mieluch's term expired in December and she's been on for about two years and would like to continue.

MOTION BY GARY NICKERSON TO APPOINT AMANDA MIELUCH TO THE LONG-RANGE FINANCE COMMITTEE FOR A FOUR-YEAR TERM WITH THE EXPIRATION OF 12/31/2024. SECONDED BY MARK MOFFA. Mark Moffa said in his time as liaison, he was very pleased working with Amanda. She has an independent mind and is looking to help all of the people of Penndel and is a pleasure to work with. Joe Dudash agreed with Mark. A roll call vote was taken. Barbara Heffelfinger, yes, Gary Nickerson, yes, Mark Moffa, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Beverly Wolfe, yes. All ayes, motion carried.

Gary reported that the Long-Range Finance committee has been working with LERTA, but felt it wasn't the right time to go to the school board because of Covid-19 but they will be starting back up. If council has anything else for them to investigate, just let them know. The only other issue is the hot water heater at borough hall isn't working. He is looking into doing something different because they have a 40-gallon hot water heater for a building that doesn't have a kitchen, dishwasher, or shower. He spoke to the person servicing it today and asked about an on demand hot water heater and the costs associated with that. He hopes to have something at the next meeting. Beverly asked him to check with other contractors and look into tankless. Gary said he spoke to the contractor about downsizing or some kind of electric one. Beverly said they could save money on energy and gas. Barbara Heffelfinger said they had a tankless heater at her shore house, and it cost a bundle. It only heats when you need it so to wash your hands you will have bitter cold water unless you let it run for 10 minutes so it's not all it's cracked up to be.

Mark Moffa reported they had a discussion with Grimmer, the snowplow contractor. The borough learned that the requirements were a little too strict. Grimmer is looking into seeing if they can get out of the insurance agreement and into one that would give the borough a different rate. They shared some concerns with them over the last snow event. They are

developing a more specific SOP going forward and they think they'll all be happier next time. They've been looking at the space in borough hall for the incoming manager so that is in the works. They have begun the process of figuring out the contract for the new manager Geoff Thompson.

Mark said for those who don't know, Maryann Barnes, a council member from Langhorne Manor, passed away. Beverly sent a wonderful note on behalf of PennDel sending condolences to everyone there.

Mark said he knows this isn't the police chief's usual meeting and he has been out dealing with a personal situation, so he spoke to the mayor earlier today about a couple of issues. One is the desire to have a discussion on the use of force policy. Bob said he would work with Sean on getting something set up for council in February. Also, the report they got from him in December was not the usual itemized report. Bob said Sean would be back to normal doing an itemized report at the next meeting.

Joe Dudash reported that they got bids on the tree issue at 173 Holly Ave. and selected All of the Above. They called him today and are coming out tomorrow and cut it down. It's at the end of Holly Ave. by the fence.

Mark Moffa said he got a message from Amanda Mieluch who said she was having trouble with her microphone but wanted to thank council for the reappointment and kind words.

Beverly Wolfe said the agenda was reposted on the website if anyone wanted to try to download it, to try now. Tom Sodano said it still didn't work for him on Edge or Chrome. The message is that there may be a typo the file name. Beverly said that means it's not pointing to the right place.

Laura Germain reported that the original agenda posted correctly. Marie sent her the new one and there was a typo. She refreshed it during the meeting so it should pop up soon for them. Mark said he just tried it on Chrome and it shows both pages of the PDF. Laura said she wrote down everything people have said so she can tell them at the meeting tomorrow night. She is working on the newsletter and if anyone has anything, please give it to her. She has received some things from council already. She hopes to have it done by the end of January and out in the first two weeks of February. She is working on the Valentine's Day event. Since they can't have their normal party, she is going to make up little kids with Styrofoam hearts that they can make themselves. She hopes Karen and Marie won't mind people coming to borough hall to pick the kits up. They can return them to borough hall by that Friday and then she can hang them up on the outside of borough hall. She was thinking of putting a string across and hanging them. It'll be cute and they can take some pictures. It is just to give people something to do.

John Stratz reported that he also attended the meeting with Grimmer regarding the snow plowing. They got really good news about the sewer project and Carol can say more but they will be voting on a candidate who they want to give the contract to later in the meeting.

New Business

MOTION BY JOHN STRATZ TO ADOPT RESOLUTION #2021-2 ACCEPTING A MUNICIPAL GRANT PROGRAM CONTRACT AWARDED BY THE BUCKS COUNTY REDEVELOPMENT AUTHORITY IN THE AMOUNT OF \$25,822.81 FOR THE PENNDEL BOROUGH POLICE DEPARTMENT EQUIPMENT PROJECT AND APPROVE AND SIGN CONTRACT #2020-38. SECONDED BY BARBARA HEFFELFINGER. A roll call vote was taken. Barbara Heffelfinger,

yes, Gary Nickerson, yes, Mark Moffa, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Beverly Wolfe, yes. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO ADOPT RESOLUTION #2021-3 ACCEPTING A MUNICIPAL GRANT PROGRAM CONTRACT AWARDED BY THE BUCKS COUNTY REDEVELOPMENT AUTHORITY IN THE AMOUNT OF \$66,144.00 FOR THE PENNDEL BOROUGH HALL RENOVATIONS & SAFETY IMPROVEMENTS PROJECT AND APPROVE AND SIGN CONTRACT #2020-39. SECONDED BY MARK MOFFA. Beverly said she didn't understand the amount they were given but she figured it out. It is the exact amount of the proposal to fix the front entryway. Mike Smith asked if it includes the ramp and all for the front. Beverly said yes. Mike said he would save them money by donating the railings from his company to the borough. Beverly said she would have to see the terms of the RDA grant and see if it allows for that. She will have to see if through the RDA grant they have to pay prevailing wages and purchase specific items. She doesn't know the specifications but appreciates his generosity and she will let him know. Mike said this is his last-ditch effort before he leaves town.

