

Penndel Borough Council
Work Session Minutes

January 18, 2022

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

Mayor Tom Sodano swore in Councilman Joe Adams.

Present at the meeting

Mayor Tom Sodano
Council President Beverly Wolfe
Council Vice President Gary Nickerson
Councilwoman Barbara Heffelfinger
Councilman Joe Dudash
Councilwoman Laura Germain – arrived at 8:05 pm
Councilman John Stratz
Councilman Joe Adams

Also present at the meeting

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

Council or Borough Announcements

Beverly Wolfe said she neglected to say she hoped everyone had a good new year and wishes everyone well in 2022.

Public Comment on Agenda Items

No comments.

Consent Item

MOTION BY GARY NICKERSON TO APPROVE THE MINUTES OF THE JANUARY 3, 2022 COUNCIL MEETING. SECONDED BY JOE DUDASH. All ayes, motion carried.

Reports:

President's Report

Beverly Wolfe reported that they are still working on the official form that they're going to have everybody fill out if they have a complaint and they are working on the committee assignments with a revision of the committees.

Engineer's Report

Carol Schuehler read her report which is attached.
Joe Adams thanked Carol for her presentation. He asked, if they were to look at those options and they were to factor a return-on-investment projection for initial cost and the length of expected service out of them, in her opinion, just to kind of surmise, which of those options did she think provides the best ROI projection for the residents. Carol said in her personal experience, the best return on investment is the double chip seal but she's not sure that the

return in residents' satisfaction would be as high. Joe asked her to rehash what the potential negatives are. He asked what the things are that if it was in front of his house, what might he not particularly enjoy about it. Carol said there would be some loose stone on the surface initially and that's it. She said if they could talk to the residents and educate them, she thinks that would be the best return on investment.

Beverly asked Carol what the options were again. Carol said option one was the double chip seal, double chip seal with fog seal and double chip seal with a slurry on top. The other option was full repaving. Beverly said full repaving would require that their ordinance on curbs and sidewalks come into play. Carol said full repaving by borough policy would require council to direct the engineer to do an inspection for curbs and sidewalks. Where they didn't exist, they need to be installed. Where they did exist, they'd need to be repaired if they were deficient and that also might trigger the borough having to look at suitability of drainage. Beverly said they would need to be ADA ramp compliant. Beverly asked Carol for the cost of the double chip seal and cape seal. Carol said the double chip seal they had estimated \$33,000.00 and the cape seal they had estimated at \$55,000.00. Beverly said neither one of those options would trigger the ordinance for curbs and sidewalks. Carol said that is correct. That would be her interpretation and the basis for that is because PennDOT considers this maintenance. They don't consider resurfacing maintenance, so they consider this pavement preservation as maintenance, and it checks all PennDOT's boxes as maintenance instead of reconstruction. Beverly asked if it checks all the borough's boxes. Carol said that's a borough policy that's been implemented by council for many decades. Beverly asked if it's an ordinance. Carol said no, it's a policy. When they look back over the borough history when the microsurfacing was done on a number of roads in 1999, the borough, just like PennDOT, said this is pavement preservation and not repaving so it did not trigger the curbs and sidewalks. Joe Adams asked the difference between the value added between the double chip and the cape because it's about \$20,000.00 more for the cape. He asked if there was a considerable value added to that or are they looking at minor and it may be that at the same level of value to justify the expense. Carol said they would be getting more surface. More surface for the plows to run on and a little more structure. If they're doing a half an inch of double chip seal, they might get another close to half an inch of that slurry so they'd be getting almost twice as much material there and she thinks the appearance looks more like pavement so she thinks it would be more satisfying to residents who don't really know what they're looking at. It would look more like a paved road to people. Joe asked if they would lose that aggregate effect of having the small rock for the first six months and Carol said yes. Beverly said option three is the one that they really would love to do which is the full repaving, but she hesitates with that at this time particularly with the hardship on the residents of having to implement the curb and sidewalks plus, they would have the cost of the ADA ramps and probably some drainage issues that they'll have to address as well. She asked Carol, in her opinion, how long she thought that what she believes is the best option will give them until it's beyond the point that they can do anything other than full repaving. Carol said the Department of Transportation looks at most pavement preservation techniques in general as a seven-year cycle or seven-year option, that they're going to get seven years of extension of their road life out of this. Beverly asked, in her experience, if she felt that that's a fair number. Carol said yes. She said at the end of that seven years they're going to look and decide where to go from there. Beverly said at that point, she thinks it will be full repaving. John Stratz said he wanted to reiterate this and asked Carol to characterize cape seal as the next best substitute for full mill and pave in looks and amount of time they will get before it totally breaks down. Carol said she would concur with that. She said that was the recommendation they received when she and John walked those roads with Asphalt Maintenance Solutions in 2020.

