

## **February 2, 2009 Council Meeting Minutes**

The February 2<sup>nd</sup> meeting of the Penn Hills Council was called to order at 7:40 p.m. in Council Chambers of the Municipal Building, Mayor Anthony L. DeLuca presiding.

### **Approval of Agenda Items**

The Mayor announced that Items for Consideration would be moved to the top of the agenda just before Citizens to Address Council. There were no other changes to the agenda and it 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:** Mrs. Kuhn  
Mr. Palumbo  
Mr. Underwood  
Mayor DeLuca  
Dr. Kincaid

Also present were: Solicitor Brimmeier, Controller Sciulli, Gateway Engineer Minsterman, Finance Director Schrecengost, Planning Director Davidson and Deputy Clerk Fitzhenry.

### **Items for Consideration**

#### **Termination of Terry Van Horne, Municipal Manager**

Mayor DeLuca made a motion authorizing and directing the termination of Terry E. Van Horne from the position of Municipal Manager suspending him with pay as required by the Charter.

Mr. Underwood seconded the motion.

Mayor DeLuca commented that this action was not a result of him or the Deputy Mayor acting alone, but was a result of input from all of the Council regarding the Manager's lack of performance. He acknowledged that a meeting was held with Mr. Van Horne to advise him that Council was not happy with his performance and they wanted to make a change in manager. An Interim Manager will be appointed this evening. The Mayor listed several concerns from

**Termination (Continued)**

Council as to why this action was being taken. The concerns included the Manager's absence from his office on numerous Fridays, employee accountability, problems with the vehicle tracking system which went unresolved, Code Enforcement concerns, including use of zones and lack of citations by the department, magistrate issues that went unresolved, budgetary concerns including a hiring freeze and inflated revenues, employee realignment following lay-offs and the Manager's absence following the budget adoption, concerns over municipal phone bill costs and changes in providers, changes in cell phone providers and resulting costs for forfeiture, etc., credits/refund issues on sewer bills, employee and personnel issues including sick leave abuse, etc., manager's residency issues, issues raised by the solicitor over litigation, his commitment to Penn Hills.

Mr. Don Sanker raised concerns about Council attempting to micro-manage. He asked why a professional manager would want to come here when we have gone through four managers in four years. He told Council that they do not have the best interest of the community at heart if this action continues tonight.

Mr. Joseph "Mickey" O'Connor feels there are more issues surrounding this decision than Council is alluding too.

Mrs. Heather Houlihan asked if there is a formal list of charges listed for termination.

Solicitor Brimmeier stated the manager serves at-will and Council has the discretion to terminate the manager any time they see fit. She explained that the Mayor gave some details on the termination because of recent publicity and public interest, but this is not considered a hearing and there is not a formal list of charges.

Mrs. Houlihan feels Council's remarks and actions are appalling and these accusations amount to nothing more than micro-management on an obscene level, as far as she is concerned.

Solicitor Brimmeier stated that Mr. Van Horne had an opportunity to be here tonight, but chose not to attend.

Mrs. Houlihan stated that she is ashamed to live here. She feels this manager was above reproach, his management style was accessible and the

**Termination (Continued)**

employee morale has greatly improved under his direction. She questioned the availability of funding to conduct a search for a new manager and who would want to come here under these circumstances. She asked if they are setting the stage to appoint the Deputy Mayor at some point in the future.

Mr. Jim Carnahan asked when the manager was informed of this decision.

Mayor DeLuca stated that he met with the Manager and informed him of Council's concerns and their interest in changing managers. He also stated he gave the manager an opportunity to submit a letter of resignation, which he chose not to do.

Mr. Carnahan asked who was present at the meeting.

Mayor DeLuca stated that he, Mr. Van Horne and Deputy Mayor Kuhn met to discuss these concerns. He further stated that other members of Council were not present because of issues with the Sunshine Law.

Mr. Carnahan stated that Mr. Van Horne has taken a real interest in the senior citizens in this community. He stated that some of the reasons they gave for termination are ridiculous and he feels the manager was doing a terrific job.

Mr. Al Papa agreed that Council has the power to hire and fire the manager, but he is concerned about the action this evening. He is concerned because of the previous laudatory remarks about the manager as recently as a few months back and now there is a major flip-flop. He stated that there is major distrust for the elected officials in this town. He raised issues with recent surveys and responses regarding leadership availability for the future of Penn Hills. He is concerned about the process of hiring a manager and the politicizing of the position.

Mrs. Kuhn responded by saying this has nothing to do with micromanagement. She challenged anyone present or any staff to state that she was at the building, calling the manager or in any way interfering with the manager to come forth and make those remarks publicly. She states that she receives numerous phone calls from residents about concerns they have and she follows through on those concerns. She raised concerns over the budget and the inflated revenues, etc. She raised concerns about how the manager handled his own health care coverage and payments from Penn Hills. She was quite upset and concerned about the comments that this Council is taking the community back 200 years.

**Termination (Continued)**

Mr. Sanker again raised concerns that we have had four managers in four years and the last two have served for approximately 18 months each. He doesn't understand what changes from the end of 12 months and the end of 18 months with the Manager's performance that makes Council change their support for the Manager.

Mrs. Kuhn stated that the big difference between 12 months and 18 months is the budget and all the issues related to the budget and in her opinion were failures of the manager.

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

**Appointment of Mohammed Rayan as Interim Municipal Manager**

Mayor DeLuca made a motion authorizing and directing the appointment of Moe Rayan as the Interim Municipal Manager.

