

Penndel Borough Council Work Session  
Via Zoom Communications

June 15, 2020

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  
Vice President Barbara Heffelfinger  
Councilman Gary Nickerson  
Councilman Mark Moffa  
Councilman John Stratz  
Councilman Joe Dudash  
Councilwoman Laura Germain - absent

Also present via Zoom Communications

Ben Hauser, Solicitor, Hill Wallack  
Carol Schuehler, Value Engineering  
Nick Foufas, Fire Marshal/EMC  
Rick Halbom, Barry Isett & Associate  
Marie Serota, Secretary/Treasurer

TOD Ordinance Presentation by Councilman Mark Moffa

Mark Moffa said it's been about three years in the making since the Bucks County Planning Commission came to Penndel to have the first public forum to listen to the public input from the residents for what they would like to see for a new and revitalized downtown district. That information ended up being the backbone of the report by the Bucks County Planning Commission called Downtown Penndel, Blueprint for the Future. Mark thanked the residents for their input. The Bucks County Planning Commission which was spearheaded by them from beginning to end. It was a gargantuan effort to prepare a document like this for us and to come down here and gather all of the input and turn around the ordinances that are before you tonight. He thanked the following committees and people: Revitalization Task Force, Penndel Planning Commission, Penndel Borough Council, business community, Marie and Karen in the office for the support they provided, the Mayor for putting out the TOD signs, Carol for her engineering support, Mike Italia and Rick Halbom for their support from the code enforcement office, Bob Pellegrino, the township manager from Northampton as an advisor, Hill Wallack for preparing the ordinance. This kind of major legislation doesn't happen without a village and he is grateful for everyone who helped get this to where it is tonight. The executive summary from the report Downtown Penndel, A Blueprint for the Future summarizes concisely what they are looking to do. The purpose of this document is to provide Penndel Borough and its residents with a "blueprint" for achieving revitalization success in the borough's commercial core area. The report articulates the community's priorities, as defined by municipal officials, business and local stakeholders, and residents. The blueprint begins by presenting some of the "why's" and "what's" of Penndel's current condition before outlining an approach with specific strategies that suit Penndel. As an added layer of detail, areas of opportunity are then identified to target in conjunction with those strategies. As a part of the strategies outlined in this blueprint, revisions to the Borough's existing Transit Oriented Development Overlay District ordinance are

recommended along with a list of potential funding sources and other resources, are also presented as part of this revitalization blueprint. Through implementation of the various strategies and taking advantage of the borough's strengths, a new generation of entrepreneurs and place makers can transform Penn del's downtown into a vibrant and thriving commercial center. This is a very extensive document. There is a page in it that very effectively recaps our assets and our challenges. There are five or six points on each side of what we currently have and what we can build on and what our greatest challenges are going to be moving forward. For the greatest assets, there were five. We have a base of local businesses in one place. We have close proximity to SEPTA's Langhorne Station and it is no more than 10 minutes away from anywhere in the borough which is a very unusual situation in which we need to take advantage of. We have strong residential support. There are five arterial routes that converge on the commercial core area in which thousands of vehicles pass through every day. We have an existing network of sidewalks along most downtown streets. For challenges, they named six. Many developments are car-oriented and struggle to contribute to a "Main St." atmosphere. Our buildings lack visual interaction with the street outside their walls like windows or traditional storefronts. It is difficult to navigate as a pedestrian. We have a lack of what you would call destination places to attract outsiders to stay rather than drive through. We have unattractive architecture. We have no defined public space or public amenities. People might say Memorial Field is a defined public space and it is for certain activities but in general we are talking about the downtown area. Some of the thoughts that went into the Transit Oriented Development Overlay District ordinance, were a lot of things taken into consideration including what developers might want to do. They talked about various parcels and most people are aware that one of the parcels is where they have the trucking depot. There are other parcels and they talked about mixed use development and even if they relaxed some of the standards on, let's say, height, currently they can't have a five-story development in Penn del. This ordinance will allow you to do that. They looked at all of the other criteria that is in the zones. They wouldn't let developers do the types of things developers are doing now and it would make it attractive to come in and do things. An example put together by the Bucks County Planning Commission was in a five story building mixed use development, if they didn't change their other standards, much of it would be devoted to parking and a developer might be able to get 94 units in. We go with a little higher density alternative, a little more in line with what they are seeing around other train stations in Bucks County and New Jersey, now a developer can get in 144 dwelling units. That changes the profitability of the project and makes it a lot more attractive for developers to come here and build something like in the blueprint. What is before council tonight is the ordinance itself. It is a huge document. He will try to highlight some of the most important things that this ordinance is trying to do. The intent of the article is: to encourage and promote creative and flexible development, redevelopment, and revitalization in the vicinity of the SEPTA station. To serve the residents, the business community, visitors, and commuters by providing a variety of retail, commercial, office and personal services. To provide multimodal transportation linkages. To foster economic viability, pedestrian activity, and a sense of community identity. To create a sense of place. To recognize the importance of public transit as a viable alternative. To allow development that decreases automobile dependency while enhancing the economic stability of the borough and promoting attractiveness, convenience, and stability of this region. We want to encourage mixed-use real estate development. We want to promote well-integrated residential, commercial, office and civic development with the transit facilities. We want to support new development that includes diverse pedestrian compatible, higher density, transit-friendly designs and expand economic development opportunities. They want to encourage and provide development enhancement bonuses. He will get into that a little later in the ordinance. They want to maintain a scale, balance, and variety of commercial, institutional, and residential uses. They want to promote the livability and identity of the TOD area. Enhance the visual character and physical comfort of the district.

Reduce on-street congestion and facilitate vehicular and pedestrian circulation. Encourage the establishment of unique multi-use building groups, public realm improvements. We want to avoid the situation where one or two permitted land uses dominate any part of the TOD area. They want to cluster and orient buildings to encourage pedestrian access. They want to encourage the use of the type and form of architecture described within to make it more of an attractive area. In Section 4, you will notice that applicants for land development are going to be asked to identify their reports and in their applications, how their plan complies with this document and with the intent of the document and what the purpose is of this article. They are in essence taking that blueprint for a better Pennel and creating legislation here that is requiring anyone who wants to do anything in that area to tell us what they want to do is going to comply with this vision. When you go through it, you get to things that are allowed that weren't before. We are going to allow breweries, wineries, distilleries, markets. We are going to redefine what mixed use development is. Before it had to be three or four uses. That's a big burden for a developer to have to do commercial, residential, industrial. That was a prohibitive burden. Here we make mixed use two uses, which is what we see today. Ground floor retail with residential on top. It was amazing to think it wasn't allowed before this ordinance. You're going to see outdoor eating and drinking areas allowed, accessory brewing and cultural and entertainment areas. They will be allowed by conditional use and will have to come before borough council to present those plans. They are redefining minimum tract size. It used to be if you wanted to apply for development for this TOD zoning and not the underlying zoning, you needed to have 20,000 square feet available to you. In essence they were discriminating against all the smaller businesses and all the small property owners in the TOD area of which there are many. You might want to do something that fits into this vision, so they dropped it to 6,000 square feet. Minimum tract size for mixed use development used to be one acre and they are dropping that down to 6,000 square feet. Minimum frontage used to be 100 feet. These rules were very biased towards large developers. They are going to drop that down to 30 feet. A regular little business store front in Pennel can take advantage of these opportunities. Minimum building setbacks will drop from 15 to 10 feet. They will consider a zero-lot line development plan with shared parking. These are some of the more creative things that they've seen happen in other business areas that were not allowed in Pennel before this legislation. They are explicitly saying they will consider things. Bring them a plan. They are changing their minimum parking setbacks which is along the same line, from 10 feet to five feet. On parking spaces, they had quite a robust discussion at the revitalization task force about parking requirements. If there's a dwelling unit you needed to have more than one parking space because maybe there's two drivers. People are realizing that for these transit-oriented developments, a lot of people don't have cars at all. Often there is just one. This all gives a lot more flexibility to developers. He was on the zoning hearing board in Lower Makefield and it's a different town with different challenges. Their flooding is a huge issue and individual property owners who wanted to overdevelop their lots is the primary issue. They were strict on impervious surface. Every place is different. In Pennel, if you look at the Business Route 1 corridor, it's almost entirely paved to begin with. They looked at impervious surface and they realized they were completely outdated based on what already occurred on these parcels. They didn't want to encourage 100% paved lots. They put a lot into striking a balance and acknowledging the realities of the land dynamic there but giving developers incentive to add some green space back. They are increasing the impervious that they would allow from 65% to 75%. They are encouraging developers to add some green space back. Maximum height is a big thing, so they are allowing five stories now. Maximum density is another huge change. They used to allow 15, they are going to put 20 in the ordinance here and are going to allow up to 60 or even 80 units per acre depending on the project that is before them, depending on the conditions and are leaving those as bonuses that will allow them to have oversight on these projects and developers can't just come in and go carte blanche and build 10,000 units but they

