

## Penndel Borough Council Meeting Minutes

May 2, 2022

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

### Present at the meeting

Council President Beverly Wolfe  
Council Vice President Gary Nickerson  
Councilman Joe Dudash  
Councilman Joe Adams  
Councilwoman Barbara Heffelfinger  
Councilwoman Laura Germain - absent  
Councilman John Stratz  
Mayor Tom Sodano

### Also present at the meeting

Geoff Thompson, Borough Manager  
Chief Sean Perry  
Marie Serota, Secretary/Treasurer  
Dave Truelove, Solicitor, Hill Wallack  
Carol Schuehler, Value Engineering

### Update on the American Legion Memorial Field Project

Gerry McHugh gave an update on the project. The Penndel/Hulmeville Memorial Day Parade is May 28<sup>th</sup>. Following the parade, they will have a rededication of the monument at the rec field. After reading the Centennial Book, he found out that his father was one of the ones behind getting that monument and the ballfield started. He donated all the equipment and the labor to do the excavating of that whole area down there, so he feels that he is carrying on a family tradition. They've been here since the late 20's early 30's. After a year and a half of engineering, cost, construction and everything else, they got started back in mid-March and by the middle of April, the wall was finished down there, and they put up the fence to keep people from walking through the mud and tracking it up onto the monument stones. This weekend they will be removing the fence and people can go and take a look at it and take pictures. They have been giving out some of the certificates of ownerships to the owners. The rededication will be at the end of the parade, somewhere between 11:30 and 12:30. He asked that the Parade Committee not give out hotdogs during the ceremony. He said it's not just a normal parade ending, it's a special ceremony. They can give them out before and after the ceremony. It should only last about 15-20 minutes. Jerry said he appreciates council's help with getting the wall done. The building inspector still has not made contact with him. Part of the agreement with the borough was that it would be inspected by a representative of the borough. Beverly asked Geoff to make arrangements for it to be inspected. Beverly said she drove by and it is beautiful. It is no longer an embarrassment. It is the proper thing to honor all those people. Jerry said they are still selling bricks and are looking at expanding it in the next few years. For the bricks they sell between now and October, they will have another small dedication and then next year we'll have another one at the end of the Memorial Day Parade. The bricks are not only for honoring those who served in the military, they can be for anyone who gave service to the borough. His sister made him put a brick in for the last burgess, first mayor of Penndel, Joseph Downing. They can be for former firemen or politicians from around town, and not just from Penndel. They can be from the four boroughs.

Public Comment on Agenda Items

**Jay Moser**, asked about the motion for the borough engineer to prepare the bid specs for the Memorial Park bleachers. He asked if is to purchase another new set. Beverly said, no, this is the ones that are currently being purchased with the grant funds. He asked about the engineer’s specs. He asked if they are matching what’s currently there. Beverly said because they have to be ADA compliant.

**Mike Smith**, asked how much money was taken in from the EIT since it is the end of the first quarter of 2022. Beverly said Barbara has the information in her committee report that she will give. Mike said he may not be able to ask that question later. Beverly said he just did, and it will be answered at that time. He will be able to ask questions at the end during public comment.

Consent Items

MOTION BY JOHN STRATZ TO APPROVE THE MINUTES OF THE APRIL 18, 2022 WORKSHOP MEETING. SECONDED BY BARBARA HEFFELFINGER. All ayes, motion carried.

MOTION BY BARBARA HEFFELGINGER TO APPROVE THE FOLLOWING BILLS FOR THE MONTH OF APRIL:

<b>General Fund</b>	<b>\$32,519.73</b>
<b>Fire Tax Fund</b>	<b>\$17,350.50</b>
<b>Refuse Fund</b>	<b>\$ 36.85</b>
<b>Sewer Fund</b>	<b>\$13,459.45</b>
<b>Capital Reserve Fund</b>	<b>\$23,035.37</b>
<b>Sewer Capital Fund</b>	<b>\$48,812.30</b>
<b>Liquid Fuel Fund</b>	<b>\$ 1,598.84</b>
<b>Escrow Fund</b>	<b>\$ 200.00</b>
<b>Payroll Fund</b>	<b>\$ 3,504.38</b>

Payroll

General Fund	\$36,751.13
Sewer Fund	\$ 3,933.60

**Total \$40,684.73**

Escrow Fund Bills

Schoolhouse Court:

Hill Wallack, LLP	\$ 724.95
Value Engineering	\$ 574.00

SECONDED BY JOHN STRATZ. All ayes, motion carried.

**Reports:**

Borough Manager’s Report

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

Mayor’s Report

Mayor Sodano read his report which is attached.

### Police Chief's Report

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

### Solicitor's Report

Dave Truelove reported that he has a draft of the homeowner's association documents for Schoolhouse Court under the two approval letters. It was actually up to the solicitor to have final approval, but he thought, given the circumstance, it would be best for council to see it. The documents have not been approved yet and have not been filed. They know there's a lot more work yet to be done there. He and Carol Schuehler have been in touch about some remaining items. He thought it best for all of them to see it and if they have any questions, they can email them to him or Ben before the next meeting. He thinks that they've complied mostly with the information that was required to in the two approval letters both in 2005 and 2014.