A roll call vote was taken. Barbara Heffelfinger, yes, Gary Nickerson, yes, Mark Moffa, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Beverly Wolfe, yes. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO AWARD THE SEWER LINE REPLACEMENT PROJECT TO PACT ONE LLC FOR THE TOTAL BID AMOUNT OF \$326,545.00 AS RECOMMENDED BY THE BOROUGH ENGINEER. SECONDED BY JOHN STRATZ.

Carol Schuehler explained that six bids were received for the project for sewer line replacement down near the Neshaminy Creek and were opened on January 6, 2021. They reviewed the bids and related documents, and the lowest responsible bidder was Pact One, LLC with a total base bid of \$326,545.00. Other bids ranged from \$362,000.00 to \$636,000.00. They got references checked on this contractor from five different local engineers and made sure all their documents were in order. She is recommending they award to Pact One construction of the sewer project. As a reminder, the borough has grant money in the amount of \$231,155.00 towards the construction and needs to be completed by June 30, 2021. The terms of the contract or the goal work must be completed by April 30, 2021 so they should be well under that limit. Mark Moffa asked for a clarification on the April and the June dates. Carol said they are considering awarding it tonight. It has to be built under the contract documents and it has to be built by April 30th. That was to make sure that they meet the requirement to have all work done before turtle hatching season. The grant award is valid through June of 2021 so it all lines up perfectly to get this job done before the turtles want to hatch. Mark said this is probably the largest discrepancy in bidding that he's seen in a project since he's been here. He asked Carol to enlighten them as to why there would be such a huge differential. They were kind of figuring that this is about a \$500,000.00 project and it's kind of hit right in the middle because some bids were six something and now some bids were three something. But the six something bid is almost twice as much as the one they're accepting. Mark asked if it could be that one company's actual costs are higher or they're just looking to have a greater profit. Carol said it's a somewhat unique project. It comes down to a few pieces. One is a particular contractor's expertise in one area, or another is how sharp their pencil might be today and how much they want that work to fill their schedule. Also, how convenient it is to them geographically but really the first four bids were right down in the range they were anticipating so the last one being such an outlier, she doesn't think it's a big concern. If they had one bid at \$300,000.00 and all the other bids were at \$600,000.00 then she would be raising a lot of red flags. She did reach out to Pact One Construction to see if they were comfortable with their bidding the project. She made sure that they could complete the project in accordance with the timeline they had put

forth and they were confident they could do both. And she did receive good references on them from other engineers in the area. Beverly said the only other bid that she's ever seen in her entire time on council that was far off was, and if she's not mistaken, was the bid on the police station renovations. It was ridiculous and she couldn't understand it was one on this side and the other was triple or quadruple. It was a huge discrepancy for the same job. Ben Hauser asked Carol if the perspective winning bidder has not indicated to her any kind of math errors in their computation or if they requested to correct anything of that nature within the first few days of the bid being opened. Carol said not only was that not put forth or requested, they checked the math and everything added up. She did call the contractor and make sure they were comfortable and was assured that they were.

Terry McIntyre, 335 Hulmeville Ave., asked Carol what she is factoring in if problems arise. He asked what percentage she is factoring in if they run into an issue. Carol said there's always the possibility for something unexpected, especially out there and that would of course generate a change order or could potentially generate a change order. They estimated the actual construction for this at around \$400,000.00 so this seems like a great bargain. Even if there were some sort of an extra, it seems like they'd be coming in within the budget for this job. She can't predict what will come out there any further than she already has by drawing these plans and specifications, but she's really glad to see that the borough got such competitive bids. She thinks the time of year helped and she looks forward to getting this job done. Terry said she wouldn't be shocked with like maybe an 8% to 10% if they run into issues. Carol said some public projects have up to 10% and change orders which is why there's a 10% contingency put on by most engineers which is a possibility if they run into unexpected issues. Terry said sometimes they put in a bid way up there and they just figure they put a bid in that's crazy and maybe not a lot of people will bid, and they just get lucky. That happens a lot.

Mike Smith, 127 Dehaven Ave., said to Carol that he is aware of when you bid stuff and it comes out like, it's sort of suspicious and he hopes that she went through and compared apples to apples and not apples to oranges so that they have every step of the scope of work. Carol said everybody had the same bid documents and information and everybody was required to attend the pre bid meeting, so they all saw the project and saw the same issues. Again, since she didn't personally know this contractor, she did more reference checks than normal and contacted five different area engineers to find out about their work. Most of the reference projects they gave her were actually larger projects than this. They're in the millions so it seems like they have a good situation here. Mike said he's in the business and he's seen this happen before and sooner or later the contractor that got awarded just up and says, oh I can't do it and walks away. Carol said if they did that, they would be forfeiting a performance for bid bond, then subsequently a performance bond and a payment bond. All this work will be bonded concurrent with the agreement. A roll call vote was taken. Barbara Heffelfinger, yes, Gary Nickerson, yes, Mark Moffa, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Beverly Wolfe, yes. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO HIRE DANIELLE SEROTA AS PART-TIME RIGHT TO KNOW CLERK AND REIMBURSE HER FOR THE BACKGROUND CHECK FEE OF \$22.00. SECONDED BY JOHN STRATZ. Barbara Heffelfinger said she has watched her work and watched how she handles herself in the borough. She is a very good worker and she's very quiet and does anything that she's asked, and she came in here with lot of experience because she volunteered her time for years. Anytime you needed anything Danielle was there, so she highly recommends her. Beverly Wolfe said her experience with Danielle was that she flowed right into the job. She does a great job especially doing the research needed and pulling the documents required for some of this very intense right to know requests that

have been received over the past couple of years. she's done a really good job and she hit the ground running so it's a no brainer to her. A roll call vote was taken. Barbara Heffelfinger, yes, Gary Nickerson, yes, Mark Moffa, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Beverly Wolfe, yes. All ayes, motion carried.