are saying you give us the right plan that checks enough of the boxes off of what they are trying to do in that area, we are going to let you go up to 80 units per acre. Building coverage is in line with impervious surface and will go from 65% to 75%. The rest of the main section of the ordinance is a bit of pro forma stuff then you get into the exhibits. Exhibit one defines some of the new uses that we're allowing so we're going to define what a brewery or winery or distillery is. These are just things you have to do to define what a market is. We're going to define what accessory outdoor eating is and define accessory brewing and we're going to define cultural and entertainment. This is something we had some fun with at the revitalization task force. Things in our new Use #81 Cultural and Entertainment were things that we weren't really allowing. It is again amazing to think of the things we weren't allowing like art studios, galleries, music venues, theaters museums. Some of the fun things that you're seeing the other areas that are being revitalized now like Bristol. Escape rooms and ax throwing. These are the things that are happening now. These are the things that are being built that are attracting people and we want to specifically allow for those uses and so we do that. Exhibit #3 of this ordinance is very important. It does go into some of the bonuses he referenced earlier where we're talking about when we would allow more impervious surface coverage. We're talking about the bonuses we might give developers if they're going to come to us with a green design with sustainable development criteria. We're still encouraging LEED certified developments. We're encouraging developments that are environmentally friendly and so some of that is addressed here in this exhibit. Again, mixed use you're going to come to us with a creative combination of commercial, retail, residential uses then you know we'll give you a break on parking. These are the things that are happening elsewhere now and if we want to be competitive in the marketplace, we need to also provide these bonuses and these opportunities to developers. The last exhibit, Exhibit #5, is our Table of Use Regulations. Most of this is pre-existing but this is work where we're repealing and replacing certain sections of the code. This is probably more important for borough council members to understand but the underlined parts or the new parts and so when you see this chart that breaks out what's allowed in all of the districts in the borough and R1 and R2 and R3 and so on, the ones that aren't underlined, that's just showing you what we currently have on the books. None of that is changed. This only changes that last column that says TOD and means we're not allowing it in the TOD. P means we're permitting it and CU means it's permitted by conditional use meaning you have to come to borough council for special permission so the last five uses where we go over those breweries and wineries and markets and so on, those are completely new uses. They previously weren't addressed for any of the zones the borough. That is this ordinance in a nutshell. He knows that was a lot to take in in a short amount of time but hopefully many of you were around for some of the other presentations that they had where they really hashed this out in detail. Hopefully, everyone had time to review the document that you've heard them talking about it at nauseam over the last three years. This is the first step to getting this zoning in place and is what a lot of people have been waiting for including developers who frankly before they'll even talk to them, promising that we're going to change the zoning is not the same as changing the zoning and so tonight we have an opportunity to do that. We have an opportunity to really make the zoning in Business Route 1 something that's attractive to developers and will hopefully spur the type of activity we're looking to see. The things that made this process a little more complicated than they thought it might be originally was the fact that it was decided by our team that they needed a new zoning map. They couldn't just redo the Transit Oriented Development Overlay without going through the complicated process of actually advertising to the world that we're changing our zoning and so that added months to this to this process and added some costs. But they feel like it was the best way to cover all our bases and just do this the right way and so you'll also see a new zoning map. It's been well advertised, and it shows that the TOD Overlay is indeed now the entire Business Route 1 corridor. They had an old TOD Overlay that was done about a decade ago and it did not provide developers with the type of flexibility that this does at

all. All the things they are changing they are changing from what it used to be. In addition to changing all these rules they have expanded the area that used to just be centered around the train station and so now they are just going to take that all the way down the Business Route 1 corridor to attract new businesses and development. I am super thankful to everyone who helped us get this document to where it is tonight. I'm really excited about this but it is just a start and we still have a lot of work ahead of us, but this is the first step we've all been waiting for. I'm excited to present this to the public and to council tonight. He knows it is a little later in the agenda to actually vote on this but he'd actually like to move it right now and have both the council and the public discussion of this at this moment in time. Beverly Wolfe said to go ahead.

**MOTION BY MARK MOFFA TO ADOPT ORDINANCE 2020-1 AMENDING THE PENNDEL BOROUGH TRANSIT ORIENTED DEVELOPMENT OVERLAY DISTRICT. SECONDED BY GARY NICKERSON.**

Ben Hauser said before they get into any more discussion between council and the public on this, he does want to have some kind of pro forma reading into the record some of the documents here so that we show for the public and for the recording that the statutory requirements under the MPC were complied with. Ben had questions for the borough secretary and his honor the mayor. Ben asked Borough Secretary Marie Serota if she did indeed send a list of property owners notice as required by the MPC twice. Marie said yes. Ben said once on May 12, 2020 and once on June 5, 2020 and that she executed affidavits in the same. Marie said yes. Ben said with the list attached to those affidavits are the list of property owners you mailed, those addresses are within the expanded proposed TOD tract. Marie said yes. You received from the Bucks County Courier Times that the notice of this hearing tonight was advertised both on May 20, 2020 and May 28, 2020 in the Bucks County Courier Times providing a notice in summary of the ordinance. Marie said yes. Ben asked Mayor Winkler if he executed an affidavit today stating that he posted advertisements or notices of this hearing inconspicuously within the tract as directed by this office at points that were agreeable to the municipality and took photographs of the same. Bob said yes. With those documents in hand Ben asked that those be included in the record in the event that at some point if something should come back down the line we have those in the file and they're presented if this needs to ever be visited at some time.

Beverly said if anyone on council had questions, they could direct them to Mark Moffa. Gary Nickerson said he just wanted to echo some of Mark's comments. A lot of people put a lot of work into this project, pretty much everyone that Mark mentioned. The County and everybody in the Revitalization Task Force. This was a huge undertaking. It's been years in the making, and this is extremely exciting to be able to vote to enact all these ordinance changes. He just wanted to thank everybody involved and said Mark really put a lot of work into this. Ben asked Marie if it was true that the ordinance was sent to the Bucks County Planning Commission and that the Bucks County Planning Commission sent correspondence back recommending approval of the ordinance. Marie said yes, they did respond, and it was on April 1<sup>st</sup>. Ben said he would also ask that be included in the record and he knows that the Pennel Borough Planning Commission met and would defer to Mark on that and anyone else who wants to weigh in with their thoughts on the ordinance which were also positive. Mark said he delivered pretty much the same presentation to the Pennel Borough Planning Commission on Thursday May 28th where the vote was unanimous, and they recommended passage of this to borough council also. It has come to his attention that he may have referred to the exhibit numbers at the end incorrectly because he was using his notes which was a draft version. There was an exhibit added and so just for the record, Exhibit #1 of the ordinance is the new use regulations. Exhibit #2 is the new zoning map. Exhibit #3 is other permitted uses. Exhibit #4 is the bonus

standards. Exhibit #5 is the new parking regulations and Exhibit #6 is the Use Table. He thinks he missed one in there when he was talking about it earlier.

