

Penndel Borough Council Meeting Minutes

December 6, 2021

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

Present at the meeting

Mayor Robert Winkler
Borough Manager Geoff Thompson
Council President Beverly Wolfe
Council Vice President Mark Moffa - absent
Councilwoman Barbara Heffelfinger
Councilman Joe Dudash
Councilwoman Laura Germain - absent
Councilman John Stratz
Councilman Gary Nickerson – via telecommunications

Also present at the meeting

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

Announcement

Beverly Wolfe announced that the front of the building is closed and probably will be that way for at least three weeks to a month for the renovation. In the event of a problem that they would need to clear the hall, everyone will go out the back exit in an orderly manner.

Presentation by Chief Perry – Commendations for Police Officers

Chief Perry presented the officers with commendations and pins for their hard work during the Covid-19 pandemic.

Chief Perry left with the officers and will be back to read his report.

Council or Borough Announcements

Beverly Wolfe said she heard the tree lighting was a hit and was a job very well done. She thanked everybody involved including the Mayor and the Activities Committee. Joe Dudash said the fire department was great and police department as well. They brought Santa Claus right on time and John was singing.

Public Comment on Agenda Items

Ben Hauser announced that there will be no comment on each agenda item after this session so if anyone does have a comment on agenda items, now is the time to come up. There was no public comment.

Consent Items

MOTION BY BARBARA HEFFELFINGER TO APPROVE THE MINUTES OF THE NOVEMBER 22, 2021 WORK SESSION AND TO PAY THE FOLLOWING BILLS FOR THE MONTH OF NOVEMBER 2021:

John Stratz said he will be abstaining on the minutes of the last meeting. Ben Hauser said since the item is being considered as one motion, if he is going to abstain, the parliamentary result is that he's going to be abstaining on both. Ben suggested that there be a motion to split the two items into two separate votes so that John's abstention on the minutes may be registered without having an impact on the other item. Beverly asked if there was any objection to considering it that way. There was no objection. Chief Perry came back to the meeting.

MOTION BY BARBARA HEFFELFINGER TO APPROVE THE MINUTES OF THE NOVEMBER 22, 2021 WORK SESSION. SECONDED BY JOE DUDASH. John Stratz said he will be abstaining from the vote on the minutes. 4 ayes, 1 abstention. Motion passes.

MOTION BY JOHN STRATZ TO PAY THE FOLLOWING BILLS FOR THE MONTH OF NOVEMBER 2021:

General Fund	\$26,267.77
Fire Tax Fund	\$ 636.13
Refuse Fund	\$ 48.82
Sewer Fund	\$35,015.64
Debt Service Fund	\$ 23.45
Capital Reserve Fund	\$ 3,823.09
Liquid Fuel Fund	\$ 198.93
Escrow Fund	\$ 3,852.90
Payroll Fund	\$ 2,597.26

Payroll

General Fund	\$30,487.11
Sewer Fund	\$ 4,802.98
Refuse Fund	<u>\$ 800.46</u>
Total	\$36,090.55

Escrow Fund Bills

Auto Zone:

Hill Wallack LLP	\$ 40.00
Value Engineering	\$ 406.00

Schoolhouse Court:

Hill Wallack, LLP	\$2,146.40
Value Engineering	\$1,260.50

SECONDED BY BARBARA HEFFELFINGER. All ayes, motion carried.

Reports:

President's Report

Beverly Wolfe told Dave Cahill that she would have the information on the issue he brought up a while back for him at the next meeting.

Borough Manager's Report

Geoff Thompson read his report which is on file in the secretary's office.

Mayor's Report

Mayor Winkler read his report which is attached. He read his speech in which he thanked everyone for his 62 years of various roles and his 12 years as mayor in Penndel Borough.

Police Chief's Report

Chief Perry read his report which is on file in the secretary's office.

Solicitor's Report

Ben Hauser wished those who celebrate it, Happy Hanukkah and a Merry Christmas and Happy Holidays to everybody else.

Engineer's Report

Carol Schuehler read her report which is on file in the secretary's office.