Wheeler Brothers Concrete

Beverly Wolfe said there will be a discussion on the Wheeler Brothers concrete work and pending motion. She said she believes they all got a copy of the proposals that Mr. Wheeler provided. She also attempted to get somebody to give the borough a counter proposal just to see where it was coming in at, somebody they picked independent and she couldn't get one. She said with this matter, just so everybody is clear, in the email that they received is a recap of all the notices that were sent out certified mail, regular mail, certified unclaimed. They did a total of four notices about this work with deadlines on it and then we did the letter with the invoice and whatnot. She went out to meet with the Wheelers to observe what they were complaining about and have them show her. She took some pictures of it and was a little bit taken aback by the whole thing. Beverly shared her screen to show the photographs she took. The first picture she showed the triangular shape in the concrete. There's a noticeable lip here that looks like maybe not even an inch. She can't tell. In that photo is the same triangle and there's definitely some problems. There's a crack and there's this here and so this is before and this is after. You can see that this was all replaced with the crack. The photo is before right by the pole and is also before the driveway. The area they looked at before is just right down this way and this is after and this right here is part of that triangle that she showed them earlier. This was before which is kind of unsightly and this is after. This is the place on the walkway that was part of Mr. Wheeler's main complaint which is this triangle they talked about with this edge right here which has as you can see, it looks like a sealant of some kind. Then it has the rocks from the concrete in there. That was one of the things that he did not like, and she wasn't particularly fond of it, but it didn't seem to be a problem to her. You can see the pebbles are showing it looks like it was too high, and it was ground down to make sure that there was no tripping hazard so there was some kind of a sealant. The last picture she shared is the other part of that triangle shaped thing that she didn't like was the job done on this corner. It broke off and they filled it in with like a slurry of some kind to fill in the gap. It's not a hazard in her opinion but she didn't like the way it looked. With regard to the bids that were put in by Mr. Wheeler, it's going to cost the borough \$1,400.00 to jackhammer and remove the two existing areas of the concrete and haul it away and redo both those pieces of the concrete. They received a quote of \$1,100.00 and quote of \$1,390.00. They are discussing tonight how council feels about this issue and what direction they would like to go to finally get this over with. Beverly said that one section of the sidewalk she's not happy with it aesthetically and that was Mr. Wheeler's main complaint. He didn't particularly like the way that it looked. She believes that he's been on Zoom meetings and has expressed that he wasn't thrilled about the way that it looked especially when they have customers coming in. She's done a lot of thinking and looked at this and looked at the documentation on the letters and if aesthetics was a problem, then this work should have been done by the property owner not by the borough. Functionality, and she's not a professional and doesn't pretend to be, she didn't see anything that struck her as being hazardous to the public in any way. This was just a matter of aesthetics and in her opinion, what was there was totally uglier than what was replaced. Her opinion is she doesn't think that they should be responsible for this. Ben Hauser asked Carol Schuehler if she reviewed the photographs that Mrs. Wolfe put up on the screen, if she herself reviewed the subject property and the subject sidewalk at issue here and if in her professional opinion, the sidewalk that was replaced is compliant with all borough codes, all state codes, and all applicable codes in terms of sidewalk construction and safety. Carol said yes to all. Beverly said that and Carol's previous statements and reviewing everything led her to her conclusion.

John Stratz said ordinances are the only way a small town like boroughs can make laws. They finally, after the fiasco in 2016 and 2017, finally followed the letter of their ordinances and they asked the people of Bellevue Ave. to comply with the ordinance. They went through hoops to allow this customer to comply with their ordinance and considering he's part of Hulmeville's council, he finds it disgraceful that he refused to follow Pennel's laws and then wants them to pay. John said he disagrees.