Beverly said there are a couple of questions from the audience that came into the group chat. Tracy McKernan wants to know how this is going to affect the residents. Mark Moffa said that's a broad question and thinks the answer is partially unknown. He said they will see what comes in based on the new rules and regulations. The hope is that it affects the residents in a variety of positive ways where you would have new business opportunities in the downtown area and you would have a new sort of center of life, a new walkable area where you could go for not only entertainment and professional services but the businesses that are already there now and they are not looking to push any businesses out. We already have places that are popular, and this would expand upon those. If you've seen some of the developments around some of the other train stations in the County and if you're really curious and you want to, email him at [MarkMoffa@gmail.com](mailto:MarkMoffa@gmail.com) and he can send some of the types of projects that they have in mind and he can also send the blueprint. He thinks it might answer some of her questions if she looks at this document and some of the things that are visualized in there. As to the impact it would have financially, it be a windfall for us because we would have all sorts of new tax revenue not only from the businesses but from all of the residents living here so there's a lot of different ways it could impact us.

Beverly said there are questions from the Konski's. They want to know where the K Zone is that is talked about in the document and will there be a standard look that developers have to adhere to. Mark said he's not sure what K Zone they are referring to. Our official zoning map does not have a zone labeled K. Mr. Konski said in the document it references a new K area, but it's not shown on the map. He looked at it on the borough site and in the Courier Times and could not find the referenced K area that's in the document. Mark asked him if he could show him where in the document this K area is referenced. Mr. Konski said he believed it was on the borough website in the textual portion. It says that these areas, that is a dashed area that was highlighted will now be part of a new zone K, but it didn't really show that new area. At this time, Barbara Heffelfinger temporarily left the meeting. Mark said he doesn't know what kind of screen he's viewing it on, but if he could see the zoning map that Mark was holding up. It sounds like he's referring to the dashed area at the top of the map here and if it is, that might make sense because he sees that we don't actually define it at the bottom. That is the new TOD area so the language that's being used with this letter K is probably describing that area as an amalgam which is the overlay area the document applies to and there's a variety of underlying zoning in that whole corridor. There's RC, SC, MB, I, R3 and all of those are still going to stay in place. That's one of the questions that they get often about this effort, which is that since they are changing the zoning, what happens to the things that used to be allowed there. The things that used to be allowed there are still allowed there so the industrial zone, the retail commercial, all of those underlying zoning areas stay in place. So what happens when someone comes in with a land development plan? They can choose if they want to submit a land development plan that applies to the underlying existing zoning in this area or do they want to submit a plan that adheres to that TOD. The attempt that they are earnestly making in this TOD is to encourage the plans to come and adhere to that TOD and they believe that the new flexibility and options that that provides would make it a more attractive option to most people. Mr. Konski said the article mentioned this K area and it wasn't really clear on the pictorial overlay what that area was. Gary Nickerson said he thinks he's actually referring to the subsection in the ordinance where it says use regulations to create a new Subsection K. Mark asked where that was, and Gary said the first paragraph on the public notice. Mark said it's referencing the creation of a new Subsection K and refers to the Subsection K in the ordinance that is providing development enhancement bonuses and that section has the reference of the bonuses that are referred to as

far as the green design, the LEED certification and so on and then those bonuses are actually further explained in an exhibit in the back. Ben said like Mr. Nickerson said we created a new Subsection K under the uses permitted within that TOD which would be your Use 77 and Use 78 and basically be Exhibit 179 Use 80 and Use 81 within the zone. He thinks that's where the K is coming from. It does not in of itself create a K district it merely expands upon what would be permitted under a TOD. Ben asked Marie if the borough also sent notification letters to adjacent municipalities such as Langhorne Manor, Middletown Township and Langhorne Borough out of caution that this ordinance would be considered tonight, and Marie said yes. Mr. Konski asked about the architectural format for the area and if there is going to be some sort of format that the developers will have to adhere to. Mark said they don't have anything specific as some other towns. There are architectural design review boards that some places have and that's always an option for them going forward if they start to see things coming in that they really don't like the look of. At this point they do not have one of those and so the vision and the standards laid out in this ordinance are all we have right now which he would not classify as rules and regulations that restrict or provide a significant level of guidance to architectural standards. However, they only have in some of these uses permitted them as conditional uses which gives council an additional layer of oversight or certainly they can go ahead and ask all those types of questions about the architectural features and so on and so forth. Mr. Konski said he hopes it's something that they should be concerned about in the future because if you have one developer with one plan and one with another plan then it really looks like a mish mosh rather than a uniform plan. Jerry McHugh said his family's been in the borough since the 20s and they're involved with the fire company and his father was on Borough Council and were there before zoning. He wanted to know how this affects him for the future. Mark said he wasn't sure what zone he is in but whatever is now, it's will still be the same. Jerry said about the signs being posted around the town, Monroe Ave. did not receive any signs. Ben said under section 609 of the MPC it does not have to be on every street corner it just has to be within appropriate places within that TOD tract as deemed appropriate and also requires that parcels within the track to be expanded and also receive notice and it was provided twice as Mrs. Serota explained earlier to the extent that I don't see any deficient notices or any kind of deficient notice issue with respect to this. Jerry said they are saying about three years this thing has been going on and he has not been notified or anything about these meetings and everything until I received it in the mail about a month ago for this entire change of zoning. Mark said it is only a portion of the borough. Ben said there were notices posted along Business Rt. 1 and a number of intersections throughout the tract you received notices he believes dated in the last month and a half which is what the MPC requires. Jerry said other streets had it, but Monroe did not. Mark said he was glad he was notified by mail and was able to attend and also, this was published twice in the Bucks County Courier Times. Jerry said he saw it once in the paper but not twice.

John Brodbeck asked about the idea of bonuses including reduced parking since there is already very limited parking or is there any plan to promote parking. Mark said the parking issue is one that was discussed at length at the revitalization task force. They are relying on our experts with this because they've had a lot more experience with these types of development projects than we all have. It's difficult to completely rethink an area and so when you think, I want to go to the Coffee Cup, and I've got to park at the trucking company. He understands the concern that there's no place to park. When you look at a map such as this which is actually the one with less parking, look how large that parking lot is so when they say they are relaxing parking, it's based on the very high number of parking spaces that we would require based on our existing zoning for the types of developments that we're looking to come in. They are not saying there's not going to be parking. In fact, there's going to be quite a lot of parking. It's just a matter of the required spots you must have per new dwelling units. As a developer comes in

and wants to do something new plus one of the things pointed out to them by the Bucks County Planning Commission in their discussions and Revitalization Task Force is that it is not in a developer's best interest to short the parking. You're not going to have businesses that want to come into the ground floor retail that is in no one's interest to not have enough parking spaces for the businesses that they are looking to attract. In essence, the free market almost also kind of sort of works that out and then if you build it they will come and if you screw it up when you build it they're not going to come. That's something to keep in mind too but even the relaxed standards require a lot of parking.

Someone by the name of Laura (no last name on Zoom) asked if a residence currently exists in the commercial zone can it remain solely a residence. Mark said underlying zoning is not changing so if someone is in one of the areas that allow for residential properties, there's an R3 district in that area for example, they are still allowed. This is just an overlay that provides additional options. They are not kicking anyone out of their business. Nothing that's allowed now is not being disallowed by this ordinance. Beverly said she thinks people get a little confused and concerned because it is an overlay, like a transparency. Mark said it is a vision of what it could be with some relaxation to the current zoning of some other things allowed. It is a vision.

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

Beverly thanked Mark for all of his work with this and for investing himself in this vision because it's really hard to get anybody to believe in something that you can't see in 5, 10, 15, 20 years which is what they are doing. It's not for us, it's for them, 20, 25, 30 years from now. Beverly said Mark put in so much time on this ordinance and his experience as a zoning hearing board member in Lower Makefield made him the obvious candidate and he was drafted to do it because he shares the same vision that we can be more than what we are right now. Mark said thank you for trusting him to shepherd it through and to be the face of this so far. There is an expression, something along the lines of to whom much is given, much is expected. He said he is honored in the trust that they've given him to see this to this point but there's a lot more expected of all of them. Beverly said this is the first tiny little step. This is progress, pride, possibilities. Now they can really do that and now the work begins.

