

March 5, 2008 Council Meeting Minutes

The March 5th meeting of the Penn Hills Council was called to order at 7:37 p.m. in Council Chambers of the Municipal Building, Mayor Anthony L. DeLuca presiding.

Approval of Agenda Items

The Mayor announced that Item No. 7.c. a Resolution authorizing condemnation/declaration of taking for 541 Fourth Street was being added to the agenda and Item No. 8.a. Appointments were being deleted from the agenda. There were no other changes and the agenda was approved as amended.

Pledge of Allegiance

Council and the audience stood for the Pledge of Allegiance.

Roll Call

Roll was called and the following members of Council responded:

Present: Mayor DeLuca
Dr. Kincaid
Mrs. Kuhn
Mr. Palumbo
Mr. Underwood

Also present were: Manager Van Horne, Solicitor Brimmeier, Gateway Engineer Minsterman, Finance Director Schrecengost and Deputy Clerk Fitzhenry.

Presentation – Mr. Jerry and Mrs. Wanda Sterling

Mayor DeLuca presented a certificate of recognition to Mr. Jerry Sterling and Mrs. Wanda Sterling who rescued neighbors from a recent house fire at 10168 Frankstown Road, Penn Hills.

Approval of Minutes

Dr. Kincaid made a motion to approve the February 18, 2008 Council Meeting Minutes as presented.

Mr. Palumbo seconded the motion.

Approval of Minutes (Continued)

Mrs. Kuhn stated that at the last meeting she made remarks about the deposits on municipal facilities and those remarks are in the minutes, but she wanted to thank the manager for his follow up.

Roll was called and the motion was approved by a vote of 5 to 0.

EXPENDITURES
Approval of Warrants

Mrs. Kuhn made a motion to approve the Master Expenditure Summary dated March 5, 2008 including Journal Vouchers numbering 0 in the amount of \$0; C. D. Requisitions numbering 11 in the amount of \$18,582.25; and Master Check Nos. 6850 to 6981 in the amount of \$811,846.42, making a grand total of \$830,428.67.

Dr. Kincaid seconded the motion.

Mr. Joseph "Mickey" O'Connor questioned Check No. 6930 to Gateway Engineers for work on Walmart/Lowe's. He asked if any portion of that expense is reimbursable from the developer. He also asked if the EPA 308 Report was available to the public.

Mayor DeLuca stated that the costs are reimbursable.

Engineer Minsterman and Manager Van Horne stated that a copy is available in the Manager's Office.

Dr. Kincaid questioned Check No. 6949 to Malley Automotive.

Finance Director Schrecengost stated that it was for body work related to an accident/insurance reimbursement.

Manager Van Horne stated that he will be going over municipal repair policies at the upcoming staff meeting.

Mrs. Kuhn questioned Check No. 6871 to Amcoach for trip sheet billing.

Finance Director Schrecengost advised that was our ambulance billing company.

Approval of Warrants (Continued)

Mrs. Kuhn questioned Check No. 6914 for salt and numerous memos she received from the Manager regarding the salt condition and she expressed concern over the budget and whether the season depleted the funds or has the entire 2008 budget been depleted.

Manager Van Horne stated that the entire 2008 budget has been depleted at this point. Additionally, he advised "the per ton" cost for salt has gone up dramatically. He stated the little nuisance snows have caused a lot of the problems. He advised that he would be meeting with public work and purchasing to look at options for the remainder of this year and that an emergency declaration may be necessary to allow for additional salt to be purchased, etc.

Mrs. Kuhn questioned Check 6954 to Nick's Auto. She inquired as to whether any of these costs are related to the gasoline/fuel problem we encountered and if any of these charges are reimbursable from the fuel company.

Manager Van Horne believed some of the larger amounts on the expenditure list under this check are related to the fuel problem, but those amounts plus others will be reimbursed by the fuel supplier. He explained the newer vehicles seem to have experienced more problems and the work and dollar amounts are being logged.

Mrs. Kuhn questioned Check No. 6965 to R & B Mechanical for Library HVAC as to whether the amount falls within the approved budget amount for the library construction, etc.

Finance Director Schrecengost stated that it is within the budgeted limits.

Mrs. Kuhn questioned Check No. 6899 to Roy Smith for snow removal. She mentioned that the vendor was to provide a revised cost/scope of service and wanted to know if that had been done yet.

Finance Director Schrecengost and Manager Van Horne acknowledged that this is the revised rate of \$140 down from the \$240 rate.

Roll was called and the warrants were approved by a vote of 5 to 0.

Resolutions

Dr. Kincaid made a motion to approve **Resolution No. 2008-015** authorizing the Municipality to enter into a lease agreement with the Lincoln Park Community Center for space for the Penn Hills Satellite Library.