Joe Dudash said Mr. Wheeler never put his position as president in Hulmeville into this issue. He's always kept that separate as a businessman of Pennel. He just wanted to get that straight. Joe said he's been with Beverly with this whole thing with the curbs and sidewalks from day one and it's been a mess. The Wheeler project was a safety issue because he was involved in it from day one, from the speed sign being taken down and thrown away to the barricades where he had to go call the police and one of their fine officers helped him put up the barricades. It was a tripping hazard and that one corner that she showed in the photograph was a tripping hazard. They milled it down and then they put cement which, eventually, is going to break anyway. It was the whole safety issue from the beginning. The borough took possession of that particular project and they are supposed to provide a quality product and it didn't happen. If that were him and he was a homeowner, he wouldn't want that in front of his house, especially for the amount of money he paid. He thinks Mr. Wheeler as a businessman has been bearing with them. Joe thinks it's not just the look of it he's complaining about, it's the issue of safety. From day one that's been going on with this thing and they've been going over this thing he doesn't know how many times. It's almost as bad as the fence issue, it just keeps going and going. He doesn't quite understand. They hired the contractor, and he did a lousy job, and this isn't the first one that he did a lousy job on in the borough. He could go with a couple of names. In fact, one of them is Mr. France where they had to figure it out. He thinks they have to put this aside and say what do they, as council representatives here, want as far as a quality product. They hired the individual to do the work and to him, that is not a quality product and he feels that it wasn't done right. All the man is asking is, he's complied with everything they wanted with him and he's saying is to give him a certain amount of money. He gave the bids and then they're done with this thing. He doesn't know why they keep dragging it out it, but it doesn't look good to the public. As council representatives they're supposed to take care of the businesses. Mark and Beverly are trying to bring business in here and it's like are we trying to kill businesses from not coming in here. It's like they're looking at this and saying my God, they're fighting over a sidewalk here and they hired the guy. That's his only concern. It's beyond just aesthetics. It was a safety issue from the beginning and now they're not even working with the businessman but yet they did work with another businessman. There's this conflict constantly going on. Let's get this thing over. Just pay it and get it over with. Give him the money and write up an agreement for him to hire his guy and finish it. They're signing this agreement that once they pay them, they hire their own man and then the council and the borough is done with it. If there's any more screwups, then it's up to him to fix. John Stratz said at the very beginning they sent out five letters. The email that they got you shows all the letters that this individual received, and he refused. He went on at a meeting and told them when they asked why he didn't do this, he said he didn't feel like it. John said he doesn't feel like doing 25 miles an hour down Main Street in Hulmeville, but he does. There has to be some consideration.

Mark Moffa said it's regretful that this has dragged on. He appreciates Beverly's presentation and John's concerns and Joe's concerns. He thinks everyone has tried to do the right thing all along with this case. They've tried to extend consideration and he thinks that's the reason why they're still talking about it. He knows Beverly offered him the opportunity to get these quotes and bring this information to them which he doesn't think they had to afford him that opportunity.

He agrees with John on this and the sentiment that Beverly expressed as well. It does not appear to be a safety issue and they have assurances of that from the engineer. It seems to be solely an aesthetic issue and Beverly's photos do demonstrate that in fact the aesthetics are significantly improved from what they were to begin with. That one little corner is disappointing and if he were a property owner, the OCD in him would be a little annoyed at that one little corner and he'd be a little miffed. Does that mean the borough should be on the hook for \$1,100.00 because that one little corner doesn't look quite as perfect as the OCD in him would like it to. If he is that particular about aesthetics to the points that have been made, then he would adhere to the multitude of notices that he received and he would have gotten the job done to his own specifications with his own contractor. Mr. Wheeler seems like a nice man and he seems like a very good borough businessman and he's also been very friendly to them in his capacity as a Hulmeville president, although, he agrees that's completely irrelevant here, but he's going to have to deny this. He's sorry and he just hopes it puts an end to it. He thinks it would set a terrible precedent also for homeowners going forward or property owners going forward that you could ignore all of their notices for a year and a half and then the slightest little thing ends up not to their liking as far as aesthetics and they will get a grand thrown their way to fix it. He doesn't think that's a good precedent for the taxpayers or the government to set. Joe Dudash said this was a safety issue from day one. He understands where Mark is coming from with that but it's not aesthetics. When this whole thing started if it was just aesthetics then why did they rip it up. Mark said it was a safety issue, but the safety issue has been resolved so now all that remains is an aesthetic issue. Joe said it's a poor work product and it's going to crack. What happens if that thing starts cracking again? Are they going to go back and say to him hey you know you're going to have to get this fixed? He brought all the documentation in on this thing since day one. They used this cement mud which everybody will tell you is worthless That corner is going to crack. Joe said let's say they deny it tonight. Are they going to get into another suit? Mark said anybody can sue them anytime for anything, they do all the time. They have to make decisions that they feel are fair and honest. Joe said in the insurance business you have to figure out how much are we going to spend on constant suits and just getting this thing over with. It's going to look like a black eye with the businessmen in Penndel. Mark said is that one little corner going to stop them from being able to revitalize Penndel. Joe said the issue is that they did something across the street from there and he didn't mention names. Is it because he is not so named in Penndel versus a poor man in Hulmeville? Mark said he doesn't think that's an apples-to-apples comparison. He thinks that was a completely different situation where someone came to them with a very demonstratable problem relating to grading and then they came to what he thinks was a fair solution, but he also came to them at the appropriate time before the job was done. Joe said it's still a poor product. They hired somebody and got complaints every day on this whole curb thing and then we just want to continue. It's almost like Nick says, that they hired the blue light special around here, from the borough parking lot to this. He can go on for a whole list here so are they just going to say ok, let's just continue to hire these contractors and do poor work all the time. Mark said he thinks sometimes they disagree on the definition of poor work. He said he thinks he and Joe disagreed on the borough parking lot. He understands and respects his point of view. He just doesn't agree with it.

Mike Smith, 127 Dehaven Ave., said he sees all sides of it. He understands that he got all these letters, and he does feel that he probably should have reacted. But at the time the borough took over that area, you guys own that section. Your contractor did the work, so you now own it. As far as the part that was ground down aesthetically it is not pleasing absolutely but as Carol has said, it is functional. But on that triangle piece, you never allow that to go forward. If they were doing a street and they saw that, and this is the first time he's seeing it, if you saw that you would make him replace that little section. You may want to consider doing that block because there's no room for expansion and contraction and that little corner is going

to pop. Not if but when so you may want to consider just doing that one little block or even saw cutting it. Pour around it and it becomes one piece. It may not cost you \$500.00 but in all honesty that piece should be replaced.

