

MARCH 7, 2011 COUNCIL MEETING MINUTES

The March 7, 2011 Council Meeting was called to order at 7:36 P.M. in Council Chambers at the Municipal Building. Mayor Anthony DeLuca presiding.

APPROVAL OF AGENDA ITEMS

Mayor Anthony DeLuca called meeting to order. Mayor announced he would eliminate the Discussion Session for tonight and the rest of the Agenda will stand as presented. Will you please stand for the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

Council and the audience stood for the Pledge of Allegiance.

ROLL CALL

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

Also present were: Municipal Manager Rayan, Finance Director Schrecengost, Solicitor Brimmeier, Controller Futules, Planning Director Davidson, Gateway Engineer Minsterman and Manager's Secretary Sorce.

APPROVAL OF MINUTES

Mr. Underwood made a motion to approve Minutes of January 18, 2011.

Mr. Palumbo seconded the motion.

There being no further discussion the motion was approved by a 5-0 vote.

EXPENDITURES

APPROVAL OF WARRANTS

Dr. Kincaid made a motion to approve the Master Expenditures Summary dated February 7, 2011 – Journal Vouchers 1 - \$158,894.38 – C.D. Requisitions 2 - \$99.72 – EECBG Requisitions 0 - \$0.00 – Checks Numbering 16754 – 17024 - \$2,010,943.37 making a grand total of \$2,169,937.47.

Mr. Palumbo made a motion to approve the Master Expenditures Summary dated February 21, 2011 – Journal Vouchers 0 - \$0.00 – C.D. Requisitions 6 - \$2,754.00 – EECBG Requisitions 0 - \$0.00 – Checks Numbering 17025 – 17135 - \$684,856.56 making a grand total of \$687,610.56.

Dr. Kincaid made a motion to approve the Master Expenditures Summary dated March 7, 2011 – Journal Vouchers 0 - \$0.00 – C.D. Requisitions 3 - \$9,216.86 – EECBG Requisitions 0 - \$0.00 Checks Numbering 17136 – 17237 - \$573,471.92 making a grand total of \$582,688.78.

Mr. Underwood seconded the motions.

Mrs. Kuhn - on our first Expenditures February 7, 2011, this is just for information more than anything, on page 9 and 10, Gateway Engineers - Check #16865 feasibility cost is that covered under the budgeted amount that we had budgeted for - that feasibility is this part of that budgeted amount Moe? Moe replied yes. Mrs. Kuhn – on page 30, Yuchevich and Marchetii Check #16848 and it stated, perhaps our solicitor could give me this information – it is the Whiteford Case I mean this seems to be going on and on forever and ever and I was just wondering how many times has there been a decision rendered by the courts and how many times has Mr. Whiteford appealed it and is he still representing himself but at the cost of the taxpayers every time we have to go in when he is appealing these and are we anywhere near the end of this? This has been going on for so many years. Bonnie Brimmeier replied to answer your question about how many orders have been entered by the Municipality I can only tell you at least five or six. The father who is the doctor is representing himself, the son has got legal counsel now and is looking to settle and it looks like that we will settle with him and we will be getting something from that and then after that we are looking for ways to fund the judgment already secured against the father. Mrs. Kuhn said thank you I really appreciate that.

Mrs. Kuhn abstained from check #16995 to Don Kuhn Auto Body a reimbursement from the insurance from a car repair and a tow. On all others yes. Also abstained – on March 7, 2011 Expenditures Mrs. Kuhn abstained on check #17221 to Don Kuhn Auto Body for \$175.00 for a tow also.

There being no further discussion the motions were approved by a 5-0 vote.

ORDINANCES

Mr. Underwood made a motion to approve **Ordinance No. 2534** amending Ordinance 2420, The Penn Hills Zoning Ordinance, establishing various new and amended Zoning Regulations and providing for the Administration and Enforcement thereof, in accordance with The Pennsylvania Municipalities Planning Code.

Dr. Kincaid seconded the motion.

There being no further discussion the motion was approved by a 5-0 vote.

RESOLUTIONS

Dr. Kincaid made a motion to approve **Resolution No. 2011-005** recommending Conditional Use Approval to Peter J. McQuillin for the construction of a Cemetery to be located in the vicinity of Kansas and Colorado Street as described in his application.

Mr. Palumbo seconded the motion.