Gary Nickerson asked about the thickness of the application. He asked when they're talking about the cape seal and double chip seal, how much of the road are they actually stripping off the top. Carol said they're not actually stripping any road off the top. This is just going on top of the existing surface. They go through and do base repairs first so that they have a good underneath and then they go through with that emulsion and that's going to seal up the cracks that are in the existing pavement today and the stone goes right on top of that. They do that twice so that's the double chip seal and then on top of that they're talking about the cape seal. The whole thing together is still going to be less than an inch.

Beverly announced that Councilwoman Laura Germaine arrived, 8:05 pm.

Gary said his concern is that Holly and Oak are in terrible condition. He guesses like in all projects, it all depends on how good the setup is. It's going to be critical for these base repairs, regardless of what decision council makes, the base repairs are going to be critical for any sort of success. Walking up and down either street, he has no idea how they would prioritize what is targeted for base repair and what is not because to him it just seems like one giant pothole. He has reservations. He knows the full mill and pave is not a popular decision but to him it seems like the mill and pave has lasted. Oak has been there since 1941 and Holly has been there since 1940 or 1950. Gary asked Carol if she thought for the cape seal it would be reasonable to assume a seven-year life on that. Carol said yes. Beverly asked if it would be reasonable to think that they could then use that amount of time to give the residents of these roads ample time to realize what's going to happen in order to do the job that they know will have to be done in five or seven years. Carol said that seems like a reasonable approach. Joe Adams said no matter what, during milling and paving the work is going to have to get done. If they can give a seven-year buffer to notify and maybe do some type of impact analysis on what the potential costs would be to a resident living there and give them as much time as they can, so they're not hit with it still mid pandemic and with inflation, potentially a multi \$1,000.00 concrete bill. Beverly said they've already lived through this, so they don't want to do that again. It seems wise to buy time for them if they can.

Tom Sodano asked Carol what the approximate life expectancy of the mill and pave is. Carol said by the charts, 15 years but if they seal that early in the pavement life, they will get a much longer lifespan out of it. That's going on PennDOT road charts for standard roads. They don't have high volume on these local roads which is a plus. They have a cul-de-sac at the end of one which is a minus. On cul-de-sacs there are tight turning movements that are tough on pavement. Beverly said on some of the local roads they called it oiling and all it was, was throwing down some stuff and some stones. It used to stick to the undercarriage of cars. Carol said that was the old version of oil and chip that was nasty. It has evolved since then. The chip seal that they're talking about today is not that loose oil. It's an engineered emulsion and you don't get it all over your car. Tom asked if they have a tendency to roll up in the snow when it's plowed. Carol said she hasn't seen that. Beverly said she would think it would if it's loose. Carol said it's not loose. They put down the emulsion chip and some of the chips might not be as firmly embedded right in that emulsion so that's why they might initially have some loose stones. They get some hot days and some traffic, and they get pushed down in and they don't have loose stones anymore. Usually, these roads that are chip sealed early in the season, by the end of the season, they look like lightly colored paved roads. Beverly asked if they would have to do anything in a years' time like put any kind of a sealant on it or anything. Carol said no.