Beverly said she did state in the beginning that they tried to get another bid on behalf of the borough and that was the intention to try to replace that piece and the reason she said that is because all these quotes that they received are to remove two full sections of concrete and then replace the whole thing down to stone. That is more considerable because she was very upfront about that corner is what she really didn't like. Mark said what Mr. Smith proposes is not what's before them tonight. That's not what the owner has presented to them as an option. Ben Hauser asked Carol, as an engineer, how soon does she typically see any kind of these theoretical issues becoming observable or occurring. He asked if it is within the first year or is it happening much later down the road. Carol said if some of the problems that were just described were to occur, it would be with winter freeze and thaw. If there was a problem to become evident, if there was a pop or crack that occurred, that would actually be under the maintenance bond. Projects under 12 months are under the maintenance bond and they could retrieve the contractor to address a problem like that if it comes up within the 12-month maintenance bond.

Jay Moser, 525 Hulmeville Ave., said he knows the Wheelers did not respond and he doesn't know the circumstances. But regardless, they are responsible to have that work done but the borough's contractor did it. He doesn't think that if that were in front of borough hall, that would be allowed to be left the way that it's left. Grinding down concrete is not the right way to do it. That whole slab was not put in correctly. The corner was busted. If that were in front of his house with his contractor doing it, the borough would come and shoot it down. Regardless of who did that work, it is not done right he thinks it needs to be corrected, whichever contractor did it. The contractor should be penalized that did it and should be made to do it right. Obviously, he had a second chance and it's not right, either safety or aesthetics or whatever it may be, it's not right. If that were a project in front of borough hall it would be ripped out tomorrow and corrected. What's the difference?

Terry McIntyre, 335 Hulmeville Ave., asked if the contractor gave a warranty on the concrete work. Beverly said one of the problems is that they were told by Mr. Wheeler that the contractor was not allowed back on his property. Terry said as Joe was saying, unfortunately they are bound by code to take the lowest responsible bidder with the onus on responsible so it's not always easy.

Mark asked Beverly if it is her understanding that some of this that's just been discussed as far as just attempting to remedy the piece with the corner slurry or whatever the correct term is, does not appear to be that option before them tonight. But there's some options about replacing two pieces and it's not clear that that's even one of them. Beverly said the bids are the one contractor wants to remove two sections of the concrete in front of the front sidewalk, install stone, install expansion joints, install 4 inches of concrete block and that is \$1,250.00. Another one is removing and replace two sections of concrete in front of the property and it didn't go into the same kind of detail as the other one did. The last one is quite an estimate. It says jackhammer and remove two existing areas of concrete sidewalk. The dimensions say 60 inches by 67 and 65 by 89 by 9 divided by two, haul and dispose, install four inches of three-quarter inch clean stone, properly install expansion joints as required, install number 10 wire mesh reinforcement, four inches of Class A concrete and clean up the job site and that was the \$1,390.00 estimate. No other options were given to them. Mark said so we were not sure which two pieces they are. One might presume the two pieces that might concern someone the most

would be the one that she pointed out with the aesthetic sealant on it or whatever that is and then the one with the corner so if those are the two problem pieces maybe those are the two, he's replacing. Beverly said there's only one that specifies dimensions. Mark said but there's no option to just do the one piece with the corner. Beverly said that's correct. Joe asked if he came back and said he only wants the one piece if that would be a different story. Mark said he might personally consider a different option that just included the piece with the corner. He can't speak for the other members of council, but he personally would give that option consideration. Beverly said she wanted to point out that she asked for that. What she got was what she read and what they all saw in their emails. She said for the issue in front of them tonight, she would absolutely say no to that but would be open to something else. Joe asked if she was saying they should go back and ask him for a reevaluation. Beverly said what she wants to do tonight is to close this chapter which is the replacement of these two total blocks that is being asked for and, in the conversation, and letter that will be going back, they would kindly ask if there were another option available for that section. She asked if they all agree. Mark said he would consider that option. Beverly said she would consider it too, but she wasn't given what she asked for. Joe asked if they could just shelve this tonight. Ben Hauser wanted to make sure there was no motion actually made. Beverly said discussion only to come to a conclusion which it sounds like they just did but she can poll council and see what their opinion is and then go back to Mr. Wheeler in the form of a letter and explain what they discussed tonight if they are all agreeable on that. Barbara said no, she would not agree to carry it through anymore. Mark said he's willing to go back and ask for another alternative for that slurry section. Joe Dudash said he agrees.

Laura Germain said she thinks what Beverly and Mark said makes a lot of sense in that this way they could do something for the owner without necessarily taking on the entire burden. Gary Nickerson said he hasn't really had a chance to examine this in person. His recommendation would be to stick with what the engineer proposed. He wouldn't be in favor of doing anything with these current motions. That patch attempt on the corner is questionable but he would go with the engineer and the engineer says it's sound and they have a one-year warranty. He's not sure what the cost of that would be or if Mr. Wheeler would be interested in contributing towards that completion or if the borough is shouldering the cost. He would consider that. John Stratz said he is in complete agreement with taking care of discussing the corner. He would still suggest following through with the motion of the completed job and getting rid of that and opening up a new motion that concerns the corner. Beverly said there is no motion, it's just discussion. Beverly said so they are all in agreement that they are going to prepare a letter to Mr. Wheeler basically saying that they don't agree with the estimates he's given them and is there a way that they could get from him an estimate to fix that corner because it will possibly crack overtime. In the meantime, they can still try to pursue a contractor for the borough to come out and look and give them a price on that, so they have something to compare it to. Mark said it sounds like they have a majority.