Mr. Pete McQuillin - 1713 Hummel Street, Pittsburgh, PA 15212, I am the CE O of Land Conservation Cemetery LLC and we are the applicants for Conditional Use Approval for the new cemetery to be named Penn Forest Natural Burial Park which would be located on about 30 acres of land near the intersection of Hunter and Colorado Roads. Over the past many months we have addressed questions about this project from Planning Department Staff, Planning Division Members and several Penn Hills Residents and Government Officials to the best of our knowledge. Both in writing and verbally at two Planning Commission Hearings after answering those questions, the Planning Commission approved our site plan with 3 additional conditions that we have agreed to. Since copies of our answers to these questions and additional background information has been forwarded to you and since your agenda is full tonight I would like to take about 4 minutes of your time to explain why I think you should vote in favor of the Zoning Change and Conditional Use that we need to proceed. If you have more questions after that or anybody else I would be happy to answer them. First this project will be good for Penn Hills economically. We will be restoring land that is now taxed at a very low rate under the County's Clean and Green Program to full tax rate status and we will be paying five years of reduced back taxes to Penn Hills and the County. Because we are a four profit corporation we will also pay Penn Hills Business Privilege taxes and we plan to create 2 to 5 jobs over the next few years and we will be using local vendors for our cemetery service work. Second this project will be good for the environment in Penn Hills, over time we will restore 30 acres of Penn Hills Forrest to a more natural state. We will create a park-like wildlife refuge with walking trails that are

open to cemetery visitors; we will not contribute to further pollution of Plum Creek and the Allegheny River as other projects on this site might. All cemetery development roads trails, building improvements will be done with the least negative environment impact we can accomplish. Because we will keep this land as a natural woodland area, it will serve as a buffer to protect 30 acres of land next to Penn Hills Community Park from being built up with unsightly development projects. Third this project will bring positive publicity and notoriety to Penn Hills and help to establish it as one of Pennsylvania's greenest cities. Green cemeteries are becoming increasingly popular across the United States. Already 3 local cemeteries are offering the green burial option around Pittsburgh. But Penn Forrest will be the first all green cemetery in the State of Pennsylvania and Penn Hills can play a leadership position for that. In addition, work at Penn Forest Natural Burial Park could become the cornerstone of the Penn Hills Goes Green Comprehensive Plan now posted on the Penn Hills Web-Site. For example we plan to establish a residence committee to help us determine which trees, where to locate trails and the details of our work. So far Planning Commission Member Denny Gallo and Kansas Street Neighbor Jeff Jiles have both expressed an interest in serving on this committee, and this effort could be incorporated into this Penn Hill's Plan. Finally, Penn Forrest Natural Burial Park will be popular with Penn Hill's Residents, yes we have heard from two or three residents who are not happy with the idea of green cemetery here but over the last eighteen months as I have travelled around Penn Hills talking to neighbors, store owners, funeral home owners, churches and city groups the overwhelming majority of the comments I hear are positive. After I explain to people that cremation pollutes the air and the conventional burials are overly expensive, wasteful and pollute the ground water and that we will offer them the option of being buried in the woods. The most frequent comment I hear is hey that is what I want. I want to be buried among the trees in a beautiful natural setting. The land for Penn Forest was owned for many years by Father Murray a priest and Department Head at Duquesne University whose nephew Jim Murray one of the owners of the property has been searching for a long while to find an appropriate use for this land which would honor his uncle's love of the property and his commitment to the neighborhood. When he found out we wanted to start a Green Cemetery near Pittsburgh he knew he had found that use. Overtime Jim has not only become an advocate for Green Burial on the property, he will also be a cemetery investor. Finally as a demonstration of our attitude towards Penn Hill's residents I would like to leave you this quote from Jeff Jiles a near neighbor to the cemetery. "I think Pete McQuillan is trying to do a positive thing. He certainly seems to be going out of his way to help out neighbors and find out what we think." This quote was printed in the Penn Hill's Progress and Jeff gave me his permission to use it. Again I ask for your approval for this project and thank you.

Mayor DeLuca asked does anyone on Council have any questions?

Mr. Underwood – I understand that they are burying the people 18 inches deep. That is what I believe I read. Mr. McQuillan responded no there will be, there is a cemetery regulation that requires 2 feet of cover and we plan to go at least 6 inches beyond that. Mr. Underwood – O.K. that is in the positive for me. Who are your financial backers and are you the only financial person? Mr. McQuillan replied no we have twenty investors who will be part of the LLC members, at presents maybe 21 investors. Most of them are people who have been working on promoting green burial in Pennsylvania and we also have we are in a financial position that we don't need to take out a mortgage or bank loan. Mr. Underwood – is the property already purchased? Mr. McQuillan replied no. Mr. Underwood – so you want us to O.K. it and then you are going to do it? Mr. McQuillan – if we don't have approval from Council we can't use the property so there is no sense purchasing it. Mr. Underwood – well you may be able to turn it into something else if we approve it but I needed to have that statement on record. Mr. McQuillan – what statement? Mr. Underwood – if you purchase that particular property. Mr. McQuillan – we will purchase it and we have no purpose other than to establish a cemetery there, so if you approve it we will establish a cemetery there.