Carol said she prepared bid documents for repairs on Oak and Holly and also to obtain some unit prices for additional potholes or pavement repairs in that bid if the borough wants to do

some in the spring. At the next regular meeting she'll be asking for authorization to advertise that. A quote was obtained from AMS for one full day of crack seal work. What she did is, instead of saying crack seal these roads, she asked what it costs to have their crew here for one full day because that's how you get the most bang for your buck. There's a quote before council tonight for one full day of crack seal work depending on how cracked the roads are that they're working on and that could be half a mile to less than a mile. They have five miles of road in the borough. The idea with this kind of thing with crack seal or pavement preservation is if you put some money in the budget to do a little bit each year then over the course of five years, they do the borough. There's a quote before borough council for the crack seal and that's what that's about. For the Memorial Park restrooms, they have a CDBG grant for that, and the architect's plans are complete, and the bid package is complete. She received confirmation today that there is no asbestos in that building. They were trying to figure out whether they needed to deal with asbestos abatement in the bid documents and thought it was worth waiting for and finding out. They had Criterion Labs do the investigation this past week and they told her that as of this afternoon, there is no asbestos in there. If council would be so kind tonight as to authorize the advertising of that project for bid, they can stay on the schedule awarding the project in March and getting it done early in the year, hopefully before baseball season gets going.

New Business

MOTION BY GARY NICKERSON TO AUTHORIZE THE SOLICITOR'S OFFICE TO ATTEND, PARTICIPATE AND OPPOSE THE REQUEST FOR VARIANCE AND APPLICANT'S REQUEST FOR AN INTERPRETATIVE OPINION OF ZONING ORDINANCE AS AN ACCESSORY USE WITH RESPECT TO THE PROPERTY AT 40 BELLEVUE AVENUE AND TO TAKE ALL OTHER ACTIONS AS DEEMED NECESSARY AND APPROPRIATE. SECONDED BY JOHN STRATZ. Joe Adams asked what they are trying to do here. Ben Hauser said at the last council meeting, since it was not on the agenda, he took a quick sense of council as to their position on having them prepared to oppose that application. At that time, no one voiced an objection. They were just asking for the authorization to formally participate in and oppose it. There's a trucking company operating at this property that is doing work. Mike Smith interrupted and said there are members of the Zoning Hearing Board here. He asked if they should be sitting here listening to this, the opposition or non-opposition, whatever it may be. Ben said he will summarize it this way. There's an application before the Zoning Hearing Board and it is the sense of the council to oppose the notice of appeal set forth in the application for relief. They are simply looking for the authorization to appear tomorrow night and he is also informed today that the borough zoning officer is unable to attend and a request for continuance has been presented to the solicitor for the Zoning Hearing Board. It is not opposed by the applicant. The Zoning Hearing Board will meet tomorrow night to consider that for those who are willing to attend. Just to understand, he does not expect any proceeding to go in full tomorrow night. That's all he can really say at this time on this. Joe asked, if by voting on this, they're taking an action to authorize them to oppose it. Ben said that is correct. Barbara Heffelfinger asked if it was the policy to let the Zoning Hearing Board have the hearing and listen to all the objections or whatever and then have it come back to the council and the council either supports it or it does not support it. Ben said the general conduct as he understands is if when the borough becomes aware of an application, if it would like to participate in it, it can authorize its solicitor to participate or it can authorize a solicitor to support the application, which has happened once during their tenure with the AutoZone or oppose it. It is not uncommon in advance of that hearing to give that directive officially as part of the record. The borough is always a party to Zoning Hearing Board proceedings and it can choose not to attend, or it can choose to leave it in the hands of the Zoning Hearing Board. It can choose to do a number of different things here and based on the prior recommendation in the discussion they had at the last meeting, it is their recommendation to oppose. Joe Adams asked if they could go into an

executive session because he is not fully understanding the context of the situation because hypothetically, if they vote in favor to oppose this and it doesn't potentially go through, now someone's business is impacted. He feels a little uncomfortable voting on it without further discussion. Ben said he believes the other six members of council are innately familiar with the property. Beverly said they will need to go into executive session because there are two sitting members of the Zoning Hearing Board here and this has gone really too far, and they need to talk about this in private and then they'll bring it back out to the public. Ben said it is now 8:20 p.m. for the council meeting executive session. Ben Hauser reported that council met in a brief executive session beginning at approximately 8:20 this evening, concluding at 8:39 p.m. The subject was potential litigation with respect to the property at 40 Bellevue Ave. A roll call vote was taken. Joe Dudash, yes, Joe Adams, yes, Gary Nickerson, yes, Beverly Wolfe, yes, Barbara Heffelfinger, no, Laura Germain, yes, John Stratz, yes. Motion carried, 6-1. Beverly thanked Mike Smith for what he did.