Gian Lo Piccolo, asked if there will be any crack sealing in the budget for next year. Carol said she didn't know if crack sealing made it into the budget but there is road work in the budget. There are base repairs and then they're also looking at doing a heavy duty sealing on Holly and Oak but would let others speak to what line items are actually in the budget. Beverly said she didn't have it with her, but she thought they had crack sealing in there. She asked if there was anything specific that he was looking at. Gian said Park Ave. and the streets that were done during the 2016-2017 project, especially by the Lutheran Church. They are starting to see cracks in the center area that need to be crack sealed. Carol said it would be a very good thing to do for road maintenance and that was actually in her roads report. It would be a very good thing to do. Gian said on Park Ave. you can see it coming apart.

Zoning/Code Enforcement Report

Beverly Wolfe said they had a busy November. Joe Dudash asked if there is another civil complaint going on at 40 Bellevue which is the trucking company. Ben Hauser said without getting to the specifics of the matter, yes there is a hearing coming up before Judge Baranoski in January. Joe asked if they determined if an occupancy permit had been given. There are people in the office there doing office work. Geoff Thompson said they have a temporary certificate. Joe asked how they got it. Ben said Pennsylvania law has changed. He thinks the bill in order was Act 1437 of 2015 which requires some form of occupancy be granted. That arises out of some municipalities in Southeastern Pennsylvania using the U&O process to keep people from buying properties. He can't say specifically with what would happen in this case but there's a strong likelihood, it's a general matter that they had to be given some form of occupancy under the law depending on the state of the property at the time they asked for the permit. Joe said from what they were told, the old PECO building was condemned originally and is where they have all these office workers. This has been going on for a year. Beverly said she doesn't remember there being a Certificate of Condemnation, but she wants to see if there is a temporary U&O and the circumstances for it. Joe asked if the civil complaint is related to this or to them doing the truck work down there with the truck frames laying all around. Beverly said if you read this, she believes it's related to the issues that have been brought up by these gentlemen over a few meetings. She passed on that there were repairs being made and the fact that there were trailers being dropped in the street that the skids were on the pavement. It's along that line of the repairs being made to trucks that was the complaint that was given to her. Joe said he doesn't understand why the solicitor didn't do any cease-and-desist order on the work done. They've been going to town like crazy. Ben said he's not going to get into the particulars of this. There is a hearing before Judge Baranoski on the 25th of January and he believes that there may be a zoning matter brought before the Zoning Hearing Board prior to