Howard Davidson replied Mr. Underwood if I could help answer that question. The applicant is locked into the plan that you see and is part of your packet and he is locked into specific use that he has proposed to the Planning Commission and the Conditional Uses binding on the property. The only thing that he can do other than that would be things that you would be permitted to do on the property anyway which would be to build single family homes. Mr. Underwood – right now I don't have any other questions.

Mrs. Kuhn – the depth of the burial you are saying it is by law you have to go just 2 feet is that what you are telling me? Mr. McQuillan – you have to have 2 feet of soil cover by Pennsylvania Law. Mayor DeLuca – so actually 30 inches of top soil and then the coffin will be under 30 inches. Mr. McQuillan – we probably will be talking about a coffin that is about (depending on the size of the person) and then we have two feet of cover over that then we will go another 6 inches beyond that. Mayor DeLuca – that is one of the questions I have – you are going to go where the top of the coffin and there is going to be 30 inches of dirt on top – Mr. McQuillan answered yes.

Mrs. Kuhn – Is there a reason why you are only going that depth when the general cemeteries go much deeper in their burial? Mr. McQuillan – they don't go much

deeper, there is a myth that we bury people 6 feet down. But they do go deeper because they use a burial vault, when they use a burial vault and we are not going to use burial vaults. Mrs. Kuhn – so there are no burial vaults and the amount of ground cover will be 30 inches? Mr. McQuillan – yes. Mrs. Kuhn – do you have any of these that you are involved in not in Penn Hills but in Allegheny County? Mr. McQuillan – no. Mrs. Kuhn – in the State? Mrs. McQuillan – no. – Mrs. Kuhn – so this is the first that has come into the whole State from what your statement was earlier? Mr. McQuillan – there are people in the Pittsburgh Area – there are three cemeteries that I know of, there may be others who are offering the Green Burial Option which is exactly what we are offering. It is perfectly legal under Pennsylvania Law any of them can. I already got a call today from Jefferson Memorial Funeral Home asking me if they could establish a green burial ground. I think a lot of people will be doing this because it is legal under Pennsylvania Law. We are not doing anything that is not legal under Pennsylvania Law. Mrs. Kuhn – Is Penn Hills your first choice you have tried or have you tried other places to have this done in Pennsylvania? Mr. McQuillan – we have investigated lots of sights but this is the only sight that we have tried to establish the Cemetery. Mrs. Kuhn – my other question is if, I know I had some literature sent to me stating that under State Law let's say that for whatever reason your company might not be here in five years from now, that then the care and maintenance of the burial itself is then the responsibility of the Municipality. Is that a correct statement or is that not a correct statement? Mr. McQuillan – not as far as I know. Mrs. Kuhn – I am quoting from (let me see what this says here) that the courts have the authority to designate local governments as the caretakers of neglected burial grounds. The local governments must then finance the maintenance of the burial grounds and these grounds must be opened to the public. So that is why I was asking if you had any of these up and running because of the fact I don't want this to be something that is a new venture for you and then if it does not fall through you are giving a \$25,000 bond which in this day and age doesn't amount to that great amount of money and I don't want the burden then to go on to the taxpayers of Penn Hills to have to be the ones who are in charge of this so this is a very large concern of mine. I would think that you would know that.

Mr. McQuillan – I am sorry. I am not a lawyer on cemetery law, what I was told by my legal counsel is that our endowment fund is that it will be used in case we would go bankrupt, but I have to tell you that I am betting the farm on this my whole life savings is involved as is a lot of our members on our LLC and we have lines of credit if we don't sell anything for the first couple of years we are in good shape, we are in a good financial position, I don't anticipate we will have any problems. Mrs. Kuhn - and I would hope for you and any business person that but most people who go into business go into business on the assumption that they are going to succeed not that they won't succeed. My only problem is if someone goes into business and they don't succeed in Penn Hills it then does not become the tax payer's burden of taking care of their

business if they don't and that is my concern with this. I don't know, I am sorry Bonnie I just got this around 5:00 in my mail box and I didn't know for me I would need to have that clarified. Mayor DeLuca – quick question, just going from the material that I have I guess you put the \$25,000 and then put the 15% on all cemetery lot sales and that money is to be used for maintenance and that, and second it says that if the cemetery should fail financially at some point in the future and the State is required to take it over they can use the fund to finance a new cemetery operator.