#### Correspondence

Beverly said there is a piece of correspondence from the fire company and the letter received is requesting a waiver of the permit fee for the repair and replacement of the apparatus bay floor and apron project for a cost of \$41,500. This was part of the RDA casino grant money. The work is scheduled to begin in July, and they would like us to waive the permit fees for that.

**MOTION BY JOE DUDASH THE BOROUGH WAIVE THE PERMIT FEE FOR THE REPAIR AND REPLACEMENT OF THE APPARATUS BAY FLOOR AND APRON PROJECT FOR THE PENNDEL FIRE COMPANY. SECONDED BY BARBARA HEFFELFINGER.** A roll call vote was taken. Barbara Heffelfinger, aye, Joe Dudash, aye, Gary Nickerson, aye, Mark Moffa, aye, John Stratz, aye, Beverly Wolfe, aye. All ayes, motion carried.

#### Motion Item

**MOTION BY BARBARA HEFFELFINGER TO APPROVE THE MINUTES OF THE JUNE 1, 2020 COUNCIL MEETING. SECONDED BY MARK MOFFA.** A roll call vote was taken. Barbara Heffelfinger, aye, Joe Dudash, aye, Gary Nickerson, aye, Mark Moffa, aye, John Stratz, aye, Beverly Wolfe, aye. All ayes, motion carried.

Adele Smith said she missed the beginning of the meeting. Her house is a single dwelling between Route 1 facing Bellevue Ave. and the other corner is Crescent St. and Lincoln Ave. is behind her. Her house to Crescent St. are double homes but hers is a single. Towards Route 1 are businesses with homes on top. She read the ordinance and it says they are allowed. She was worried about the single residences until she heard more but she wanted to mention it herself. Adele said so they are safe. Mark said they did answer that question earlier that none of those rules are going to change for you. Adele said she just wanted to hear that again. Mark said what is allowed where she is now is still allowed now that we've passed that ordinance. The houses are not in danger.

### Mayor's Report

Mayor Winkler said he had no report other than that he hung the signs for the TOD. Gary Nickerson said he was hoping that the Chief was here tonight but since you're here and you're in charge of our Police Department, there was an article in the Courier Times a couple days ago about the NAACP has been challenging local Bucks County police departments to publicly speak out against racism and unjustly killing black Americans by law enforcement. He wasn't sure if you wanted to address that. Bob said no not really because you're hitting me cold turkey. He doesn't get the Courier to see what the Courier says. Beverly said they will have the chief at the July council meeting. Mark said it's not cold turkey because he's been asking about it for days and he emailed the mayor and chief days ago to ask that this issue be addressed tonight and the response from the mayor was that the chief is dealing with priorities. It's actually very disconcerting to hear that addressing the current issues of racism is not a priority of our Police Department. In the article that Gary referenced, there is a quote in there from a gentleman who was involved in the presentation in Bensalem from the NAACP and he thinks he hits the nail on the head. He wants to read it into the record. Nicholas Christian from Bensalem says not all of law enforcement are bad cops we must not blame the entire community of police officers for the racism of some but we must also hold them accountable if they choose to remain silent. To be silent today is to condone it tomorrow. We need your voices in the fight Christian said of local police. We need you to stand up and speak up on our behalf in rooms that we are not invited into. We need you to condemn racism even when black people are not around, even when it is uncomfortable. We will not remember the words of our enemies but the silence of our friends. Barbara Heffelfinger said we have an excellent police force and they follow the rules to the letter. And she would say there's not one bone in any of their bodies that is racist or not willing to treat the people of this borough well. She said she would go to the wall for any of them they are a wonderful police force. They had a very busy day today and there was lots of paperwork and things to be done. To have him come tonight after the very busy day he had has nothing to do with any of his feelings or how he feels about anybody. He's a guy with a lot of sensitivity and she said she would lay her life on the line that he would not do anything like that or the officers. Our police have done a magnificent job ever since Joseph Sciscio came in and she doesn't think it's necessary for them to say hey I stand up for this because she knows they do already. Gary Nickerson said he agrees with everything Barb just said and he thinks because we stand behind our Police Department and because we hold them to such high regard that a statement only serves the public even better. Barbara said we get a report every month at the public meeting and we have the crime watch too. She's sure that he would be happy to say I'm against it and she knows that he is. She doesn't want the Courier to come out and say you have to do this because that makes her very apprehensive. Mark said it wasn't in the Courier, it was with the NAACP. He's heard from more than one resident who's come to him. There's a resident in town who is African American who actually was the subject of racist harassment within the last two years here in the borough and he's been very concerned. He actually had a conversation at length with him about this and wanted to know what the boroughs position was,

and Mark said he is ashamed tonight that he doesn't have a position statement from our department. Barbara asked why he would go to Mark. Mark said he is an elected official of the town. Why wouldn't he come to him. Ben Hauser interjected and said he thinks when the Chief is at the July meeting, then they can have a discussion. He said there are some strong opinions, but this wasn't the time or place to have this detailed discussion. Bob Winkler said he would like that person to get in contact with him so they can do an investigation if that happened. He had two people come to him today, raving about the police department. Mark said he wasn't saying he heard complaints about the Police Department if that's what Bob heard him say. It was a question about someone wanting to know where the borough stood on what they think. Bob said he knows where he stands. He has black, Puerto Rican and Cuban at his house and he doesn't have a problem with any of them. Some of his best friends are black and as far as he knows his officers treat everybody equally out there. Mark said no one is accusing anyone of anything. He just asked for an appearance and a statement tonight. Bob said he's allowed to have off. He's got three cases tomorrow to serve two child pornography...Ben Hauser interjected again and said he appreciates the very strong held opinions here but he thinks there is going to be a time and place to have this very healthy robust discussion but he thinks it's not tonight.

Joe Dudash said he wrote something to the council and he just wanted to briefly go over it. It is in regard to this situation. As a community and nation, we are experiencing a stressful period of history with unpredictable national events. He said he can't tell you enough how very proud he is of this borough. Penndel Borough is a vibrant, passionate, and ever generous community and as you know we live in a small town filled with wonderful people with small town core values. Public service is always about protecting the common good which may be defined as the common conditions that are important to the welfare of every citizen. The public servant's overriding objective must always be put to the common good of the borough ahead of any personal, financial, or political benefit. The Penndel Borough Police Department has played a central role in the safety and equality of life in this wonderful borough and they have earned the deep respect and appreciation of the public. Chief Sean Perry has brought law enforcement experience, a history of leadership success in a variety of roles and fresh perspective to a department with a mission that is expanding and shifting in response to ever changing technology and demographics. Through Chief Perry's leadership the Department has developed a robust departmental mission statement and core values. This is his personal response to the Bucks County Courier Times. At this time, he personally believes Chief Perry does not need to make a public statement to the council and his reason is Chief Perry leads by an example. He's not a talker nor does he seek any political media coverage to obtain stardom or political advancement. The ultimate measure of him is that he stands for safety of his officers, borough employees, residents, businesspeople, and all people visiting the borough. His leadership and expectations of his officers are observed daily in the public eye. The Department values are to provide respect and equal justice to all people. He views community policing as a major relationship builder where officers get out of the car and interact with residents by name. This type of relationship building makes it so that the residents feel free enough to approach our officers at will just to say hello. The Department is visible at all community events and they personally participate in these events. What big cities do you see the police departments having this type of interaction? Speaker of the House Tip O'Neil once said all politics is local. The street cop is working the campaign at the grassroots level. You never know what you might accomplish simply by listening to an everyday citizen on the street. The people of Penndel are hardworking, family oriented, community minded and believe in equal justice for all people. Our residents are outspoken and not afraid to speak their piece of mind on any issue. They respect the Police Department and would not tolerate any representative of the borough or government employee denying anyone their constitutional