Mr. Underwood seconded the motion.

Rev. James Hunt of the First Baptist Church of Penn Hills spoke in support of the satellite library and feels it is a tremendous resource to the Lincoln Park community.

Mrs. Kuhn stated that she had reviewed the lease in detail, but wanted to ensure there were no changes or revision to it at this point.

Manager Van Horne stated there were no revisions.

Roll was called and the motion was approved by a vote of 5 to 0.

Mr. Underwood made a motion to approve **Resolution No. 2008-016** awarding a contract to Kiski Valley Uniforms Supply for police uniforms.

Dr. Kincaid seconded the motion.

Mrs. Kuhn questioned a memo received in the back-up material concerning adjustments. She referred her question to the Solicitor.

Solicitor Brimmeier suggested that Council move ahead on the agenda while she reviews the correspondence in question and makes a determination on the matter.

Mrs. Kuhn made a motion to approve **Resolution No. 2008-017** authorizing the filing of a declaration of taking and notice of taking for the partial condemnation of one parcel of land located in the Municipality of Penn Hills for the reconstruction, erection, installation, use and maintenance of a storm sewer on Fourth Street, the address of the parcel affected by the condemnation is 541 Fourth Street, Verona, PA 15147, further described as lot and block no. 445-N-316.

Mr. Palumbo seconded the motion.

Resolutions (Continued)

Mr. Joseph "Mickey" O'Connor questioned the Resolution which refers to Article II, Section 2 of the Home Rule Charter which states by ordinance, not by resolution.

Solicitor Brimmeier responded by stating that the Home Rule Charter and Optional Plans Law is what authorizes municipalities to have charters and mandates the powers that the charter communities can have and limits them on certain things. She continued that some of the statutes are standard for all classes of municipalities and one such statute is the eminent domain code which specifically precludes home rule charter municipalities from changing the procedure regarding the exercise of eminent domain. The eminent domain code allows municipalities to exercise that right by either resolution or ordinance. She stated that even though the charter mandates an ordinance it is invalid because it is contrary to what the eminent domain code allows. She further stated that normally she wouldn't have a problem with doing it by ordinance, but in this case it is an emergency situation and we wanted to move forward as quickly as possible.

Mr. O'Connor then stated that if the eminent domain code says either or and our charter says ordinance then we should do it like we have done in the past with an ordinance.

Solicitor Brimmeier said she stated her reasons for doing it this way and she feel comfortable with the manner in which it is being done.

Mr. O'Connor then said the charter isn't worth anything.

Solicitor Brimmeier stated that on this particular issue the charter is incorrect. I did not say the charter wasn't worth anything and asked Mr. O'Connor not to put words into her mouth.

Mayor DeLuca then stated to refer to the court case from a few years ago where the judge said if you have three votes you can do whatever you want. He said apparently, the courts don't feel our charter holds up.

Roll was called and the motion was approved by a vote of 5 to 0.

Resolution No. 2008-016 (Continued)

Solicitor Brimmeier reviewed the documents regarding the police uniforms and cannot determine what the final changes were to the contract. She suggested that Council approve the contract contingent upon review by the solicitor and final approval and release by the Manager.

Mrs. Kuhn feels the Resolution should be approved with the contingency as stated by the Solicitor so that it does not interfere with the hiring of new officers, as it could be a minor change.

Roll was called and the motion was approved by a vote of 5 to 0, pending the manager's final approval.

Introductions of Ordinances, Resolutions, etc.

Council had no legislation to introduce at this time.

REPORTS – Mayor, Council, Manager, etc.

Deputy Clerk Fitzhenry announced the CPR Anytime Kits are being distributed at the Penn Hills Municipal Building and the Wm. E. Anderson Library of Penn Hills through a grant provided by State Senator Sean Logan in cooperation with the Allegheny County EMS Council and PA Department of Health. The kits are free to Allegheny County residents.

Manager Van Horne announced that a blood drive would be held at the Penn Hills Municipal Building Council Chambers on March 24, 2008 from 1:00 p.m. to 7:00 p.m. for Penn Hills resident, Joe Muskovac. The event is being hosted by State Rep. Tony DeLuca and District Justice Cioppa.

NOTE: The Mayor announced that Council will hold a brief executive session after the adjournment to discuss Personnel.

Adjournment

There being no further business, the Mayor asked for a motion to adjourn the meeting.

Dr. Kincaid made a motion to adjourn the meeting.

Adjournment (Continued)

Mr. Underwood seconded the motion to adjourn and it was approved by a vote of 5 to 0.

The meeting adjourned at 8:05 p.m.

Respectfully submitted,

/s/ Diane Fitzhenry,
Deputy Clerk

These minutes approved by Mayor and Council on April 7, 2008.