MOTION BY BARBARA HEFFELFINGER TO APPROVE THE QUOTE DATED DECEMBER 13, 2021 FROM ASPHALT MAINTENANCE SOLUTIONS LLC FOR THE 2022 CRACK SEALING PROJECT IN THE AMOUNT OF \$7,056.00. SECONDED BY LAURA GERMAIN. Gary asked if this was coming out of Liquid Fuels. Beverly said yes. John said, just a reminder, that it is for an entire day of crack sealing, Beverly, and it's a good price too. All ayes, motion carried.

MOTION BY JOE DUDASH TO AUTHORIZE ADVERTISEMENT OF THE CDBG PROJECT AT THE MEMORIAL FIELD RESTROOMS FOR BID. SECONDED BY BARBARA HEFFELFINGER. All ayes, motion carried.

MOTION BY JOE DUDASH TO APPOINT NICHOLAS FOUFAS AS BOROUGH FIRE MARSHAL SUBJECT TO THE APPROVAL OF THE EMPLOYMENT AGREEMENT. SECONDED BY JOE ADAMS. Barbara Heffelfinger said her problem with this is she would like to be able to read the contract before she votes on it and she didn't get this until today, so she is a no. Joe Adams asked who prepares these contracts. Ben said the solicitor's office. Joe Dudash asked if Nick signed off on this already. Beverly said this was not put before them until they got his approval. Joe asked if it was for both positions. Beverly said yes. Barbara said Nick has been very good and she hopes he stays. This reminds me of another situation where things were thrown in front of them the day of and they didn't get a chance to read the contract. She would like to see this tabled until the next meeting so that they would have a chance to go over the two contracts. She says they're fine, but she won't be able to read them before they vote on them. Joe Dudash asked if they could make a motion to shelve it. Beverly asked if he read it and he said no. He said the only reason he knew about this is because he and she were writing this thing. Beverly said, if she's not mistaken, the EMC and fire marshal agreements went out last week. Her problem with the whole thing is that they're still without a fire marshal or Emergency Management Coordinator for another two weeks. If it's council's desire to table the motion until people can read it, then that's fine.

MOTION BY JOE DUDASH TO TABLE THE PREVIOUS MOTION TO APPOINT NICHOLAS FOUFAS AS THE BOROUGH FIRE MARSHAL SUBJECT TO THE APPROVAL OF THE EMPLOYMENT AGREEMENT. SECONDED BY BARBARA HEFFELFINGER. A roll call vote was taken. Joe Dudash, yes, Joe Adams, no, Gary Nickerson, no, Barbara Heffelfinger, yes, Laura Germain said she thought people needed more time to look at it, yes, John Stratz, maybe have a quick 10-minute executive session to read it fast so they can vote on it tonight, no, Beverly Wolfe, no. Motion failed, 3 yes, 4 no.

Barbara said then technically they would be without a borough manager right now. Beverly said that is correct. Beverly said the borough manager contract is over December 31st. He gets reappointed during the Reorganization Meeting just like they do. Barbara said so in other words, she's saying his contract is different from before. Beverly said no it's not. Ben Hauser said the borough code requires that the borough manager's contract be generally for a term no longer than two years however, when the contract is done in some point in the middle of one it can go no longer than the reappointment meeting. Mr. Thompson was reappointed by council. He sees the appointment in the contract as being separate, but he does think that it's important to have them under contract as well. This is the motion to appoint him as the fire marshal subject to the approval of the employment agreement. This is just the appointing so they can appoint him just like they did with Geoff. Mr. Foufas has been without a formalized contract even right now until the moment they approve these contracts. Once they make the appointment, if there is trepidation about approving the contract, he doesn't think they're necessarily getting into the boiling pot suggested. He thinks that's more palatable. They just approve them and not say they accept them subject to the approval of the employment agreement which is what is in the motion. Nicholas Foufas was just appointed as the borough fire marshal. Beverly said motion to table failed.