Joe Dudash asked Dave if he gave a response to the court on the Smith case. Dave said they are going to get a copy for council. Joe asked about the oversized house in Schoolhouse Court and are they are dealing with that litigation. Dave said there's no litigation. Joe asked what they are doing about it. Dave said they haven't done anything about it because it's not been approved, and no C of O has been given. Beverly asked which one is oversized. Joe said the one with the basement that's too high. Carol said the garage floor was too high which was the problem that they had identified to the builder and there hasn't been a lot of communication with them, but it does appear that they have lowered that garage floor in the field. She would assume that no occupancy permit is going to be issued for that until it's been determined that they meet standards. Joe said they're still putting stuff on there like the siding. He asked what about the basement. It's way higher and the neighbor behind, Caroline, it's flooding them out. There are people pumping 24 hours in that complex. Carol said the basement elevation should be per the approved plan. She hasn't personally checked it, but they approved a plan with a higher basement elevation, but they didn't approve that higher garage floor elevation because it would create too steep a driveway into the house and that's the part that they alerted the builder to. They also alerted code enforcement and the solicitor as well so it appears to her, and again they're not talking to them about it, but it appears to her that they have dug that out and lowered the elevation of the garage floor so that they can meet the borough standards on that driveway. Joe asked about the storm water issue in the back. Dave said it all has to be resolved before they can close out. Joe asked about the trees. Dave said that's not their bailiwick yet. If they don't comply and there's some issues, the engineer and the inspectors do that work. They don't get involved in that at all until there's a certain point and then if there's noncompliance and there's some issue with somebody occupying when they shouldn't, then they get involved. Gary Nickerson said they're still holding money in escrow. Dave said there's no litigation outstanding right now. It's still in the development stage where there's inspections and reviews going on and they are having communications with the Schoolhouse counsel which is how this homeowner's association document came about but they're still in the process of having to comply with the two approval letters that were in 2005 and 2014 respectively and also engineering reviews that are accompanying that. They're still keeping an eye on it but there's no litigation. Joe said the taxpayer is not getting answers. Dave said there's nothing he can do, he's not an engineer. It's the homeowner's association and the individuals that have the issue. The homeowner's association may have been created but that doesn't relieve the developer of the obligation. Don't mix the two up. The developer still has the obligation issues with the property. Joe said they had issues with the fire hydrant. They can go from A-Z that Dave had to get involved. Dave said they've only been involved in the sense that they've talked to the attorneys and what they understand, the people on the ground they have resolved those issues to a point. He didn't know anything about the flooding. This is the first he's heard about that, although he's not surprised given the amount of rain they've had lately. But they have ceased

parking on the street and if they do, that's a violation. If there's an issue, they brought it to the attention of code enforcement or the police and that can be dealt with. At this point, their only involvement is communication with the attorney. They received the draft documents and they are also making sure that the engineer and they are on the same page with all this kind of stuff and if code enforcement or police have to get involved. They can only get involved to the extent that somebody tells them about something. The flooding may or may not be related to the development. That's an issue beyond his professional expertise. They have not replenished their escrow so at some point here we they're not going to be able to continue to work until they replenish it which is something for their review to be able to do the job that can help get that project completed. At this point they have to issue a cease and desist, and the code enforcement officer may have to do that. They are on top of it as much as they can be. Beverly said this developer or builder is responsible for this. This is a private development that he had specifications that he had to meet and plans that were approved. He had all that stuff that was approved a long time ago and if he's not doing it, why is he not here answering these questions, not council. They don't have anything to do with this. Dave said it was helpful that Marie told them the other day about the escrow issue because then that will get their attention. They will tell them they can't do any work to finish it and then obviously the residents are going to be unhappy. In the last two years, he thinks when Mr. Brzezinski became involved, they seemed to be a little more active and compliant than they had been before but it's a matter of degree. They will stay vigilant as they can with information that they can. Joe asked how they are doing with the federal case with the juvenile place. Dave said it's supposed to be going to the magistrate for oversight. It's not moved much in the last several months. They just checked the dockets today. Joe asked about Holly Ave., Simon's property water issue. Beverly said it was resolved. Dave said there is an operations and maintenance agreement that they are supposed to sign because they need an easement. Carol said that's part of the operations and maintenance agreement and that's underway. She gave them a general approval of their plan with the solicitor's office, and they have been working on the L&M agreement which she thinks went out so they're getting close. Dave said once they get that back, they'll be filed in the courthouse so that'll be something that's of record on the property. Joe asked about the curbs and sidewalks issue on Dehaven. Dave said they received a right to know request today and they're aware that there may be some problems with the curbing in terms of its repair. They understand that code enforcement may or may not be out there again. That's not something that's in their initial purview. Beverly said they're going to be addressing that soon.

#### Engineer's Report

Carol Schuehler read her report which is attached.

Barbara Heffelfinger said she has been down to the rec field and it's amazing what they've accomplished in a short amount of time. The concrete work is very nice, and they were working on the greenboard. They're working very hard down there. Carol said they're probably further ahead than this payment request, but she wanted to process it and get them something early in the year for what they've done.