Fiori Letter

Beverly Wolfe said they will discuss the Fiori Real Estate letters dated July 2, 2020 and August 25, 2020 regarding discontinuance of sewer service and billing. They all received all the documentation, the letters and also the two code official reports on the basement where the karate school used to be and floods and that everything has been taken out. There are no fixtures, no toilet, nothing down there so he wants to be disconnected from the sewer system and not pay for sewer anymore. There is no motion on the floor so they can say whatever they want. John Stratz said the first inspector went in and he specifically said that it needs to be severed and capped and the second inspector went in and said yes, all the fixtures are gone but did she say anything about the line being severed and capped? If they were given a letter from

the plumber who actually did that work, he would be completely satisfied. Joe Dudash said he agrees with John. They need to ask for proof that it was severed and capped. Beverly said she will make sure the letter goes out Fiori asking that they provide proof that the lateral was severed and capped. She will also include in that letter to make absolutely sure and have it in writing that they realize if they want to reconnect, they have to do it through Bucks County Water & Sewer and they may not be able to get an EDU and if they do, it's going to cost them a mint. Joe asked how much it costs. Beverly said she doesn't know what the reconnect charges through Bucks County Water & Sewer are, but she's heard it's a lot of money if they can even get it. John said in Rick's email it said \$8,000.00. Mark said that is what the documentation says as John notes in the letter from Rick Halbom dated August 31, 2020. He thinks the cost is not necessarily fixed, but he indicated that the current cost was nearly \$8,000. Joe asked if they get the EDU and say a new house was built, can they use it for that. Carol Schuehler said probably not but the good news is because they got the 537 Plan approved, the moratorium is lifted, and they have some room here for new house connections. Joe asked Carol where it goes. He asked if it just disappears. Carol asked when the last time the structure was used for sewer, how many years it's been abandoned. Beverly said she thinks it's been abandoned for at least three years. Carol said she doesn't think the DEP would make it easy for them to do a trade, but the good news is she doesn't think right now they need to do that. Joe asked Carol, with the new house that's being built down Hulmeville Ave. if they've hooked up to the sewer yet. Carol said she doesn't believe that's happened yet, but they are scheduled to do so yes. Joe asked her if she can let Gary know because they're going to need trash and they will be giving and taking away. Mr. Rudy will be taken off. Once they know that the sewer is connected, they will need trash so they can give Mr. Rudy's to the new house. Beverly said she thinks that's some kind of an automatic process from Karen in the office for when she gets the sewer and trash cert, but she will double check on that. Carol said she looked at the fee schedule while they've been talking, and the sewer service connection fee is \$7,747.00 so that would be the cost of purchasing a new EDU. That is the cost that will be paid by the house on Hulmeville Ave. to connect to the borough's sewer system. Beverly said the action to be taken is that they will send a letter asking for proof that the line was severed and capped. Mark said that was a good catch by John.

Discussion on Borough's Association's Legislative Update regarding Penndot's request for feedback seeking comment from municipal officials on its draft policy and procedures for personal delivery device (PDD) operations. The deadline is 01/22/21.

Beverly said they are seeking comment from municipal officials on the personal delivery device service. Basically, what that is are robots and drones. The municipality is prohibited from regulating the operation of PDD's except for the following by ordinance or resolution: the operation of PDD's on roadways under the municipality's jurisdiction with posted speed limits greater than 25 miles an hour but not greater than 35. They don't have very many roads that are under their municipality's jurisdictions. After consultation with the authorized entity, prohibit PDD's on a roadway or pedestrian area under the jurisdiction of the municipality where the municipality determines operation would be a hazard. Beverly asked if anyone here thinks that this might be a problem or are, they ok with what they want to do that they would not want to do a resolution or something objecting to things that they're allowed to object to. Mark said the issue is a new law that's scheduled to take effect on February 1st, and it establishes basic rules for the operation of these devices including that they obey the rules that govern pedestrian use of sidewalks such as waiting at crosswalks and yielding to vehicular and foot traffic in front of them. This all just sounds funny, but he guesses this is the world they live in now. The robots need to follow the rules is basically what the legislation says. There are also equipment requirements for the devices like each robot needs to have a unique ID number. It needs to