that in January that has not been filed yet. Joe asked if council would be enlightened on this because he had no idea about this. Ben said Mr. Truelove will have to have a presentation with council at the next meeting whenever the documents are filed by the property owner. Joe asked if he was coming after them or were they going after him. Ben said he takes the gentleman's comments under advisement, however a property owner has the right to seek zoning relief. It is his understanding that the property owner may seek zoning relief. Joe said so it's not the borough taking action. Ben said he wholly disagrees with that comment. The borough has already taken the gentleman or the property owner to local court here on Centre St. Joe said he didn't know about it. He asked if anybody else on the council knew about it. Beverly said this is part of the normal day to day activity that happens with the zoning and code enforcement officer. When there's a problem with the property, they follow the proper procedure. Joe said the problem is it's been going on a long time. He asked how many more lawyer bills they are going to be paying. This should have been nipped in the bud right away. Beverly said she didn't know what he meant by nipped in the bud. Joe said he's got taxpayers out here paying for all these legal fees. Beverly said she got a complaint here from these gentlemen and it was a valid complaint. She went over and saw it with her own eyes. They provided photographs. She reported that and there's action that's been taken. Now they're talking about a new complaint that there's a temporary U&O and that they're putting in offices which this is the first time hearing it tonight. She's going to have to look at that. Joe said he's been asking for over a year about the occupancy permit. He's finding out there isn't one and nobody really followed up on it. Now it's coming out that they didn't have one. Beverly said she believes that they have a temporary U&O, but she will look at that immediately. If she can do it by email, she will. She would rather report it that way and then bring it up to the public. Joe said he sees that they're back renting 358 Dehaven as an Airbnb. They're running full blast there. Beverly said the email is dated 11/19/21. Joe asked what they are doing about it. He asked how many warnings this guy is getting. Beverly said they got an email stating that the owner of 358 Dehaven is running an Airbnb once again and someone is in the house now per an advertisement. Sally responded and asked for a copy of the advertisement. The calendar with no address was sent and she said without the address, it's hard to prove. They checked with the Airbnb sites and Russ was going to go out and see if anyone is living there and then give notice that they do not have a U&O Certificate. Karen Kondrk said that she emailed them a U&O application today because they requested one. Beverly said it looks like the proper steps are being taken. They received a report on the 19th of November that they're running an Airbnb once again. They investigated it and didn't see that but found out that they don't have a U&O. Joe asked what the recourse is. Ben said the borough is investigating. If Russ determines that somebody is living there without a U&O, that would be addressed at the appropriate time. The borough has to look into when there are complaints. They can't take action without evidence of the complaint. Hearsay will not be enough. Joe said he doesn't think it's hearsay when they've had residents coming here with photographs and everything else. Ben said photographs actually legally are hearsay unless they're authenticated. Beverly said they're photographs of somebody living there but it's possible that they rented the house for a couple of months and that's legal. The Airbnb is the problem. Right now, the only thing that's wrong is they don't have a U&O. They sent the officer out to go take a look and see if there is anybody living there. For right now, there is not an Airbnb there unless they find evidence of it. They had evidence before and they haven't found any now. Joe said they have a new fence problem at 122 Dehaven Ave. It was in the emails. Beverly asked what the problem was. Joe asked if the solicitor was going to send a cease-and-desist letter to them. Geoff said they were notified that a fence went up on Dehaven, so they did an investigation, and they contacted the property owner about getting a proper permit. That's where it stands right now. They did submit the permit application. The issue is they put the fence up without a fence permit. He thinks the ramification of that is it's double the permit fee. Joe asked if the fence stays up. Beverly said the permit is forwarded to the zoning officer

and if she finds it's a proper fence, then it will stay up. If it's not a proper fence, then they have to take it down or move it. Ben said if the zoning officer issues a permit, there is a 30-day challenge period. Joe asked if the borough would be responsible for the 30-day challenge. Ben said no, if the zoning officer terms it unlawful, it would be a neighbor or someone within the zone of interest who would challenge that or go before the Zoning Hearing Board. Joe said what he's afraid of is that they're spending a fortune already on the Berlin Wall over there so now he just doesn't want to be spending more money. Beverly said right now it is not a legal issue and won't be until if they apply for this proper permit. If Sally finds out that it was installed improperly, then she has the authority to take action for her office and the lawyers wouldn't be involved at all. That's part of the process. Ben said if Ms. Bellaspica determines that the permit is not proper, she would deny the permit and the property owner would have the opportunity to challenge that permit before the Zoning Hearing Board at which point the borough, if it so chose, could get involved. Until she makes an official determination as zoning officer, there is really nothing to be done at this particular moment. Joe said so then this is related to the Hulmeville Ave. fence that didn't have a permit and the fence is still up at the new house. Geoff said they got a proper permit. Joe said but it was after they put it up. Dave Cahill yelled out from the audience that it was obtained after bypassing the Zoning Hearing Board and it's all crap. Beverly asked Geoff to get a full report on that fence in writing from start to finish. Geoff said Sally approved it. Joe asked what the penalty was for not having the permit. Geoff said in that case, he didn't know. Joe said they may as well get rid of their ordinances and save money. Get rid of the ordinance people because it doesn't mean anything. They don't listen to the Zoning Hearing Board. Beverly said she will get a report on that fence and see the sequence of events and they'll find out who made what decision and get back to them on it. Mike Smith yelled out that they're saying it's legal and it's not. Beverly said he would have his chance to speak.