Mayor Sodano said that Carol said earlier regarding Schoolhouse Ct., that Unit #2, the elevation or the building height, is correct except for the garage. Carol said to her knowledge it is. She hasn't personally measured it, but she was aware of a problem that the garage was high. That's the thing that became an issue and alerted them of the fact that the driveway would then be too steep and not meet borough code. Tom said what she had said was that that one was approved to be higher than the other buildings and that there was a grading plan approved for that. Carol said she can get him that grading plan. He asked if it was on the original or was it at a later date. Carol said they have to submit for each house that's built, a separate grading plan. Tom said so at some point they were approved for that one to be different from the original

elevations that were approved in 2005. Carol said the original elevations that were approved in 2005 were generalized elevations and they had to provide lot specific elevations for each of the houses that go up. There's plot plans and grading permits that are approved. That one was approved differently than the others. Tom said he wanted to clarify something that the solicitor said. He said that he wasn't aware of flooding situations on any of those units that are on that project. As a point of information to Mr. Solicitor and Carol, he did provide pictures as far back as when units 4A and 5B were poured, basement forms only. No houses were built that they were in fact flooded while the rest of the basement weren't. He just wanted to clarify that he did provide pictures. Dave said he wanted to clarify that he said he thought he was not aware that there was water. He did not know it required 24 hours pumping over the weekend. He's not saying there have been other flooding issues. Tom said in the past few meetings he has mentioned it. It may have been at a work session. Dave said he wasn't aware of the whole 24-hour ongoing pumping that's what he was saying. Carol said she has not personally received any complaints about flooding in the basements of the new units since they have been finished so if that's happening, she hadn't heard anything about it. Tom said to Madam President's earlier point, the developer has been made aware, so the homeowners didn't necessarily come and tell the borough prior to tonight but the developer is well aware that there are people pumping a lot of water. Beverly asked if he has done anything about it. Tom said according to the solicitor's report tonight he's done very little.

**MOTION BY BARBARA HEFFELFINGER FOR BOROUGH ENGINEER TO PREPARE BID DOCUMENTS FOR THE MEMORIAL PARK ADA BLEACHERS PROJECT. SECONDED BY JOHN STRATZ.** Gary asked if this is all contingent upon them receiving the grant. Beverly said yes. Gary said it sounds like they're getting this money, but they are applying for the grant. Beverly said if they get the grant, they want them to be shovel ready. Carol said what she would do upon this motion is she would get the survey scheduled to get this process started so they will be ahead of the game when the grant arrives and that's what the county was essentially asking them to do. The survey would start, and the base plan would start so that they're closer to ready when they get the nod from the CDBG. Beverly said they will be confirming with them. Carol said yes. Beverly said that seemed to have helped them last time. All ayes, motion carried.

**MOTION BY BARBARA HEFFELFINGER TO AUTHORIZE HILL WALLACK TO DO THE WORK NECESSARY TO ACQUIRE RIGHT OF WAYS FOR THE MULTI-MODAL GRANT PROJECT AS OUTLINED BY PENNDOT. SECONDED BY GARY NICKERSON.** All ayes, motion carried.

**MOTION BY BARBARA HEFFELFINGER TO APPROVE PAYMENT #1 TO P.A.R.K./O'ROURKE ASSOCIATES \$34,290.00 FOR WORK COMPLETED TO DATE ON THE MEMORIAL PARK RESTROOM ADA IMPROVEMENTS PROJECT. SECONDED BY JOHN STRATZ.** All ayes, motion carried.

### ***Committee Reports:***

#### Finance

Barbara Heffelfinger reported that they are doing very well on the budget. They only have one line that is over budget and that is litigation but that's just the way it is. Nothing we can do about that. For the EIT, as of the 18th of April, they are over by 38%. This includes anything Marie received after the end of March. It is \$414,072.19. There are delinquent taxes like people who didn't know they had to notify their employer. They are doing it very well on the prepared budget and estimates for this year.

Joe Dudash said to Dave if they are pulling in so much for the EIT, he asked what the procedure is that they as a council need to do to give a percentage back to the taxpayer. Dave said he hasn't investigated that. He's not sure what the procedure would be. Joe asked if they should make a motion for him to research that. Dave said it would be appropriate but since it's not on the agenda, it will have to wait until the work session given the new sunshine act. Joe said some of this other stuff wasn't on the agenda. Dave said everything that's been subject to a motion tonight has been on the agenda. There is a procedure, and you now have to wait until the workshop because it should be on the agenda 24 hours beforehand. That's under Act 65 for the Sunshine Act. Joe said Dave won't be here next meeting. Dave said he and Ben communicate with each other after the meetings. Joe asked Beverly to put it on the agenda for next meeting so he can make a motion to direct the solicitor to research what the procedures would be required for any type of return of EIT money to the taxpayer. Beverly said then they would have to look into adjusting the tax mileage rate since they lowered that two years in a row. Joe said it's very easy. They can give the taxpayer like they've been doing to their taxes. Beverly said they will have to redo the whole thing and do the process all over again. Joe Adams said it's good to hear that they've got a 38% surplus on EIT and its showing that they have a little bit of reserve. He thinks Joe's concerns are if they're 38% above the line item of where they thought they could be, they should explore options over the next year and potentially, not until the next budget when they reshuffle, be good stewards of that money and potentially ease the burden that they take off the individual families while still maintaining fiscal responsibility and solvency. They can take the time between now and next budget to explore what those options would look like so that if their reserve is in a good state and they're not necessarily using EIT to sustain that, maybe there's other ways and can have a dialogue on it. It would be beneficial, but nothing needs to happen immediately. He thinks that's just a good food for thought topic. Beverly said the way he just put it, absolutely. This is the kind of stuff every budget season as the stewards they look at everything and analyze everything to make sure that they're keeping the town fiscally afloat. She gets a little nervous when they don't have a good reserve for a rainy day like a Superstorm Sandy kind of thing which they haven't had really good control over until the past few years. They started building it back up which they should. She thinks the DCED guidelines for reserve are something like 20%-25%. Joe Adams said he'll work closer with Barb and get a better understanding of the process to make sure he fully understands where they are and then continue to research ways to hit that 20 to 25% reserve. At the same time if they find they're really pulling a surplus, then have a discussion about what they can do.