have a braking system and there needs to be visible lights like he guesses aircraft have and other features to enhance visibility and awareness. Drones must have a remote monitor and who can control the device if necessary and maintain liability insurance. Presumably if a drone is delivering a package it's probably operated by Amazon who would have these systems in place. The attempt is to begin to govern and legislate rules and standards of practice for drones while in its infancy. Beverly said she's sure these rules would continue to evolve over time and thinks this is probably the first such piece of legislation and she wanted to make sure that everybody read it and if they had any thoughts on it. Her only thought was the drop off area in front of Our Lady of Grace School. She can see a robot careening down the road and running a kid over. That's the first thing that popped in her head. Mark said according to the way this legislation is written, that would be an exception carved out where the municipality could take action because they would determine that to be an area of hazard. Beverly said they would have to do that by resolution or ordinance to object to it, so she just wanted to bring this to their attention and see if they had any feedback as a council that they wanted to give them. It just seems that when the time comes, if it does, and if it becomes a problem, probably by ordinance or resolution they should be able to prevent it or fix the scenario that she just gave. Mark said that's his understanding as well. Gary Nickerson said it seems like it's very new stuff and he wasn't sure if there's any updates or anything the solicitor could add to this like if he knows of any other municipalities. Ben Hauser said they were first surprised at this last week. They had a copy of this and the first vision he had in my mind was the robots at Giant and they seem to move at a fairly fast clip. The law has not come into effect. He doesn't think there's any new amendment to the new law. He thinks it's going to be a process where if that doesn't work so properly so they're going to have to amend that going forward. Ben said looking at some of the guides that PennDOT has put up I think the first kind of real rub that's going to come out of this is after 180 days where you can kind of switch out from the fact that the operator has to be within a certain physical vicinity of the device to after 180 days they don't even have to be nearby as long as they can control it remotely. Beverly said she doesn't think that they have any feedback for PennDOT on this. Ben said he doesn't think these are flight drones. They seem to be some sort of wheeled terrestrial thing. Beverly said when you click the link to go to the whole thing online, she thought it was drones but she could be wrong. Ben said the way it looks like it's defined, it looks like it speeds pedestrian road areas 12 miles an hour or less and shoulder roadway 25 or less. Mark said it is ground based delivery device. Ben said if they're dealing with aerial drones, they may be getting into federal regulation with the FAA and that's another ball wax. John Stratz said what if a robot is zooming down the sidewalk at 25 miles an hour and a child runs from his yard to catch a ball the drone hits him. The drone operator suddenly pushes the destruct button that that severs his link and his attachment to said robot. How do you sue a robot for harming a child? Mark said the law requires things like proof of insurance with the minimum liability requirements. Ben said also numerical identification. You're not going to have some sort of unidentified driving object. Ben said they're going to have to provide a decent amount of information and as Mark noted, there are insurance requirements. He imagines one of the things that may get adjusted over time as are the minimum insurance requirements, so they are sufficient down the road in case of the very scenario that Mr. Stratz is starting to envision. Mark said the speed restriction in pedestrian areas is 12 mph and 25 if they're on the shoulder or on the road.

MOTION BY MARK MOFFA TO APPOINT TOM SODANO TO THE PLANNING COMMISSION FOR A FOUR-YEAR TERM WITH THE TERM EXPIRATION OF 12/31/2024. SECONDED BY JOE DUDASH. Ben Hauser asked Tom Sodano if he is ready, willing, and able to resume his duties on the Planning Commission. Tom said he humbly accepts. Beverly said she was happy he was doing it. Mark said he has worked with him and he is an invaluable resource to the borough. Ben said as the attorney assigned from time to time for the planning commission

meetings it's a pleasure working with him and his insights can be very instructive, even here in meetings. Joe Dudash agreed. A roll call vote was taken. Barbara Heffelfinger, yes, Gary Nickerson, yes, Mark Moffa, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Beverly Wolfe, yes. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO APPOINT LEO CAMPBELL TO THE PLANNING COMMISSION FOR A FOUR-EAR TERM WITH THE TERM EXPIRATION OF 12/31/2024. SECONDED BY JOHN STRATZ. Beverly said another valuable member. Ben asked if he was at the meeting. Barbara said no. Ben asked if he indicated his willingness to serve. Beverly said he did. A roll call vote was taken. Barbara Heffelfinger, yes, Gary Nickerson, yes, Mark Moffa, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Beverly Wolfe, yes. All ayes, motion carried.

Persons to be Heard

Mike Smith, 127 Dehaven Ave., said that John made a lot of references to the ordinances and laws of the borough and that they need to start abiding by them. He's been waiting since the beginning of September for an answer and at this point, he's still waiting. They have the legal brief, and it states the zoning officer made a mistake and provided a permit based upon what he thought was right. The zoning hearing board ruled against him and so from what he reads, the permit becomes null and void if he made a mistake. The fence has got to come down. It's been going on way too long. He's asking the council to finally make a move and get this fence down, at least the part that blocks his vision. He doesn't care what they do with the rest of it. Ben said he got the letter of the decision. The decision speaks for itself however, there is a principle in appellate law that once a decision is issued by the zoning hearing board or a trial court or even the Commonwealth court of the Supreme Superior court there is what's known as a 30-day apex before the order becomes "final". In theory, before the borough would act on this, this office has advised the borough to wait until that 30-day appeal has become final because there is a scenario under which should the decision be appealed, the borough may have caused action to be undertaken that would expose it to liability. Ben said he sent it to the new zoning officer Miss Bellaspica, and she shares his interpretation that once the 30-day appeal expires, she will be addressing the issues raised in the new decision assuming there is no appeal. Mr. Smith is not incorrect saying they can act upon the order but if they act upon it while the appeal was open and someone files an appeal then you have the scenario where when it goes up to appeal in Doylestown, a contrary decision could be rendered. The decision was dated January 11th so they're looking at the second week in February where the order, assuming it's not appealed, would be final and binding. Mark said their first meeting after that is February 16th.

Beverly asked about the legal brief and letter that Ben has. She asked if it is SOP for that to be distributed to the borough in some way or is it just strictly ZHB and the attorneys involved. Ben said borough council was copied on it because the borough always has the right to intervene in an appeal or appeal a decision. The borough obviously elected not to send council to this meeting, but he certainly can distribute that opinion to the rest of council if that is council's wish to read it. It's the cover letter and the decision order findings of fact conclusions of law in the order of the ZHB dated January 11th. Mike told council they don't need to wait 30 days. They all know this fence is illegal. There's not a stitch of it that's legal. He asked them to stop making him wait so long. The only reason he's still here is because of this. If they want him out from underneath their skin, this is the best way to get him out of here. Mike said it's crazy that they have laws like John said and they don't enforce them. It's been determined that Mike Italia screwed up. He admitted it. Council has an opportunity to act tonight if they want to. Beverly said it would be ill serving to this council and the Borough of Penndel for her to go against the solicitor's advice.