rights. Chief Perry is of the same mind frame because of his high standards of law enforcement, integrity and respect for humankind. Joe said he wants council and the mayor to remember the Chief and the Department are a product of this council and the mayor and we selected the chief and the officers. He cannot see any member including the mayor, tolerating treatment of any individual unjustly by our Department. We are outspoken and express our views. Just look at our minutes. And he has gone off his nut a couple times which he appreciates because this is true sign of democracy. This is where you can come in front of the people, bring it to our council and say your peace. There are council meetings when we have these discussions until 12:00 o'clock at night or 11:30 but we resolve the issue and we part ways as friends. They are council representatives of the borough for the people. As far as our cops and our chief, they are down to earth. If you have a question just go to him and talk to him. That's his personal opinion of this but as Mark was saying and the solicitor, we're going to have any special meeting over this as far as our or policies but at the same time we must protect the officers. Times have changed since he was a cop and it's sad. His belief of this whole problem is there is no community patrolling policy. Camden is a prime example. They didn't have it and now look at their police officers. Like Penndel, they are going out talking to the people. You do your beat, you know your individuals, you know your residents. Most of your big cities like Chicago and everything else. When he was an agent in Chicago and a special agent in charge, it's not happening and I think there's where the disconnect is. He just wanted to say as chairman of the public safety committee, he knows where Mark and the rest of some of the people of Penndel are coming from. We're in tough times right now and our Department will give answers but that's my belief as chairman of public safety I know all of you would not tolerate anything if we had a situation. Himself as chairman wouldn't and he knows the mayor and chief wouldn't. His integrity is too high. There are always two sides of a story, so he just wanted to put that out there. We have to educate everybody so when we sit down with the council or educate the council and then we can go from there. He believes we are like Camden NJ police with our chief who he highly respects for what he's been doing, we're doing the same thing. We're going out to our community and talking to people they're not hiding or sitting in cars and I think this is a benefit. They would not tolerate any such unjust treatment on any individual in this town and that's why he came back to this town when he retired. It hasn't changed. We all fight amongst ourselves on curbs and sidewalks, but we move on. We sit here at these meetings and nobody can say we don't have a real hard discussion on anything or try to hide anything and we don't. It's brutal sometimes yet we all get together, we move on. Mark did a beautiful job with the revitalization and the rest of the people and that's all he has to say about it. Beverly said they will definitely talk more about this and to think this is still happening in 2020 makes her sick.

#### Engineer's Report

Carol Schuehler read her report which is attached.

Beverly asked Carol if they received any proof that the leaks that were causing all of the infiltration out of those laterals. Carol said they found a huge amount of water there when they excavated and they are confident that that will result in a significant reduction in the I & I coming into the system. She's really looking forward to getting the records from pump station number one, the meter data and presenting that in coming months to council. She's hoping that that will really show some clear documentation of the success here. Beverly asked if they videoed the lines or do anything to make sure that everything is good. Carol said no, they did not include videoing of the lines. She was trying to keep the costs to a minimum, but they did visually inspect. They looked at the open trench and visually inspected the new connection. They removed all the deteriorated material. They made a new connection and they actually took the additional effort of concrete encasing this new connection to further secure it and she is

confident that you're going to have a watertight repair and she's really happy about the progress made with the I & I problems on those four laterals. They talked about videoing when they were preparing the bid documents and she didn't want to add to what would be a whole another cost added onto the borough for this project. She said they did observe the line when it had the actual flow coming into it there were clear openings where the groundwater was coming in and the holes would fill with groundwater when they excavated. They had a real problem there they actually saw that the issue had been resolved.

Joe Dudash asked Carol about 525 Bellevue Ave. where this asphalt is. He asked if this was where they had the dumpster and all their heavy equipment parked that needs to be repaired. Carol said it is the 18 inches to two feet immediately behind the dumpster but it's the area immediately behind the curb that was excavated for the back of curb form so it's been restored right now with aggregate but to do right by the properties there we should restore it with bituminous material. It's technically been in the contract in the beginning like the rest of the houses so this is somewhat unique because in most of the other locations there's either driveway apron they're addressing or grass area that they're addressing. It's not common up and down the street that they're restoring bituminous pavement behind the curb line. We told them give us a unit price per curb. They didn't really know which properties they were going to do when they gave us that price and that target changed for them right up until the time they did the work. You could make an argument that they should have incorporated into that cost. Of course if they were doing as many curbs as they originally bid on, that would be easier for them to spread out across more curbs but since they don't have as many properties to spread these costs out, they are asking for consideration of a change order in this case. Joe said the only thing with this particular subject is he talked to K-M Auto so the whole issue is like we were talking about as far as you know they had the dumpster and their heavy equipment also that tore up a lot. It's his personal belief that it's their issue not the boroughs and the people of Pennel. It's like the Wheeler thing, with a second go around with that and we still don't have a speed sign. Carol said the speed sign is back up. Joe said it's 25 miles an hour. Carol said it's always been 25. She actually found a Google map image. There's other aspects of the work that have not been accepted at this point and if there is pavement damage at K-M Auto she'll be happy to look at that if it's the asphalt that you're talking about. Joe said it's the asphalt that she's talking about in question so in his personal opinion, they don't have a good record with us. The Wheeler thing has gone on and on and on and now with K-M Auto, they're coming and asking for \$1800 and the photographs I've just seen on the Wheeler thing, he thinks Bob's grandson could probably get a better job. Carol said they're not happy with things out at the Wheeler property and they've advised the contractor that as it stands today, it is not acceptable. Joe said he appreciates her doing that but now they're hitting us with the K-M change order that they want done tonight. Beverly said she would really like to go see this for herself because in her mind, some of that asphalt that they're talking about was where they had the heavy equipment stored when we had to shut them down so she just would like to look at it and then make a decision on this change order because right now she's not entirely clear. Carol said she sees two separate issues. If there was damage, what they are talking about in this change order is to dig out the old curb you need to dig a four-foot-wide hole. You put in the form for the new curb and then you pulled away the form from where the form was and you are now backfilling where that form was and no matter what else may have happened on that asphalt this backfilling is required to restore the bituminous driveway within 18 inches of the back of the curb. This is the area we're talking about now. If there is damage to the pavement from the things that were parked there, then we will investigate that and if we find those damages, we make the contractor address it. They had a similar situation at Wheeler's where a concrete truck came from the parking lot side and did damage to the pavement and they have been required to restore it. This is just the pavement that's right against the back of curb where they

had to excavate and then restore when they put the new curb in. This isn't about any potential damage further in on the pavement. Beverly said she still wants to see it. Ben Hauser said this is listed further on in new business and when they get to that point, they can table that motion until the next meeting.

Barney Wheeler asked Carol what has been approved at his property and what has been denied at this point. Carol said she thinks she exchanged messages with him earlier or late last week that they were not accepting the joint seal that they did. Aesthetically it's horrible and she hasn't even inspected it in person. Her inspector was upset about it and she told the contractor it's not acceptable and he promised he'd be out there to work on it again. The other thing that she didn't approve of is the difference in elevation between that triangular section that they may have cracked and that we required them to replace the elevation difference between that and the next block of sidewalk. It is not acceptable per our ordinance and code so both of those have not been accepted. She doesn't believe they've yet addressed the bituminous restoration at his property so there's a few things there for them to still deal with. Carol said until they accept the work, the contractor is the one that feels the most pain because he's doing and redoing concrete and has not received any remuneration for that to date so it's certainly in his best interest to get this resolved and get this get this closed out. They are in agreement with him that what's there right now is not acceptable. Barney said he would say that none of it is acceptable. He didn't think if you hired a contractor or anybody in this meeting hired a contractor, none of you would accept what just happened out front of their store and it's been going on for three months so it's getting ridiculous at this point. We're moving into the green soon and he's hoping business starts picking up and you can't even pull into the property. Everything he did is terrible. He's not a concrete person but he thinks if anyone from council walked this sidewalk, they would agree with him. He doesn't really want to keep talking about it. He asked if he had the legal standing to just say don't come on his property anymore. Carol said she needs to explore that with the solicitor what the contractual conflicts might be with that and then get back in touch with him in the next 2 days. Barney said that was fine. And he said the speed sign he put back in was older than the one he took out. Barney said as far as the sign being 25 that's fine but this sign is 20 years older than the one he took out. Barney said he core drills afterwards he did not core drill. It looks like hell. Carol said they made him replace that block of sidewalk that's why he didn't core drill apparently just literally set the frame in there. She understands what he's saying and she appreciates what he's saying and she will have a conversation with the solicitors office on how that corresponds to the contract and then give him a call in the next few days that we can sort this out. Beverly said they need to make this right and get it over with.