### Public Safety

Beverly said at the last meeting she made a promise. She found some really great examples on the internet of other municipalities similar to theirs, of their Civil Service Commission ordinance. It's great they have that copy in their hands and she also found another municipality who did the rules and regulations for their Civil Service Commission. Hill Wallack is looking at it. They're not going to reinvent the wheel if they can find things that are already enacted.

MOTION BY JOE ADAMS TO AUTHORIZE THE BOROUGH SOLICITOR TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE CIVIL SERVICE COMMISSION. SECONDED BY JOE DUDASH. Joe Adams said he likes how she summarized it, but could they restate and go through what the process is going be from tonight's motion to Civil Service Commission. Dave said it's consistent with the council president's statements and remarks. They would look at other ordinances that have authorized the creation of a Civil Service Commission so they don't have to reinvent the wheel and it would mimic essentially what's in the borough code. They would rescind the current Civil Service Commission ordinance after they have a replacement because it's antiquated. It's not an MPC ordinance so it wouldn't take the 30-day review and

have to be reviewed by the planning commission or anything like that. It would go through the normal borough code and be advertised twice. If they get it ready either at the work session or the meeting after that, they would have it ready to consider and advertise it if they're pleased with the way it looks and then enact it at the following meeting after that. They want to make sure rules and regulations are promulgated which actually are the functioning documents for how the Civil Service Commission actually works. They do want to have advertisements for membership to the Civil Service Commission. Under the borough code there are three regular members and up to three alternates and they would advertise for that and then whatever process they want to go through the Public Safety Committee, or something else and then you would have council vote eventually to name the Civil Service Commission members. That would start out with staggered terms of two, four and six years ultimately with six-year terms in the end for those who would serve at some point going forward. And then they would have to appoint a Civil Service Commission solicitor at some point from a separate firm to advise the Civil Service Commission. Then they have to decide with this type of Police Department, with fewer than three full timers, if they hire the sergeant, it's not required to go through the hiring process. He's not saying they don't but to do that, the Civil Service Commission would have to decide are they going to be hiring all officers including part timers and full timers because then the expense and all that kind of stuff may be getting rather large. Part timers generally do not go through the Civil Service process. The full-time officers do. That hiring process is something they could talk about at the next couple of meetings. The flip side is, and hopefully it won't be used very often, but the Civil Service Commission also acts from time to time as a tribunal either for some type of discipline at a certain level and or termination or suspension. The mayor's office is involved in that sometimes because the mayor can initially suspend and the chief obviously. So, these are all different things. It's a new world and he's not saying it's bad. This is a process, and it can be fair and appropriate, that works properly. They do the Civil Service Commission work for Yardley Borough, for example, and the work by the Civil Service Commission solicitor can be very busy for a short period of time and it could be absolutely nonexistent for quite a period of time which is fine but it just shows you that the activity level depends on what the needs are in a particular time where it's to hire somebody or whether there's a separate issue involving discipline. He's kind of going all over the place but that's more or less the process. Barbara asked if it's a paid position. Dave said no, Civil Service Commissioners are not paid. It's a volunteer position. One exception is a person from council can serve on the Civil Service Commission. The other rule is under Section 1173, a Civil Service Commission member cannot sit on any other board like the Zoning Hearing Board or a Board Code of Appeals. They can advertise and have it on the website and Facebook. It's up to three alternates. If you don't get three alternates right away and only get two at first, you can always at some point if somebody indicates a willingness or an interest in doing it, you can always do that at that point. Beverly said the ordinance that she found she'll try to get them a copy of it and the rules and regulations. It's a huge file but when you read it, they'll understand why she chose to give to Dave. Dave said they do their own investigations, and they have subpoena powers they will have to comply with evaluations. Beverly asked if it is quasi-judicial. Joe Dudash said yes, they have more power than they as a council. Dave said if the chief is advertising for another position and then you have several candidates, there's also a veteran's preference or something that plays into it. If they have three final candidates that get to certain point, the person who's a veteran as defined under the applicable statutes, would automatically be selected. So, there's nuances like that that people might not be aware of. Joe Adams said he has friends who serve in multiple different law enforcement positions in the city of Philadelphia and civil service governs quite a bit there. Dave said Philadelphia has its own compared to that like New Jersey for example. Joe Adams asked if the Civil Service Commission only governs police and their employees or does it cover all municipal employees. Dave said it's only police and fire. State employees have Civil Service. But in terms of anything

below the commonwealth level, unless it's Philadelphia, they're not going to have Civil Service except for Police and Fire. Joe Adams asked about the Pennel Fire Co. Dave said that's only for full time paid. In Pennsylvania because of the fewer number of volunteers, a lot of places are considering going to paid companies and that will become part of the process when and if they do. Newtown Township, for example has a paid fire company. This is going to be important down the road. If development across Route 1 takes hold and there's a lot more activity, there will be a lot more required of both your Police and Fire. Middletown is already going through the process because they have some full-time paid fire officials. Joe Adams said it seems like this is going to be an undertaking, at least initially. Dave said it's not going to be a lot. It's going to be a learning curve for everybody and not in a bad way. It's not the same world they were living in five, ten, twenty years ago. Beverly said if they get the ordinance right, right out of the gate, the rules and regulations and all that other stuff is technical because it's not an ordinance, it's just the rules and regulations of the Commission but the ordinance has got to be right when they step out of the gate. Joe Adams said as he's said about Ben Hauser, he doesn't think Dave is a good person but he thinks he's a good lawyer so he assumes that this will be very well executed.

Motion carried, 5 yes, 1 no (Barbara Heffelfinger).