Committee Reports:

Buildings & Maintenance

Joe Dudash thanked Michelle and the two girls for the cleanup they did. Beverly explained that when the demolition started on the front, the dust from the saw cutting of the concrete overwhelmed the hall from the door not sealing properly with the mail slot and it started coming in the building. Geoff took immediate action and sent the girls home until such time that they could finish the saw cutting. Borough Hall was closed for a couple of days. After it was done, cleanup started. This is an RDA bid contract which means that the contractors, under specific guidelines and specific things to do, will clean up any mess and make it right. All they have to do is call the engineer in charge of the project and they will have their contractor come in but, in the meantime, Geoff had already taken care of it. Geoff said he called Michelle in to do extra cleanings. Beverly said he got up and did all the places that Michelle could not reach safely. The contractor will come out with the crew to do another cleanup. The jackhammering caused some more dust problems which any construction here has caused in the past. The roof project when they were banging and putting nails in caused some stuff to fall down from the ceiling tiles and whatnot. They will have the place completely cleaned once all the project is done in about three to four more weeks.

Community Development

Barbara said Carol is doing an excellent job and they had a very good meeting and got everything settled. The RDA hasn't made their announcement yet.

Community Relations

Barbara Heffelfinger asked if the Mayor picked the winners for the pumpkins or if Laura did. Bob said he did not. Barbara said Laura will have that announcement when she gets back.

Ordinance

Gary Nickerson said the fence ordinance is making its way to the zoning officer for review.

Public Works

John Stratz said when they started with Patch Management the price was, he believes \$795.00. Then a few years later it did jump to \$1,800.00 for a truck load but he got forty-three potholes out of that truck load. Second year it was the same price of \$1,800.00 and now they're up to \$4,000.00. The window is closed for Liquid Fuels paying for anything and also the window is closed on doing hot repairs for the season. They will take that up again in the spring. He hopes to get a good estimate from Haines. They will be doing many other good things for the streets in the next year. Right now, his plan is for him and Lou to hit the potholes with cold patch.

Old Business

MOTION BY JOHN STRATZ TO TABLE INDEFINITELY, THE PATCH MANAGEMENT ESTIMATE #28807 IN THE AMOUNT OF \$3,995.00 FOR POTHOLE REPAIRS. SECONDED BY BARBARA HEFFELFINGER. No objections.

New Business

MOTION BY BARBARA HEFFELFINGER TO RATIFY APPROVAL OF THE FOLLOWING MID-CYCLE INVOICES:

Comcast invoice dated 11/1/21 for the amount of \$420.60 for internet and voice services at 37 W. Woodland Ave. and internet at 790 Neshaminy St.

Independence Blue Cross Invoice #211105003208 for the amount of \$5,484.44 for medical insurance installment

PECO invoice dated 11/10/21 for the amount of \$1,407.62 for streetlight electric

Comcast invoice dated 11/15/21 for the amount of \$200.96 for internet and voice services at 300 Bellevue Ave.

Comcast Invoice #903759387 dated 11/1/21 for the amount of \$518.18 for business voice edge service

General Code Publishers Invoice #GC00114555 for the amount of \$1,195.00 for eCode365 annual maintenance

Waste Management Invoice #0001312-2448-7 for the amount of \$16,649.79 for November service

SECONDED BY JOHN STRATZ. All ayes, motion carried.

MOTION BY JOHN STRATZ TO WAIVE THE LICENSE FEE OF \$70.00 FOR PREMIER BUILDERS, INC., CONTRACTOR FOR THE BOROUGH HALL RENOVATIONS PROJECT. SECONDED BY JOE DUDASH. All ayes, motion carried.