Steve Lowe, asked Carol about the two sewer laterals on Bellevue Ave. He asked if it was true about the groundwater they found when they excavated and Carol said yes. He asked if she knew where the groundwater would be coming from. Carol said you are going eight to ten feet below the surface and you are encountering groundwater down there. It's very wet as you get down into that area. Steve asked if it could be a broken water main. He said he didn't know how the water mains run or if it is somebody's feed into their dwelling that's possibly leaking and causing all that water. Carol said she contacted the water company to ask them if they had any known problems in that area before this project started and offered to take samples if they wanted but didn't hear back from them. Carol said she doesn't maintain the water lines, but they should have a pressure drop if they have a water line problem in that immediate area that they would be able to discern. Steve said with the laterals now being repaired and going into the future he asked if she thought that with all that water there's a possibility of a breakage. Carol said it can break at any time and what was there was really different. There was a six inch clay pipe coming off the main and a four inch pipe coming from the house connecting into the other

and a bunch of mortar around it and that was the seal and they were coming in at different angles with a lot of water pouring in there. It was probably done 50 years ago. Steve said there is hydronic pressure there and he thinks it will move. Be prepared that in the next one, two, five years, somebody says there is a problem out here. Carol said he is doing a great job explaining the importance of the I & I program and to circle back around in five years and video and see if there are new problems in five to seven years.

Beverly said there is a question in the chat box about the Hulmeville Ave. bridge which is a PennDOT project and it is proceeding in accordance with PennDOT's schedule to the best of her knowledge. They have to work with CSX with stopping trains.

Mark Moffa thought this was a good time to table paying the \$1,800.00 for the KM Auto project. Gary Nickerson said to Carol if they don't pay for that, he won't move on it until we pay and will it delay the paving process. This is the area that's currently behind the curb that's he's not going to move on that until we pay for that. Carol said it would certainly be his hope that he gets a change order approved by you before he does that work. If her council isn't going to approve the change order we might invoke solicitor assistance at some point to get things done the way that you think they should be done you know I don't want to predict what the contractors reaction will be at this point. I guess we'll have to wait and see. Gary said these are two separate issues. The issue behind the curb, everywhere else there's grass or dirt. This is a different situation where they had to cut into the guys parking lot and now they have to go back and pave it. The issue that he thinks Joe is talking about wherever they're storing equipment or if they damaged asphalt on Spring St., that's a separate issue. He would like to keep this project going. Joe Dudash said it should have been part of the contract. Just like the Wheelers, it's the same type of setup with the driveway why wouldn't he fill it in because it's part of the contract. They're doing it up and down Bellevue Ave., for the residents except there they are putting grass. He shouldn't be a builder if he didn't think of that before this. Beverly said she needs to look at the contract before doing anything. Mike Smith asked Carol if he had to dig that area up to do the curbs. Carol said yes. Mike said there should be no discussion. If he knew he had to dig it up, then he knows he has to replace it. It should be part of the contract. Carol said the challenge here is we started with a contract with him doing a lot of work out there and costs like that would have been balanced off against the areas where he did a long stretch that was just grass back or long stretches where there was a driveway apron that he was also replacing so she thinks the perspective is and she's not arguing for one side or another. She's just trying to give the perspective of this and is ultimately council's decision but the perspective from his side is he said he'd come to Penndel and do 1000's of feet of curb and now is half of that and the ones that he's doing are turning out to be more expensive because of these unique situations. He presented to her three different situations where he thought he deserved some sort of a compensation and she kept saying no but this one she thought she could see the point on this so she presented it to council and let them land where they want to land. She's hoping she's giving borough council perspective on it of where the contractor is coming from and why he thinks this would be a fair change order and why there would be some fairness to it but it's ultimately council's decision and if you need more time to make that decision. She's trying to get this contractor to finish up and get out. Everybody has to be comfortable whether it be \$2,000.00 or \$20,000.00. Mike said he came in knowing what he needed to do. He bid the job on a lineal basis and it was also understood because he remembers it being talked about, that it may not be as much as he thought he was doing because Giuseppe's was hoping to get all of the other ones done long before he got in here.

MOTION BY BARBARA HEFFELFINGER TO TABLE CHANGE ORDER #2 FOR THE BELLEVUE AVENUE CURB AND SIDEWALK PROJECT. SECONDED BY MARK MOFFA. A

roll call vote was taken. Barbara Heffelfinger, aye, Joe Dudash, aye, Gary Nickerson, nay, Mark Moffa, aye, John Stratz, aye, Beverly Wolfe, aye. The vote was 5 ayes, 1 nay, motion carried.

### Zoning & Code Enforcement

Rick Halbom reported that at Schoolhouse Court, he and Carol are still going back and forth with the contractor to get the grading information necessary because he can't give them building permits until they give them plot plans that are complete and accurate. He asked Carol if she had any further discussion with him. Carol said she did a detailed review, one of the longer reviews she's ever done in grading plot plans and has not yet received a reply from them. Rick said as soon as they start pouring the foundations, he'll send something over to Carol because that's the way he does things so they will just have to keep an eye on that. At 40 Bellevue they are continuing to do work in the building. They're not calling for inspections so he's going to go over there anyway. At 120 W. Woodland, we had had a complaint last time about grass and when he looked at it the complaint was founded. He sent a notice of violation to the owner. He called him and said he had had somebody come out and take care of it. I haven't had a chance to call him back and tell him that it's not taken care of to his satisfaction. At 120 Bellevue Ave. they have received their use and occupancy and they have a demolition permit but I they have not given him plans yet for him to be able to review their interior construction plans. He knows roughly what they plan on doing but their architect has not gotten final plans back to him yet. Beverly said Carol provided her with original schoolhouse court documents from December of 2005 which does discuss parking within the cul de sac of School House and all the things that they are not supposed to be doing so we do have to have a copy of that on file. Rick said the original set of plans that they sent to him were based on the 2009 building code, so he sent them right back and months later he got some plans based on the 2015 code. He said he has concerns.

### Emergency Management Report

Nick Foufas said Covid seems to have taken a back burner. We're looking actually around the 25th to 27th to go to the green phase. With everything else going on with civil unrest and politics, it is kind of pulled out of the mainstream media and it's no longer an issue.

### **COMMITTEE REPORTS:**

#### Open Space

Joe Dudash said the dunks are in Taddei's Woods. Bob is looking at the special mulch needed for playgrounds and he is getting a price for the kids swing, the one where was the baby swing was cut. Beverly said she thinks he got a price on that and the prices for this stuff is staggering. Joe said if they have Burcz Landscaping doing the mulch, it is \$2,500.00 to lay it out. Beverly said we have to buy the mulch. He is waiting for Mr. Young to get back to him on the two hazardous trees. He said roughly \$1,000.00 but he's on vacation right now. Beverly said if he believes those trees are a safety issue they have got to come down. Joe said one is by the pole itself with the lights and the other one if it does go it's actually going to go right across on the tot lot.

John Stratz reported that the Taddei Woods signs are covered in lichen which is an extremely nasty symbiotic plant related to fungus. He tried cleaning them with Lysol and a toothbrush last week and it didn't really work. There is a product for lichen removal, and it's called Wet and Forget that we can get it from Amazon. The advertisement for it says spray and forget. No scrubbing, no bleach and stays clean. Beverly said we have money budgeted for that so just order it. John said after he's finished with that, he will need the gold painted back on the letters. Beverly said once we get the stuff off of it, we'll take them down and get them painted.

Pat Dicken said the Wet and Forget can be bought at Home Depot, Lowe's and Walmart. They have it everywhere and it's a great product because she's used it many times.