### Technology

Joe Adams said he is going to meet with Geoff at 11:00 a.m. to discuss the format required by the Fed for writing the letter to request Pennel.pa.gov and following the federal standards for how website addresses are to be made via going by city then state.gov with very few exceptions made. Also, what the process would look like for that and what the turnaround time would be and then what the Fed rules and requirements for said website are. He will be briefing that to Geoff and kind of going over what they need to do because a letter needs to get written, and the signatures need to be put on it so that's tomorrow at 11:00 a.m. So, by the next workshop, he'll have something.

### New Business

MOTION BY JOHN STRATZ TO RATIFY APPROVAL OF THE FOLLOWING MID-CYCLE INVOICES:

**Langhorne Postmaster** invoice dated 4/4/2022 in the amount of \$269.60 for sewer and refuse billing quarterly postage

**Comcast** invoice dated 3/26/22 in the amount of \$205.47 for internet & voice services at 300 Bellevue Avenue

**Comcast** invoice dated 3/26/22 in the amount of \$235.80 for internet & voice services at 37 W. Woodland Ave.

**Gettysburg Benefits Administrators, Inc.** in the amount of \$169.59 for dental insurance installment

**WM Corporate Services** Invoice #0002296-2448-1 in the amount of \$17,431.50 March service

**Comcast** invoice dated 4/2/22 in the amount of \$189.89 for internet at 790 Neshaminy Street

**Deer Park** Invoice number 12C0431953892 in the amount of \$77.96 for spring water

**Independence Blue Cross** Invoice #220407305890 in the amount of \$5,821.18 for medical insurance installment

**Selective Insurance Co. of America** invoice dated 4/11/22 in the amount of \$4,820.00 for Commercial Package and Workers' Compensation insurance installment

**PECO** invoice dated 4/4/22 in the amount of \$1,514.83 for streetlights' electric

**Comcast** invoice dated 4/1/22 in the amount of \$514.70 for Business VoiceEdge service

SECONDED BY BARBARA HEFFELFINGER. All ayes, motion carried.

#### Tax Collection Committee

Beverly said they all received the email on this. They have to adopt a resolution and need to get delegates and alternates to this committee. Geoff explained that most of the delegates from the townships and boroughs are staff members. Bob Pellegrino is the president of the committee. The committee is required by law after the act was setup countywide. The committee oversees the company, which is Keystone, on whatever earned income tax company the county chooses. It oversees that they're doing their work properly. The Bucks County Committee meets quarterly, and they just go over certain stuff and make sure that the company is doing what they're supposed to do, and they review the annual audit of Keystone and make sure everything is copacetic. Beverly asked how many delegates they have to have. Geoff said they like three. One delegate and two alternates. Beverly asked if he would be a delegate. Geoff said he was going to nominate Marie but he didn't get a chance to talk to her about it. He said he would be one of them but they also need one more. Beverly said Marie would be a delegate. They need one more. Geoff said they can have two. John Stratz said he would do it. Beverly asked if council members can do it and Geoff said yes.

MOTION BY BARBARA HEFFELFINGER TO ADOPT RESOLUTION #2022-6 APPOINTING DELEGATES AND ALTERNATES TO THE BUCKS COUNTY TAX COLLECTION COMMITTEE AS FOLLOWS: MARIE SEROTA ALTERNATE NUMBER ONE, GEOFF THOMPSON, ALTERNATE NUMBER TWO, JOHN STRATZ, ALTERNATE NUMBER THREE. SECONDED BY GARY NICKERSON. All ayes, motion carried.

MOTION BY GARY NICKERSON TO ADOPT RESOLUTION #2022-7 IN SUPPORT OF THE LEGALIZATION OF THE CANNABIS INDUSTRY AND EXPUNGEMENT FOR PREVIOUS SUCH OFFENSES IN PENNSYLVANIA. SECONDED BY JOE ADAMS.

Gary said that he started researching it to find out what exactly it is and this is a resolution that pretty much spurs their representatives to at least investigate legalizing cannabis. And he thinks the important thing that anybody who goes down that step would be to expunge offenses that were associated with that. Dave said simple possession, not delivering. That kind of stuff. This is something that this gentleman who is associated with the Pennsylvania State Association of Boroughs has been trying to get different municipalities to support. This is not something that says we're going to have legal weed here in the borough. This is something that just says they're trying to spur this. If you look at other states and other areas that are getting involved in this, New Jersey just made recreational marijuana legal just a couple of weeks ago. You look at a lot of different areas that are moving in this direction. Personally, he would be in support of this resolution because it seems like there's been some movement every couple of months or every year. More and more representatives and senators are moving in this direction and personally he thinks this is something that the state could make a lot of money on. They can legalize it and tax it and they can do a lot of good with it so that's pretty much all this is for. He went and took a step further because he was just curious to see because he actually thought this was something that was lobbying for decriminalization and trying to get them to do decriminalization in the borough. Seventeen municipalities in the state of Pennsylvania have already decriminalized minor possession of marijuana and those are pretty much where the bulk of the population lives. Allentown, Bethlehem, Erie, Folcroft, Harrisburg, Lancaster, Norristown, Phoenixville, Philadelphia, Pittsburgh, State College, Steelton, West Norriton, York, Doylestown Borough, Abbottstown Borough, Upper Darby and he believes all of Delaware County have currently decriminalized possession of marijuana under an ounce. Those people simply would

get a fine for that possession. These are simple possessions and is a non-traffic violation. Right now, if you're caught in possession of it, you could go to jail for up to 30 days or have fines of up to \$500.00 and a record. Beverly said this is just support to get the legislators to investigate legalizing it in the state of Pennsylvania.