Mr. Underwood seconded the motion.

Mrs. Heather Houlihan asked how this transfer of duties is going to move forward when you have just added Recreation to the Public Works Department and are now adding the Manager's duties as well. She stated she has no issues with Mr. Rayan's abilities, but how much can one person do.

Mr. Al Papa stated that he had the privilege of serving with Mrs. Kuhn on the Planning Commission and at no time has he ever doubted Mrs. Kuhn's sincerity or integrity. Mr. Papa stated that he feels Mr. Rayan is a good man and has the dedication necessary to do the job.

Mr. Robert Marra asked how long the interim manager will be in place and what is the plan to hire a permanent manager. He is concerned about the burden being placed on Mr. Rayan and the community with this interim status.

Mayor DeLuca stated they will advertise immediately and appoint a committee for interviewing, etc. Hopefully, the process will only take a few months.

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

### **Ratify Labor Agreement with Teamster Local #249 – Public Works**

Mr. Underwood made a motion to ratify the 2009-2013 labor agreement with Teamster Local #249 representing employees of the Public Works Department.

Dr. Kincaid seconded the motion and it was approved by a vote of 5 to 0.

### **Citizen's to Address Council**

Mr. Joseph "Mickey" O'Connor stated he requested to speak regarding charter issues or the lack thereof. He wants to discuss two specific items – Article 8, Section 8.d. amendments before adoption and Article II, Section 2, eminent domain and Pa. Constitution Article 1. Section 10. He discussed the changes to the budget are within council's authority; however, the elimination of positions is the responsibility of the manager. He disputed the use of a resolution for taking of property by eminent domain. He then commented that Act 62 of 1972 requires Council to act in all manners as a body and it is contrary to the spirit of the article for any of its members to seek individually to influence the official acts of the municipal manager or other officers.

### **EXPENDITURES**

#### **Approval of Warrants**

Dr. Kincaid made a motion to approve the Master Expenditure Summary dated February 2, 2009 including Journal Vouchers numbering 0 in the amount of \$0; C.D. Requisitions numbering 8 in the amount of \$2,793.20; and Master Check Nos. 10000 to 10218 in the amount of \$1,508,839.54.

Mr. Underwood seconded the motion.

Mayor DeLuca asked that Council hold Check Nos. 10111 and 10180 to One Communication until additional information is provided to the Controller.

Roll was called and the motion was approved by a vote of 5 to 0, except Check No. 10101 to Don Kuhn Auto Body, which was approved by a vote of 4 to 0 to 1, Mrs. Kuhn being the abstention; Check No. 10152 to Anthony DeLuca for Light-up Night, which was approved by a vote of 4 to 0 to 1, Mayor DeLuca being the abstention; and Check Nos. 10071, 10158, 10092, 10159, 10163, 10099, 10168, 10170, 10177, 10196 and 10120, which were approved by a vote of 4 to 1, Mr. Underwood being the negative vote.

## **Resolutions**

Mr. Underwood made a motion to approve **Resolution No. 2009-013** amending the five-year consolidated plan and community development budget years 32, 33 and 34.

Dr. Kincaid seconded the motion and it was approved by a vote of 5 to 0.

Mrs. Kuhn made a motion to approve **Resolution No. 2009-014** approving a contract change order to Custom Door System, Inc., - General Contract Work, Contract No. 08-037 in the amount of \$957.00.

Dr. Kincaid seconded the motion and it was approved by a vote of 5 to 0.

Mr. Palumbo made a motion to approve **Resolution No. 2009-015** authorizing an agreement with Coldwell Banker Commercial for the sale of the Old Public Works Garage at 12818 Frankstown Road.

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

## **Introduction of Ordinances, Resolutions, etc.**

Council had no legislation to introduce at this time.

## **REPORTS – Mayor, Council, Manager, etc.**

Mrs. Kuhn reported that she participated in a “town hall” conference call with Congressman Tim Murphy’s Office to discuss the stimulus program and ask questions on behalf of the community.

Mayor DeLuca reported that the Crime Watch Meeting would begin at 7:00 p.m. on February 5, 2009 at Lincoln Park, February 12, 2009 at Rosedale, February 19, 2009 at North Bessemer, February 26, 2009 at Point Breeze, March 5, 2009 at Thad Stevens, March 12, 2009 at Universal and March 19, 2009 at #7 VFD. He urged the public to participate and thanked the fire departments for hosting the events. He commented that the dates are posted on the website.

Mayor DeLuca also commented on a letter of support to our elected officials looking for relief from our high sewer bills. He had a draft copy, which he was providing to Council, and asked they review and make any comments as

**REPORTS**            **(Continued)**

soon as possible. He stated that once the letter is in final form, it will be made available to the public.

Dr. Kincaid reported that the Penn Hills Clergy Association is aware of the concerns of the community and our residents and they have been keeping the community in their prayers. He further noted that several members of the clergy were present in the audience this evening.

**NOTE:            The Mayor announced that Council held an Executive Session prior to the start of the meeting this evening to discuss Personnel.**

**Adjournment**

Dr. Kincaid made a motion to adjourn the meeting.

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

The meeting adjourned at 8:55 p.m.

Respectfully submitted,

/s/ Diane Gionta Fitzhenry  
Deputy Municipal Clerk

These minutes approved by Mayor and Council on April 20, 2009.