Ben said she just needs to take a yay or nay vote on the original motion to appoint Nicholas Foufas as fire marshal. All ayes, motion carried.

MOTION BY JOHN STRATZ TO APPOINT NICHOLAS FOUFAS AS BOROUGH EMERGENCY MANAGEMENT COORDINATOR SUBJECT TO THE APPROVAL OF THE EMPLOYMENT AGREEMENT. SECONDED BY GARY NICKERSON. Beverly said the next two motions are the employment agreements for both gentlemen. Joe Dudash said to let Barbara read them. Joe Adams said he doesn't think Ben's a very good person, but he thinks he's a good lawyer and he's sure that he and his staff and those that we paid to put this together can do a far better job than he can even close to understanding what's even in here. If they wanted to take 5 minutes to read the thing, they hire them to write these. That's the purpose of what we pay them to write it for because they know what they're doing. Beverly said Geoff's contract is the same one they approved the last time. Beverly called a 5-minute recess at 8:55 p.m. Ben said for the record, there is still a quorum of council present. They cannot discuss borough business. All ayes, motion carried.

Beverly announced they were back in session at 9:03 p.m.

MOTION BY JOE DUDASH TO APPROVE THE EMPLOYMENT AGREEMENT FOR NICHOLAS FOUFAS. SECONDED BY JOE ADAMS.

John Stratz said he's heard a question about the email accounts. He asked if that pertains to them. He asked how long they have to preserve their email accounts for, three years or seven years. Joe Adams said it comes down to the nature of the content within the email. Certain emails pertaining to documents or records that have a permanent shelf life themselves, he thinks have to be retained but that's interpretation of Right to Know Act which would add yield to this. Joe Adams said if they don't have a general policy, potentially in the future, hypothetically pending there's some type of group or maybe someone that oversees that. Beverly said that is the whole reason behind them is for the retention of our emails for any Right to Know Request or future issues, if there are any. Ben said that was a recent addition to the contract, but he doesn't have that answer off the top of his head. He said he would caution everyone on council that their communications as far as they touch on public concern or public record, he will make a note to ask the Right to Know experts in his office about that. They should be preserved and

then obviously every year, he believes at the Reorganization Meeting there's a resolution authorizing disposal of records and they may have to take that into account. Beverly asked John if there is a reason for that. John said he has an older laptop that is exclusive to council and memory will fill eventually so he would like to start deleting year by year. Beverly said if he's using the Borough of Penndel address that was assigned to him, those aren't stored on his laptop, they are stored on the server. Joe Adams said there may be a potential record, but it is not necessarily the responsibility of the individual or employee to maintain that. It would be the central repository or so being a server, which is what we're going to work on. Although they may exist on Mr. Stratz's laptop, it is not Mr. Stratz's responsibility necessarily to maintain that laptop as opposed to the service provider of the email server would have the retention response. All ayes, motion carried.

MOTION BY JOHN STRATZ TO APPROVE THE EMPLOYMENT AGREEMENT FOR GEOFF THOMPSON. SECONDED BY GARY NICKERSON. All ayes, motion carried.