Mayor Sodano said for the record, his opinion has always been that the Feds should have found a way long ago to legalize cannabis and collect tax revenue as per liquor. However, until that happens, marijuana is illegal in the US by federal law and passing contradictory local or state statutes puts law enforcement in a difficult and precarious position. If you look at what's going on in New Jersey right now, yes, they've legalized it however, police aren't allowed to use it because they have to be able to pass drug tests so it's a discriminatory situation against them. They can make a good case against that if you're a federal law enforcement official and you live in New Jersey and your neighbor possesses marijuana that is legal in New Jersey, you're compelled by the dictates of your job to arrest that person and charge him federally. So, these types of laws, and it's not that he's against it, but as long as there are two different statutes, they're asking police enforcement to tow a line that may be extremely unfair to them. Joe Dudash said he agrees with the mayor. For the police, they'd be giving them extra work. Say Pennel legalizes it, and the rest aren't, they're making Sean and the officers' jobs even harder. It is still a federal offense. Gary said he's curious to see how this would make their job harder because right now if someone was standing around and they would have to arrest them, they'd have to process them and they'd have to go to court as opposed to just writing a ticket for a summary offense. He's not talking about dealers. He's talking about a small amount. Joe Dudash said but it ties them up more in jurisdiction. Gary said because they don't have to do anything. He fails to see how. Joe Dudash said suppose Sean goes after somebody and they take off on him. Say they're not legalized, and one comes in and Middletown is running across the border, does Sean say, hey, you're in Pennel. It's jurisdictional. Gary said this is something that they talked about earlier. You don't really have to invent the wheel. He thinks the majority of the states have already done something like this. Joe said California did it but they're having problems with the feds and crossing over into another state. Gary said he doesn't think anybody was talking about legalizing pot. This is something that would encourage lawmakers to actually do something. That's what this resolution is. Joe said he would grow it in Taddei Woods, like he's been saying and get revenue in this town. Sean could be security of it. He'd be growing it 24 hours back there. But you have to think of the cops. Gary said It seems like it would make life easier. Right now, they're spending money and it's a big part of the police budget to process and do all these things for people for very minor offenses. Joe Adams said first, Mr. Dudash just standing up for the chief, and he doesn't know how to deal with that, but secondly, he was wondering if this is a motion that was asking the legislature to investigate and look at it at a state level. He asked Chief Perry what would happen for him and his officers. Chief Perry said if Pennsylvania were to enact something like this, and he would not be offended if council does approve passing the resolution, it does complicate things if they decriminalize it in Pennel Borough. The DA's office is actually the chief law enforcement officer for the county and they could further order them to file charges because it's still illegal in the state and illegal in federal. Dave said as an example, Doylestown Borough, is literally where the Justice Center sits, from what he understands, the DA's office, while not happy with, it is not going to step in in situations where the crime is a small amount of marijuana and then they have that threshold where it stops. This resolution is to request the state legislature to legalize the cannabis industry and then expunge the record of those who've been convicted of that particular crime. This is not an effort by Pennel Borough to mimic the other boroughs or towns or municipalities that Mr. Nickerson named who did it. The term decriminalization is probably a misnomer. In theory, it was going to lessen the burden on the police because they would write a ticket as opposed to then have to file a criminal complaint and get the DA's office involved in

proving it and all that kind of stuff. Chief Perry said the decriminalization part of it just complicates things for them because it would still be illegal through the state and through federal law. He would be for legalization of marijuana nationwide, but he thinks that addressing it on the federal level is more appropriate. If it is addressed by the state it is created to be legal in Pennsylvania, they would have to abide by those law changes. So, he's not against it at all. He just thinks that having the state change it is one thing, decriminalizing it here in Penn del Borough before the state changes anything or federal changes, he thinks it further complicates things for them because they don't know if it's illegal or not illegal. John Stratz said the state wants to make money off of this but the state is not taking into account the welfare of the common citizen who does not partake. He doesn't want these people to get high behind the wheel and then drive on the streets next to him. He has seen that and he doesn't particularly like these people being right beside him in a car. Joe Adams said in 2009 he lost his aunt to a Ford Explorer and a bottle of Jack Daniels on Christmas Day. They have bars and establishments where he's watched family members drink themselves under a table. He's lost family members to accidents and drunk driving and that's terrible, but they tax and people like that and there's laws that if they're intoxicated, whether it's alcohol or opiates or marijuana, that they can get a ticket. Dave said the crime in Pennsylvania is called driving under the influence, not driving while intoxicated. Driving under the influence of alcohol and or a controlled substance which could be marijuana but also could be many other things. Chief Perry said the Police Department has a zero tolerance with DUIs. They have several members of the department that are on the DUI Task Force for the county, he being one of them. They take a hard line on DUIs. His opinion on legalization of marijuana doesn't interfere with his strong opinion of DUI drivers. Joe Adams said it sounds like they have active involvement in preventing DUI in the county and a pretty strong response to that. He agrees with Mr. Stratz that anyone intoxicated behind the wheel presents a problem but he thinks that's more of an enforcement of laws. They already have to deal with it through what Bucks County is doing. He personally feels alcohol ruined many, many lives and they tax and sell the hell out of that, marijuana, but it's a personal choice thing but so is drinking and so are all the other vices they sell and tax. A roll call vote was taken. Joe Dudash, no, Joe Adams, yes, Gary Nickerson, yes, Beverly Wolfe, yes, Barbara Heffelfinger, no, John Stratz, no. The vote is a tie. The mayor can break the vote. Mayor Sodano said he votes no. The motion failed.