Tom Sodano, 126 W. Woodland Ave., asked if the borough was still without a code enforcement unit or if BIU had been retained. Beverly said they have been retained. They started last week. Tom said he wanted to make sure that the borough wasn't exposed with construction going on. Tom said that Mr. Dudash uses the word safety over and over when discussing curbing and sidewalk issues and justifiably so. Councilman Stratz thought it was disgraceful that a council person, someone in an authority position from another borough, would question them. Beverly talked about how bad it would be if a robot ran over a kid. He realizes what Ben said about the balance of 30 days, but he thinks that safety is something that is the paramount issue at the core of that fence. When it comes time to act on it, he hopes council keeps that in mind. His personal opinion, if you want to talk about disgraceful, how disgraceful is it that an officer of the law, someone who's in charge of safety, thinks so little of the children, the kids on bikes, the pedestrians, that he'll fight something like that. It's beyond disgraceful and he thinks that should be taken into consideration when they further review anyone who is a borough employee who has that little regard for the safety of their constituents.

Joe Dudash asked about the generator he is getting for his house. He said the permit says Mike Italia's group gave him the permit, but they have BIU, but will Mike's group inspect it. He asked what will happen with the fence and the Schoolhouse property. Is it like his generator or does it go to BIU? Beverly said that Barry Isett agreed to finish up the permits and stuff that was in process which his generator would fall under. She will check if Schoolhouse Court goes to BIU. Ben Hauser said that's going to go through BIU's zoning officer who's already been apprised of the zoning hearing board's decision and she agrees with him and will wait until it is final and unappealable. Beverly said she would check on Schoolhouse Court for him.

Jay Moser, 525 Bellevue Ave., asked about a mercantile tax that is put against contractors when they're doing work in the borough. The contractors are being charged and it's not a permit fee since there is no more contractors fees that are allowed in the state of Pennsylvania. The contractors are being charged at an additional fee to do work in the borough. Marie said some contractors need to pay a license fee to be registered in the borough. Jay asked if there was a reason for that. He said they're putting the burden back on the citizens of this borough by charging additional fees and enormous permit fees that are a little higher than normal and it's hidden in the cost of contractors doing work in the borough. They are chasing contractors away. Maybe when the borough manager is hired, they can research this and look at a restructuring of what this borough does for contractors to do work. Beverly said they looked into it when they redid the fee schedule. Marie said she believes the attorneys looked at it and it was all approved. Beverly said that's on her list to be reworked once they have the borough manager. Jay said it's a great direction that they lowered taxes but when the homeowner needs to have work done and it costs them another \$300.00 because of the fees that the contractor will pass on, the savings are lost. He understands they have bills to pay with that fee for the inspection company. Beverly said it's been in the fee schedule for very long time. She's not saying it's justified but they are going to look at all the fees. When they redid it, they took away some fees for the most common repairs in the borough. One was a roof permit and possibly fencing but she can't remember. They pulled all the permits for about three years and when researched, roofs were the most common permit that they issued so they took that fee away. Jay asked if there is a requirement with the new zoom meetings that everybody should be on video. He thinks that's something that should be addressed. He thinks it would be respectable to the citizens for everyone to see the faces that are governing the borough.

Tom Sodano, 126 W. Woodland Ave., asked if Marie did say that they actually have a license that a contractor who works in the borough has to pay for, a license fee and that they issue

some sort of a license. Mike Smith said to Tom that that's in every town, everywhere. Tom asked if the borough issues a license. He wanted to know if when they come in and they have their documentation, their insurance, etc. and they have some sort of a filing fee to process that paperwork. Mike said all they have to do is apply for it. You pay the fee, and they give you a card. That's at least the way they do it everywhere else. In Penndel they have to give insurance which is unusual. Tom said he wanted to know if they are issuing documentation to someone when they pay the money. Beverly said she would find out and have it ready for the next meeting.

Terry McIntyre, 335 Hulmeville Ave., asked if when the contractors register, are they registered for the year. Beverly said she didn't know and would find out.

Joe Dudash said while they are on the subject, he asked if she could find out what the difference is if they're registered with the state versus Penndel. Beverly said she would find out.

Mike Smith, 127 Dehaven Ave., said some contractors like electricians, plumbers, carpenters and heating and air are required to register with the state and are given a state license. Mike said he doesn't have to register with the state. He just registers with the local community he's working in and pays \$75.00 or \$100.00, depending on what it is. If he were to move his business to Penndel, he would have to pay for the right to have his business in Penndel. That's basically the background of it. Basically, it's just another fee that somebody came up with to charge businesses with. Beverly said it is the fee schedule. They must show state registration for home improvement and it shows it's by what type of license. She will get more information.

MOTION BY BARBARA HEFFELFINGER TO ADJOURN AT 9:50 P.M. SECONDED BY MARK MOFFA. A roll call vote was taken. Barbara Heffelfinger, yes, Gary Nickerson, yes, Mark Moffa, yes, John Stratz, yes, Joe Dudash, yes, Laura Germain, yes, Beverly Wolfe, yes. All ayes, motion carried.

Submitted by: _____
Marie Serota, Secretary/Treasurer