Public Comment

Tom Sodano, said at the last meeting, Mr. Nickerson objected to a non-U.S. citizen being referred to by his nationality. He said to Beverly, in those same veins, she might want to be careful using the term "girls" when you're referring to the secretaries here because it's currently considered a sexist remark. He got called out for it in a meeting. Beverly said OK, so she just

got called out for it. Barbara said she would like it if somebody called her a girl. Tom said he likes when somebody tells him he's younger too. Regarding the fence discussion, Jay Moser pointed out when they discussed the fence at 541 Hulmeville Ave., that it was installed on the property line. The fence at 122 Dehaven Ave. is also on the property line. In addition to the fact that they both may or may not be, as Mr. Hauser might say, be the incorrect height on the side facing the street. His point being if they're going to issue permits after the fact and they're showing them based on what supposedly will be the new fence ordinance, that's what people are objecting to. Under the current fence ordinance, it's four feet facing the street and it's a foot off the property line. That's why people are complaining. They haven't changed that ordinance yet and they're months away from that. When they discussed the U&O at 40 Bellevue, they called it a temporary U&O. He asked what the timeline is on a temporary U&O. Ben said he would have to double check the state statute. Tom said he was not aware they were working in there until someone called him the other day and told him. So on the way here, he drove by and he would consider it an active office when the person working in there is on the computer when he drove by on the way to this meeting and they have plants on their desks. You can see them from the windows on Bellevue Ave. In lieu of information provided by the PA Association of Boroughs regarding the issue of whether or not elected officials, including but not limited to the mayor can hold a position, one of them being the borough Planning Commission. He respectfully requests their consideration to allow him to rescind his resignation from the Penndel Borough Planning Commission. There have not been any Planning Commission meetings since the beginning of the COVID limitations and at that time he was sitting chair. His intentions would be as follows. He would like to call a reorganization meeting of the Planning Commission as soon in January 2022 as time allows. At that time, he would like to step down from an active position on the Planning Commission to a strictly advisory one allowing Beverly Wolfe to assume the then vacant position as council has previously approved for her. The Planning Commission would then be full at five and could elect a new chairperson. According to the information he received from the Borough's Association, should be a citizen member not an elected borough official as the chair. Either of them could participate being the point, but not as the chair. He respectfully requests their consideration of this matter at their earliest possible convenience.

Gian Lo Piccolo, said he sent a picture to them of the pole at Centre St. and Dehaven that's rotting at the bottom which is the one that holds up the street signs for Dehaven and Centre. A few months back, he complained about a property on Lincoln Highway that the sign was cracked down the middle. In this past week's storm with high winds, it blew part of the sign apart and into the road or sidewalk. It's still cracked on the other side. He brought it up at the beginning of August, so he just wanted to bring it up again. He doesn't know what the process is, but it should be looked at. It's Penndel Hydraulics. He's not picking on the business owner. It's a safety thing. Beverly said they would get on that right away. Regarding sidewalks, when they changed the lateral ordinance for the homeowners that are selling their houses, they viewed it as a good win. It's a shame but it's the only way to really get things to change. His thoughts had always been the same with the sidewalks. He knows they are planning to do some streets. He doesn't know if it would be normal in other municipalities and if that's also something that follows ordinances because if you have an outgoing homeowner and it's an obvious issue then you're not picking on somebody. When he used to talk to the mayor, he said years ago they used to do spot violations, but the problem is people feel like they're getting picked on and the next thing you know, everyone is going around town taking pictures of every piece of sidewalk. Then they start the next world war when they're trying to do a street and they're trying to find the best way for sidewalks to get fixed. He doesn't know if the ordinance has been looked at but maybe when people are selling their houses that's when sidewalks are looked at. Beverly asked Gary if they are looking at the sidewalk ordinance. Gary said that's next on the long list.

They actually looked into that particular suggestion, and they were told that it was not a legally viable pathway. Beverly said that's interesting, and they'll hear about that when they present it.