#### Public Comment

**Jim Fogarty**, 135 Schoolhouse Court, said he was the first one to move in the settlement back in early September. The neighborhood asked him to come and represent them at this meeting based on his qualifications. He is a union superintendent, and he has built multimillion dollar projects for 23 years or so. He is one of the first four that settled which he is in the back ones with the flooding issues. His house actually is the only one that doesn't flood but his neighbor attached to him, his basement floods every storm, and his excess rainwater goes into, he believes, the mayor's backyard and his neighbor. Beverly asked if he is pumping out into that. Jim said absolutely. He walked the property at 6:00 o'clock tonight. It was pouring when he left for work at 4:30 this morning and at 6:00 tonight there's still standing water back there. They are the only section in the neighborhood that doesn't have their gutters and downspouts going into underground drainage. Everyone else has downspouts and gutters going into the drainage system. He's lucky his house hasn't been flooded but everybody else is getting water every storm and the guys in the back section are the only ones not going into some kind of underground drain. There is a drain in the back but that would only affect the two middle units. So right now, everything up front just stays a swimming pool. It doesn't go anywhere but anything in the back does go to that drain. His neighbor to the left pretty much gets all of the water and it flows right to his house. Beverly asked if he talked to the builder. Jim said he contacted Rich McManus multiple times and he even tried to go through his superintendent,

who is not a qualified superintendent. He probably is a worker with the demolition company of the third partner who he's spoken to many times. He doesn't know construction. There is another superintendent who took over the projects. He also knows that all units have not gotten any punch lists even attempted. He had to put together a walkthrough before settlement and he knows there's nothing council can do as they're a community and they're probably looking into litigation at this point with him because he has done nothing. His house has the least on the list. His neighbor has a broken window that's been covered with plastic since the day he made settlement because the window was going to be in tomorrow. Another issue, more for code and inspections, the deck is in the back, he would say, were completely overlooked by a code inspector. General building practices were not followed. He knew that when he made settlement and he didn't mind because once the association comes in, he's ripping that out and putting in a new one. Beverly asked with his experience, what he meant by that. Jim said when you build a deck, there are certain protocols to be followed. Every township has its little niche but there's certain things that can't be changed like lagging to the house. When you just attach it with nails, you need to put lag bolts into the studs. That wasn't done. In the center of the concrete, there are posts and he doesn't know if they have proper footers. He doesn't know if they are three feet but there are footers there, but you'll see footers on the post landing are hanging off the footer and are not even centered on the footer which in construction, that's a very easy fix. It would take a skilled guy two hours to actually fix it and do it right and this is just something you can see with your eyes. In speaking with the other neighbors, there are problems and there seems to be a lot of corners being cut in the building of these properties. Rich will not speak to anyone from the neighborhood. He's been emailed and he got his personal email from his realtor. He's been bumped into at Wawa by residents and he just kind of BS's the people. He's never bumped into him, but his one neighbor did. His punch list is nothing and if anything, he'd be the one he'd want to fix and make happy. The other punch lists are way worse than his. The jobsite is always a mess. He has an almost 2-year-old daughter, and she runs around and he picked up tools out on his front yard that weren't his. As a superintendent, he's the one who's yelling at the guys at work when it happens on his job. He's the last one to leave. He's working at Thomas Jefferson Hospital right now so on that site everything has to be pristine. He knows they're not going to put a fence around the properties. He knows there is some personal responsibility when you have kids and he's aware of that but leaving stuff on his property when he's out working is not good. Dave said Brian Brezinski is working with Mr. McManus. Dave asked if he ever met him. He's a heavy equipment operator and is actually a member of Local 542. Jim said that's who he believes works for him as the superintendent. He seems more of a demo and asphalt guy than probably somebody who knows construction. He and Brian had a minor argument one day over the parking issues. He has two cars, and they have a 17-year-old who has a car who parks her car on the street. At first, he did park there in front of the hydrant but no longer does. Other people will sometimes park there but he doesn't go knocking on doors to say to move, as long as he can get his truck out of the driveway. Dave said part of the original approval was that there was supposed to be no parking on the interior street. Jim said he and Brian had the argument about a semi-truck parked in the neighborhood for a good couple weeks. It was not one of the residents. Dave suggested he put a list together of all the people, their addresses and their respective punch lists and they'll get it to the borough code people and they can see if they can monitor that. They can also let Ms. Schuehler know so if she sees some of this too, maybe things that are part of the development approval process. They do have a dialogue with the attorney. This is the first time that he recalls that they've had one person kind of be able to bring all this stuff together, which is helpful. It puts a lot on him, but you know the business. Jim said they did vote on three members of their present board, and he actually bowed out of that one, but his wife was doing it but they all, as a community, said they weren't taking the changeover until their houses were complete. Dave said to stay the course on that. Jim said there's no more money