Public Comment

Mike Smith said just a little heads up about the oil and chip. He fought it very hard when that was suggested. That was done in 1999. Carol said that was micro surfacing. Mike said up until they redid the streets in 2016 and 2017, the roads lasted. His street is a very heavily traveled street and it lasted that long. He will give Carol the benefit and say it's something to recommend. He would say to eliminate the loss of stone and put in the contract that they must roll because there's not enough traffic back there to push it in. Carol said that is part of the specs. Mike said he goes down Park Ave. quite a bit because of the traffic in that area. He's noticed quite a few times now that there are tractor trailers parking back there, going on the wrong side of the road in the wrong direction and he's just wondering if they are going to put an end to this. Beverly said she went by there a couple of times and all she saw was cars. Mike said to try on a weekend. Mayor Sodano said they have been addressing that. There have been a number of tickets issued. He has run into a situation where there were trucks parked there for a period of time and then by the time the police got there, they were moved. He doesn't know if they're jockeying them around on them or not but they're not ignoring Park Ave. Mike said he never said that and doesn't want him to think he meant that. He understands that the officers can't be everywhere at the same time. He asked if they have something where they can't have the overflow parking when they don't have parking on their lot. They park out there, and they drop a trailer out there. That should be stopped, and they should be notified that they're not to be parking on the street like that. Barbara said when they did the reconstruction or repairing there was a section in there that said that signs were to be posted on our side of the street saying no parking, but no signs have been put up. She doesn't care what they cost, they need to get them and put them up because somebody is going to have a big problem down there. Mayor Sodano said they did put the "no truck parking" signs up. Barbara said nobody is supposed to park on that side because the fire trucks can't get down there. Tom said he checked and it's not in the ordinance. Barbara said it's in the grant agreement. Beverly said it has to be in an ordinance. Tom said correct it never got transferred into our ordinance book correctly. That's one of the things he mentioned at the last meeting before he was sworn in. He mentioned about it's illegal to park even out here because they didn't remove and add correctly. It's one of the things that wasn't correctly changed but they did put up the "no truck parking" signs. He mentioned to the borough manager that they attached them to the PECO or Verizon, whosever poles they are, which they're not supposed to do. They're not allowed to put anything metal on those poles. That's against the law so they're going to move them. But they did put up the "no truck parking" signs and that's when they started ticketing them regularly. Beverly said Ordinance 390.54, No Tractor Trailer Parking shall be permitted in the borough except on Park Ave. west of Lincoln Ave. She asked if this is east or are they talking east between Lincoln and

Bellevue Ave. Tom said that's considered east. Mike said it's only on the Middletown side. There's no way you could park tractor trailers on the other side because there are too many driveways. Tom said they can park from Lincoln Ave. back towards Centre. Tom said Barbara is correct. They originally intended for it to say no parking, but it didn't get worded correctly when it got added. Mike said they do have an ordinance that says no tractor trailer parking unless it is marked. It must be marked tractor trailer parking and the reason he's saying this is because when his sister lived on Joyce Ave., her husband was a truck driver, and he was not even permitted to park his truck in his own driveway. Beverly said it says they're not allowed anywhere in the borough. Mike said they don't need to make new ones; they need to enforce what they have. He thinks they're pretty well covered with laws. Mayor Sodano said they have not contested one ticket yet that they've written. The truck drivers have paid every one of them. They just have to get there a little quicker if they're going to try and to beat them.

Council Members to be Heard

Beverly said she wanted to remind everybody on council that when they are doing official borough business, they should use their boroughofpenndel.org email address. If they are having a problem, please let them know but that way it's all consistent. She said they should not use their personal ones because it's about Right to Know and all that other stuff.

MOTION BY GARY NICKERSON TO ADJOURN THE MEETING AT 9:20 P.M. SECONDED BY JOE ADAMS. All ayes, motion carried.

Submitted by: 
Marie Serota, Secretary/Treasurer

January 18, 2022 Engineers Report Pennel Borough, Bucks County

Pavement Repair and Preservation for 2022

Presentation.

We have prepared bid documents for base repairs on Oak and Holly, and to obtain unit prices for additional potholes or pavement repairs that may be evident next spring. We will request authorization to advertise at the next Council meeting.

A quote was obtained for one full day of crack seal work from AMS. How much road is sealed depends on the severity of cracking, but it would likely be more than half a mile. The Borough maintains 5 miles of streets.

Memorial Park Restrooms

The architect's plans and bid package are complete. Just today we received confirmation that there is no asbestos in the building, so not abatement will be required. If Council will authorize advertising the project for bid tonight, we will be on schedule to award the project in March and complete the work this spring.