### Long Range Finance

Gary Nickerson said with regards to Long Range Finance Committee, they had a meeting on June 10th to continue discussions with LERTA. Prior to that he had reached out to the school board president just to talk to him briefly and let him know that the borough is considering LERTA. He provided public comment at the school board work session on June 9th along with Councilman Moffa. He plans to have continuing discussions with the school board member and hopefully they can take a look at this issue in the fall. Everything is paused for this summer because they are off.

### Refuse (Gary Nickerson)

With regards to the issue we had with the property owner who contacted them about having his trash service suspended, it is a shockingly complicated process. Our solicitor looked at the contract we have with Advanced Disposal and advised us that the contract does not speak to how we could subtract or add trash pickups and Advanced concurred on that. Joe is arranging a meeting to talk to them about it this week and his hope is that they can come to an amicable agreement to figure out a solution to this. Joe has been in contact with the resident to let him know the status and that we're not just leaving him out to dry. Hopefully at the next meeting they will have a resolution to this. Beverly said so they still want us to pay for them. Gary said no, they don't have a mechanism for that. Right now we are paying for a specific number of trash. Advanced said it's not standard. Typically, annually they sit down with the municipalities and ask what's going on. Are they adding or subtracting? We are going to be in a position where we need to add trash pickup. For ordinances, he and Mark only had informal discussions on that.

### Insurance/Pensions (Gary Nickerson):

They are going to have their meetings on the first Thursday of the month at 7:30 p.m. Beverly said they will have to formalize a list from the committee chairs and send it out to you all to approve before it gets published in the newspaper.

### Finance

Mark Moffa said he got back to Beverly with some suggested dates and times for meetings. For ordinances, pensions, insurance, administrative and finance they can hopefully do double duty on some of those, the ones that have the same people on them so I will wait for your direction or approval on the times they've asked for. Gary mentioned the LERTA and he was trying to help him out a little bit with that and he did attend the school board meeting and they are trying to fill them in a little bit so it's going to be a process. Beverly asked Gary about the presentation on the EIT. Mark said that was left with him. It was his understanding that they had pledged to the public that they would put this into the sewer trash bill as an ad that we were having this meeting. He's trying to work with them on when the meeting should be where they come. He figured August might be the target or even the second meeting in July might be an option. He will target probably one of the three meetings that come after those bills go out to have something to put in the bills so he will have to have that firmed up before the next borough council meeting so he'll communicate that with Beverly, Marie and Karen so we can get the date into the bills.

### Streets

John Stratz said the Holly Ave potholes will be inventoried next and set up for repair in next week. As for streetlights, he's starting to get reports about that last streetlight on Dalola Ave.

next to the field which is in contention of who owns it, Penndel or Middletown. Karen emailed him today asking what's the story about this because we are getting reports about this light. It's not in any of our streetlight maps that PECO has provided. He has been in touch with our PECO liaison and he is trying to find out the specific ownership of that light. He's going to try to quietly put in a repair report to Middletown about that light and see what they tell him and if they repair that's great. Beverly said it's not in our inventory. When PECO gave it to Keystone it was not in our inventory. We'll solve that one.

#### Old Business - None

#### New Business

MOTION BY JOHN STRATZ TO APPROVE I & I INVESTIGATION AND REMEDIATION PAYMENT #4 TO SEWER SPECIALTY SERVICES CO., INC. IN THE AMOUNT OF \$5,953.31 AS RECOMMENDED BY BOROUGH ENGINEER. SECONDED BY BARBARA HEFFELFINGER. Beverly said this was part of the Small Water & Sewer grant requirements. Carol said this is the I & I work that was done by Sewer Specialty Services under that grant and this is simply the retainer that we were holding for work that they already did. The reason we're holding the retainer was we were trying to get them back here for one more day, however, we need to get all of our reimbursables expended this month so under the small sewer project grant that the borough received. By paying them and closing that contract this month you will be eligible for the 85% reimbursement and we don't want to miss out on that so she strongly recommends that you authorize paying this bill so that we can close that contract. A roll call vote was taken. Barbara Heffelfinger, aye, Joe Dudash, aye, Gary Nickerson, aye, Mark Moffa, aye, John Stratz, aye, Beverly Wolfe, aye. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO ADOPT RESOLUTION #2020-15 (PEMA DAP-1) DESIGNATION OF AGENT RESOLUTION FOR OBTAINING FINANCIAL ASSISTANCE UNDER THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT FOR COVID-19 EXPENSES. SECONDED BY JOE DUDASH. Beverly said this is for reimbursement for our Covid-19 expenses. Marie said this is the necessary paperwork and Dave Trueloves said to go ahead with it. Mark Moffa asked Ben if they had to do a resolution to approve this or can they just do it without council. Beverly said in the paperwork it says they want a council resolution. Ben said state authorities want some form of resolution. A roll call vote was taken. Barbara Heffelfinger, aye, Joe Dudash, aye, Gary Nickerson, aye, Mark Moffa, aye, John Stratz, aye, Beverly Wolfe, aye. All ayes, motion carried.

MOTION BY BARBARA HEFFELFINGER TO APPROVE AND SIGN PEMA DAP-02 PA EMERGENCY MANAGEMENT AGENCY PUBLIC ASSISTANCE GRANT PROGRAM AGREEMENT FOR COVID-19 EXPENSES REIMBURSEMENT. SECONDED BY JOE DUDASH. Beverly asked Marie to explain the difference in the two motions. Marie said this is the actual agreement that the borough needs to sign off on to submit for the reimbursement. Beverly said it needs to have the accountability and transparency data sheet with it that lists everything requesting what they are calling a grant which is claiming all Covid-19 related expenses. Marie said that will be done separately on the grants portal. Mark said this is not a resolution, it is just them approving the submitting of the agreement. Mark thanked Marie for doing the paperwork. A roll call vote was taken. Barbara Heffelfinger, aye, Joe Dudash, aye, Gary Nickerson, aye, Mark Moffa, aye, John Stratz, aye, Beverly Wolfe, aye. All ayes, motion carried.

MOTION BY MARK MOFFA TO APPROVE INDEMNIFICATION AND HOLD HARMLESS AGREEMENT BY AUTO ZONE PENNDEL, LLC. SECONDED BY JOE DUDASH. Ben Hauser

explained that one Ms. Kirk from his office and the applicant's attorney Mr. McGuinness came up with this indemnification hold harmless agreement. Obviously the borough and the parties have entered into a number of land development agreements that borough council approved, he believes at the last meeting, however, you'll find that under the current state of the crisis many of the County offices are still a little slow to record a lot of the documents which is by appointment only so as part of all of this, AutoZone really wants to get moving on breaking ground in the borough and start getting what they need to do to start getting this building up and going so that's the level of their optimism in the borough. Basically, what this would do is until those agreements are recorded, that would protect the borough, you know they exist, and they have a certain legal effect already because they've been signed. They're basically indemnifying the borough in the event that something goes wrong in the roughly 15-45 day interim until those documents can be recorded. They've been approved and signed but they're not recorded. The recorder of deeds, they've already signed the documents basically saying that they're going to indemnify the Borough. They have insurance limits certain effect this is kind of pro form it's a little unusual in the sense of these unusual times, but he doesn't see a downside for the borough to sign this document. Not only is it a hold us harmless but it would also indemnify us if something were to go askew. A roll call vote was taken. Barbara Heffelfinger, aye, Joe Dudash, aye, Gary Nickerson, aye, Mark Moffa, aye, John Stratz, aye, Beverly Wolfe, aye. All ayes, motion carried.