Mike Smith said it's been almost a year since the Zoning Hearing Board ruled on the fence. Nothing has been done. He said to Ben that his colleague is asking him for his survey. Mike asked how his survey is going to make a difference for the outcome. Ben said it's litigation and this is public comment, and he would also remind members of council that it is public comment, and they are not in the well of the House of Commons and it's not Prime Minister's questions. Mike said that is exactly the answer that was given to him. It's been going on for a year and nobody wants to comment. Nobody wants to do anything. He asked how his survey is going to help do anything other than what has already been shown. The borough subcontractor made this mistake, and it was proven at the Zoning Hearing Board. To date, nothing has happened. He told Ben so that he's aware of this, legally, the first date he brought this to the attention of this council, they should have put a cease and desist on that fence and gave him a notice of violation. He was blown off and told to go to the Zoning Hearing Board which he did. He followed the legal counsel of this Borough and followed everything to the letter and still nothing is done. The only thing that's done is the taxpayer money to the tune of \$19,000.00 and he's sure it's up by now, has been spent on legal fees. He asked how much more are they going to pay. Mike asked why it is that only his attorney and Darnley's attorney are sitting down when the borough contractor made the mistake. He asked why is it that nobody else is sitting down. Yet, Dave's got this problem with saying that there is a negotiation being taken care of. He asked isn't it the borough's responsibility. Mike said they spent \$2,900.00 on a traffic engineer and got the report back in August. He asked what they have done. Mike said they did nothing. Beverly said his three minutes were up and he could come back up.

Dave Cahill, 462 Cynthia Ave. Beverly said he doesn't have to give his address. Dave said that's fine, he wants everybody to know where he lives. Dave said he wants to talk about Cynthia Ave., and he doesn't want to talk about the November 8th incident because he knows he can't after hearing Chief Perry's report. But he said to the chief do you still believe there is nothing going on over on Cynthia Ave. Beverly said this is public comment Dave. Dave said these questions are for the chief. Beverly said it's her meeting. Dave asked Chief Perry if he still thinks there's nothing going on, on Cynthia after the 8th. Beverly said it's her meeting. Dave asked the chief if he has a drug problem on his street in Warrington where he lives. Dave asked if he has a heroin problem on his street in Warrington over where he lives because they've got both problems over here on Cynthia. He asked the chief is there was a reason he didn't contact Child Services after the overdoses in 2020. Beverly told Dave the Chief doesn't have to comment. Dave said to the chief, you don't care do you. Dave asked the chief, do you care. Dave said Christopher Skidmore from what he can find out on the internet, had a rap sheet a mile long including three DUI's and a suspended license. He drove our streets like he could every day. Dave said thank God he's dead, so he didn't kill any of the thirty children that live on Cynthia and Clarissa. Dave said to the chief, you're a failure and he should quit immediately.

Beverly said Mike could come back up and he said he didn't want to follow that.

Terry McIntyre asked Carol if on the meters that she had sent out to get repaired if they followed the estimate or were they more money to have repaired or were they within the estimates. Carol said they were in between.

Beverly told Mike he could come back up and he said he wouldn't because Ben wasn't going to answer anyway.

Council Members to be Heard

Barbara Heffelfinger said she would like to say that they have one of the finest police departments in the whole area and she will go to bat for them every minute of every day. They work hard. They are gentlemen and ladies, and she personally will not tolerate anybody making dumb remarks about the Police Department. They are wonderful and if you don't believe her, she can talk about a couple of incidents where they've helped her and there are none better. Don't sit here and think we've got a bunch of no nothings on the police force because we don't. The best evidence of that is that the chief was selected to take a course that is fully paid because he is special. That's why he got it. She doesn't want to hear anymore baloney about lousy police officers because they do not have any. It really burns the hell out of her when people criticize them when they'd be the first one there to help and do whatever they can for you, even if you are the blockhead that criticizes them. She said she could go on forever, but she won't.

Joe Dudash said to Karen and Marie, if he called you, she or whatever the heck it is, he apologizes. He said girls, that's it. Joe commended the chief and the officer that was with him for the attempted suicide by cop thing that they had. It was a sticky situation and he heard he had to stun him two times or turn up the volts on him. He heard the Hulmeville, Middletown and Langhorne Police Departments were there also. So he'd like to commend him, the officer that was with him and the other boroughs and townships that responded.

MOTION BY BARBARA HEFFELFINGER TO ADJOURN THE MEETING AT 8:40 P.M.
SECONDED BY JOHN STRATZ. All ayes, motion carried.

Submitted by: _____
Marie Serota, Secretary/Treasurer