being handed in. They would have no problem putting it in escrow. The yearly costs aren't much at all, but he doubled it on them. His lawyer contacted the one representative and said \$700.00 and change. Beverly said the advertisement said the HOA was \$350.00. Jim said they were. He was supposed to settle last May and he was actually homeless for a little while staying at friend's houses because he had to get out of his old place. He didn't end up settling until September. First, he blamed the borough, then it was PECO. There was always somebody to blame. He told his wife it shouldn't be like this for something this easy. Dave told him to put that stuff together and give it to Mr. Thompson or President Wolfe and the rest of them will get access to it and attach pictures that relate to each as well. Beverly asked him to give her his number after the meeting because she would love to come over and see some of this stuff. Mayor Sodano asked Jim if he was correct that someone had told him that at least one of the storm drains in that cul-de-sac is clogged up and not flowing. Jim said they are, but he doesn't go out there in the rain very often, but he's seen it where the one on the right-hand side by where his wife parks is always filled to the top with water and the one on the left-hand side seems to move but then everything kind of flows out. Mayor Sodano asked if that was the one by the fire hydrant and Jim said yes. Jim said they need to look at it during the rain or after a rain. Tom said to clarify for the other council members here who don't know, he's the closest to the center drain in the back, the one drain that does exist. He's the closest property to that and he's not taking on water. Jim said no, but his front yard will. Tom said the other three houses in the back, the other half of the one he lives in and the other two are taking on water. They get water in the basement and they get a lot of standing water in the back after storms. Beverly asked if any of these people did what they said they would do about that. Jim said they always say they'll be there and they're working on it. He's heard rumors that there are different subs for each set of houses that are being built. Maybe he wasn't paying the subs their final checks. He knows the framers who framed his house are not the same ones that are framing the new ones. And he's pretty sure they're not the same ones that framed the two side ones as you come in, the ones that are finished. One of the ways you can tell is because the current decks built are correct. You can just tell that somebody different is building and overseeing that. Dave said for him to take photographs to compare the ones that are properly done with the ones that weren't properly done. Joe Dudash asked if the contractor told them once it's taken over, that they will have to get their own trash company. Jim said this has been like a dark cloud that nobody really knew about at first. He said they were going to have a communal dumpster area like he's seen in other associations. They have this enclosed area and there's usually like a two-yard dumpster with a flip top and they would pay to have their own trash company come and take it. When you look at the way they're building, he has no clue where that would go. There is no room for it anywhere unless they're putting it in one of the single's front yards. He doesn't know what's going to happen with trash yet. Joe said it's supposed to be, once it changes over, that they have to get their own. Jim said he's aware of that but what he thinks is going to end up happening, and the borough uses Waste Management, they're going to be dragging cans to the front of the (inaudible). He doesn't know where this communal dumpster area would go. There's nowhere. He's got big cans on wheels, so he doesn't mind.

**Mike Smith**, said everyone probably knows what he's going to bring up and that is the curbs on Dehaven Ave. As a resident of that street, he was made to replace his curbs. He doesn't know who gave him permission to patch them, but he wishes he would have been given the same option. Beverly said they are aware of this and they're going to figure out what they're going to do about it. Mike said while this construction was going on, he had objects in the street blocking the street and he has pictures. This guy is a representative of everybody sitting here and that includes the mayor. He is a representative of this town. Beverly asked how. Mike said everything he does everybody sees and everybody knows he's a cop in Pennndel and it represents what they are. He asked if this is what they allow because he's an employee.

During the windstorm last week, the fence blew out. Guess who got the phone call of what did he do to the fence all day long. The wind blew out a whole panel in pieces into the yard because it was a northeast wind. He asked what's going to happen if they have a south wind like that and someone is walking down the sidewalk. That fence is close to the sidewalk and it could blow out into the street. He knows they're close, maybe 28 days from maybe getting an answer. He asked what they are going to do in these next 28 days or even longer if he ignores whatever council decides if the judge rules to quash the motion. Dave said if that happens, then they take enforcement and that's separate apart from the curb. The reason he's asking is because if they go past the 28 days and it takes another 90, 120 days or whatever it may be, they are still open to this safety thing that everybody talks about. Dave said somebody from code enforcement has to be the first one on the ground. Mike said once the judge rules, the permit is null and void if he does rule that way. Then that thing should not be standing after that date. Dave said if that's the case, and there's no appeal taken, then they would take the appropriate enforcement. Mike said he's just trying to find out what's going to happen after this. The reason for bringing up about the fence blowing out, now that's it's blown around for a year and three quarters, it's loosening up and now it's starting to go out of plumb. They have a section in the code that says it's not allowed to be out of plumb more than two inches. Am I reading that okay Carol? It's in the maintenance part of the Fence Ordinance. Also, his dogs are digging underneath the fence to get to his dogs. He asked if he could put glass in there. Beverly asked if he ever reported any of this stuff officially. Mike said he doesn't want it to look like he's trying to pick on him because that's what it looks like. Beverly said that's an ongoing issue and that's a new issue. Mike said he's just making it known or should he fill out the paper that they aren't going to fill out anymore. Beverly said they are going to do it. Mayor Sodano asked for a clarification on something. He asked if the solicitor just said that at whatever point they're at now, a year and a half, and this is before a judge and that whatever that judge decides is also an appealable decision and this could go on longer. Dave said technically, yes but it depends. If the judge decides something adverse to the appellant and he decides he wants to appeal, he has the right to appeal to the Commonwealth Court. He said does he think that would happen? It's not an inexpensive proposition so he would be surprised but he doesn't know. It's possible but unlikely but he thinks that everybody would like to bring this thing to a conclusion. Mike said it gets frustrating. Be aware that fence blew out and it's moving all over and there are gaps alongside the poles.

**Pat Dicken**, said for the EIT, if you return the extra money and reduce taxes again, it only benefits the people that own homes. How about all the people in Bellevue Court Apartments and all the apartments that live and work in the borough and pay that EIT. They get nothing back. It's very unfair. It should go back or a reduction to the people that pay it. Beverly said that's something they were going to look at.

MOTION BY BARBARA HEFFELFINGER TO ADJOURN THE MEETING AT 9:30 P.M.  
SECONDED BY JOE ADAMS. All ayes, motion carried.

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