Beverly said the last motion item in the construction of the AutoZone site prior to the recording of the land development documents because now there's an indemnification agreement in place allowing them to get started working. Rick Halbom said they have not received their plans yet for the building. Beverly said she did not know that. Rick said he received an email from them today asking how they wanted it, how many paper copies and stuff like that. It's usually a few days after that they actually physically receive. He doesn't think Karen got them today because he was in the office for part of the day and he thinks she would have mentioned it if they did come in. Beverly asked what effect that has on this. Ben said he was a little surprised that the plans had not come in. He is now trying to communicate with applicant's attorney. Mark said they've actually been needling us at the borough to get the paperwork signed. They were accused of holding things up. Rick said they are supposed to get 2 paper copies and an electronic copy so that we can review them. He thinks it's highly unlikely that they are going to find any serious defects in their design because this is probably a package unit that they have built time and time again and he expects it'll be pretty much a pro forma acceptance once we receive it. He just wanted them to know and they can't start construction until they issue them a building permit but he doesn't see any reason that they shouldn't go forward with this but be advised they can't start construction tomorrow if you sign this today. Ben said it would just be a simple motion authorizing it perhaps tack onto it subject to the receipt and approval of the building code office of the submitted plans. Carol said their dream is to start site work and then catch up on the building plans. Rick said he's very uncomfortable with that. Carol said considering what happened on School House Court she is too. Rick said they cannot start construction until the code office issues their building permits. Joe asked if they should hold it because of what Carol and Rick said. Rick said pass it but tack on there they cannot start construction until the code office issues their building permits I'll make that motion this is the motion to permit construction at AutoZone site but we're going to add the condition Joe asked if they should hold it because of what Carol and Rick said.

**MOTION BY MARK MOFFA TO PERMIT CONSTRUCTION AT AUTO ZONE SITE PRIOR TO RECORDING OF REQUIRED LAND DEVELOPMENT DOCUMENTS AFTER THE CODE ENFORCEMENT OFFICE HAS RECEIVED AND ACCEPTED THEIR PLAN AND ISSUES PERMITS. SECONDED BY JOE DUDASH. A roll call vote was taken. Barbara Heffelfinger,**

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

Ben said there is one more item which relates to 47 Durham Rd. which they just want to word slightly different because there may be some additional information that will work to the benefit of the borough. They can't be certain yet but basically the motion would be to amend the previously adopted motion made by John Stratz and seconded by council member Mark Moffa to now read as follows: to reimburse property owner in an amount not to exceed \$12,023.38 for sewer number 255. Previously it did not say an amount not to exceed. Mike Smith asked if they checked this lateral to see if it's leaking and asked if it is below grade where water has been coming in before you give this money up. Beverly said the lateral was capped, from the records, in 2008 and the building was demolished in 2004 as far as they can tell. Beverly said there is no lateral there's no lateral at all no building there's nothing going through. Mike said it doesn't matter, it should be checked before you give this money back. It should be investigated. You just fixed how many laterals on Bellevue Ave that were broken. You should be checking this to make sure before you give this money back. Beverly said there is no building so how could there be anything there. If the lateral there is under the street, she's not understanding how it could be leaking if there's no building. Carol said she will need to find the records to get more information on this particular lateral but in the past year her contract was for the video inspection of the lines and where they had suspicion of a leaky lateral they actually went back and went up the lines with the side camera for us. She said she doesn't recall that one popping up but she would be happy to check the inspection records to affirm that they did go through there and do a video inspection in that region and if there was a significant leak, it should have appeared on the video inspection. Mike said that they should check it before they go and give up all this money because you could wind up with a problem that you wind up having to pay for later. Joe asked if they were shelving it and Beverly said they were just amending the other motion that they approved.

MOTION BY JOHN STRATZ TO REIMBURSE PROPERTY OWNER IN AN AMOUNT NOT TO EXCEED \$12,023.38 FOR SEWER ACCOUNT NUMBER 255. SECONDED BY MARK MOFFA. A roll call vote was taken. Barbara Heffelfinger, aye, Joe Dudash, aye, Gary Nickerson, aye, Mark Moffa, aye, John Stratz, aye, Beverly Wolfe, aye. All ayes, motion carried.

#### Persons to be heard

Mike Smith said that since Dominic is here, can we ask him who gave him permission to put those trailers down there. Beverly said this is comment time, not an inquisition. Mike said he's been asking for almost a year. Beverly said to Dominic that Mike Smith is one of the residents of Penndel Borough and he wants to know who granted permission for the trailers down at the Penndel Memorial Field that are being used as storage. She told Dominic that he did not have to answer if he didn't want to or he could talk to her. Dominic said the one trailer has been there before his son played football before I had this job so he can't answer that. Beverly told Dominic if he wants to talk to her about it, he can. Beverly told Mike she would get back to him on it. Mike asked about all the cars that are being parked on the street on Woodland Ave on a brand-new street from the old Getty station if that was looked into. Rick said he did months ago, probably last year sometime. He went down there with the chief and they had a conversation with him about getting his cars off the street. If he's illegally parking vehicles on his own property that's something Rick can cite but if they're on the street that has to come from the police. Beverly asked if there were any illegally parked. Rick said he didn't know whether they are illegally parked or not as he's not an expert on the borough parking regulations but he would say they're probably illegally parked certainly the ones without a registration plate on are

illegally parked so it is a police matter. Beverly said they will take that up with the police department.

Steve Lowe said he was thinking about what Mike said about the sewer lateral and he thinks there's a little bit of validity to what he said. Between his house and the street he has about 70 feet of pipe so if he were to demolish his house and cap the lateral right as it exits my house, he knows for a fact that he has two couplings in the ground before it even gets to the street where the main sewer lateral is. If those couplings were bad or any tree roots had gotten into them over the years, there could be infiltration, so he thinks there's a little bit of validity to what Mike said. Rick Halbom said when they issue a demo permit for a building, one of the things that they check or are supposed to check is that the sewer line, water line and all the other utilities are properly terminated but all he is doing is looking down at the edge of where the building was and he's seeing that a plumber put a cap on that and if there's 40 or 50 feet of lateral out to the street, he's not looking at that. Beverly said Carol will look it up.

Ben Hauser said there was a comment from the Konski's. Beverly read the comment. Double thumbs up on the streetlights. Is there any data on the amount of money being saved by the lights and is there a process to have additional lights added? Beverly thanked the Konski's for their kind words. She said Councilman Stratz worked very hard on this project. She said she didn't think the paperwork has not been closed out, yet which is the paperwork to PECO about exactly what we're going to be saving. John Stratz said that was correct and the PECO process is the final page in the book. Beverly said then we will start to see the savings. John said as soon as Mike from Keystone Lighting contacts PECO. PECO has already been notified that we have done this and Mike notifies them and says OK pull your financial switch and from that point on the savings are automatic. Beverly said when they are notified we are fully over to LED and give the new inventory to PECO, then they can rerate us. That's why he's trying so desperately to get the lamp at the end of the rec field taken care of because according to PECO, it is not ours. If it's definitely not ours, we don't want to pay for the electricity. Beverly asked how many lights we added. John said they added one of the beautiful brand new lights on the other side of Lincoln highway next to our pumping station because it's a walkway to Rita's and it was horribly dark and now it is nice and lit up. Beverly asked how many new lights. John said five and Beverly said with that one it is six. Mr. Konski said he noticed across from Auto Zone there's a dark area and a concern was with vehicles pulling out from that parking lot. Beverly said they will be working on that site. Steve Lowe asked where that lamp is down at the baseball field that you don't know who it belongs to. John said at the very end. The streetlight map says our last light is pole #65215 and the one right past it at the farm is pole #65216 and it does not appear on any of our PECO streetlight maps. Steve asked if it is before it curves into Spring Valley. John said at the imaginary divide between Penndel and the farm. Steve asked if you're coming from Hulmeville Ave. going towards Spring Valley if it was on the left or the right. John said all the streetlights are in a row on the left. There are no lights on the right. Steve said they may want to check the records because he believes the borough donated the land to Mongillo's. That was the paper street. Beverly told Steve they are just waiting for PECO to tell them by the medallion who owns it. Steve said there was a paper street that came from Dalola up to Bellevue Ave. where you could make a left turn there and the borough donated the land to the Mongillo's before Mr. Mongillo passed away. Beverly said she had no idea about it. Steve said the light might be owned by the property owner.

MOTION BY BARBARA HEFFELFINGER TO ADJOURN THE MEETING AT 10:18 P.M.  
SECONDED BY MARK MOFFA. A roll call vote was taken. Barbara Heffelfinger, aye, Joe  
Dudash, aye, Gary Nickerson, aye, Mark Moffa, aye, John Stratz, aye, Beverly Wolfe, aye. All  
eyes, motion carried.

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