Howard Davidson – It is the negative circumstances that brought up this discussion. Twenty, thirty years ago Sara might remember the driving range on Hulton Road they wanted to bring in a cemetery and sold some plots and people lost their money because the guy took off with their money well that led to the new State Laws here that require a \$30,000 deposit and the maintenance escrow accounts. Whether the state should have required \$100,000 instead of \$30,000 I don't know whether the State discussed or not, but that is what it is for. The other law that was brought up at the Planning Commission Meeting is an older law that was on the books for many years and the situation that would apply there is that little German Cemetery at Hulton and Poketa that you are familiar with. If we do have volunteers taking care of mowing the grass over there that State Law is my understanding gives the State the power to require the Municipality of Penn Hills to maintain that if they wanted to impose that law. I am not a lawyer but that is my interpretation, that is how I read it. Mayor DeLuca – so what is correct there? Howard Davidson – they are both correct. It is just now we have the new laws in place that required the financial security that the applicant has to put up to register his cemetery at the State level. Mrs. Kuhn – Howard you are absolutely right, I believe I was on Planning when that proposal came on Hulton Road and that it was a new type of cemetery if you remember correctly, they were putting them as they are in New Orleans, up on top and because of that there were people who lost their funding on that, so my concern if you had any other cemeteries of this type that you have been involved with – Mr. McQuillan – I personally haven't, we have as part of our investment team a cemetery consultant with about 30 years of experience in starting and operating cemeteries including green cemeteries, he could not be with us tonight but I could have him talk to you. He is really our expert on cemetery operations and helping to set up our business. He is currently setting up a new green cemetery in Harrisonburg, VA. We never would have done this project without him being on our staff, he will be part of our team and he is one of our investors as well. Mrs. Kuhn – and I also noticed in the Minutes from the Planning Commission that a Nancy Chubba made a statement to the Commission that you had submitted your business plan to the commission generally as a courtesy and respectfully suggested that the commission has no jurisdiction on their business plan. Mr. McQuillan – I don't want to speak for her but I think what she was referring to was not our business plan but the rules and regulations for the cemetery that we planned to use in the operation of the cemetery what will basically tell people

who buy lots on the cemetery how we are going to operate the cemetery. Mrs. Kuhn – and as Council and I stated I do believe that being like I said this is different than most businesses if your business would fail the taxpayers of Penn Hills would have to take care of your business where if someone comes in and puts a car lot up and if their business fails unfortunately they just go out of business but it is not to the cost of the Municipality. So I do think that your business plan needs to be incorporated into this because of the fact there could be a possibility we have to make sure the business plan is sound. Mr. McQuillan – I think my investors would probably not be willing to do that.

Is there a requirement under law to do that? I never heard of such a thing?
Sara Kuhn – I am not an attorney and as I stated to you that was not my intent, my intent is that because of the fact that if the business plan is not a sound plan that is fine for another business which she quotes (Wal-Mart), if Wal-Mart comes in and if Wal-Mart goes out of business it does not cost the taxpayer's any money. Unfortunately, with your business, if you go out of business under the state law that has been quoted here tonight it would cost the taxpayers' money. So I have to make sure as far as my vote only mine alone that is a concern of mine because of the fact that I am not going to pass something that I am not sure of that could end up costing Penn Hills taxpayers money to maintain it for years to come, forever to come. Mr. McQuillan – I understand. It would take me some time to get permission from all my investors to do that and I am not saying I won't do that but it will take some time. Mayor DeLuca – I have a few more questions. Green Cemeteries that have been established through the Country, what is their experience with 30 inches, have there been any animals going into the graves digging up. Mr. McQuillan – never been a concern and never been a problem as far as I know and I have talked to all the Green Cemetery operators nearly all of them in the United States. Mayor DeLuca – are they open or are they fenced? Mr. McQuillan – no fencing. Mayor DeLuca – Howard, on the map the gas well. Howard Davidson – the gas well is to the northeastern section of the property close to the treatment plant. You can see the service drive coming in from Colorado. Mayor DeLuca – How close is the proposed property to the gas well? Howard Davidson – you can build a house within 30 feet of that gas well. It is not a concern, it did not come up as a concern is what I am saying because the distancing that a well should be so far away from a grave site when you can build a home thirty feet from the well. Mayor DeLuca – Let me ask you on the entire property how many graves are you talking about total. What is the maximum? Mr. McQuillan – We haven't finished the survey work until we get approval. There are 30 acres of property here about ten acres are not useable for burial because it is too steep. In general cemeteries your traditional green grass cemeteries will bury 800 to 1000 grave sites per acre. The typical green cemetery we will probably lay out less than ½ of that. If we can use 15 acres of the land and we can get 400 grave sites per acre, if you do the math that is about where we will be. It is going to be much less dense than tradition.

Mr. Underwood – o.k. you just made a statement is that going to be single deep or double deep? Mr. McQuillan – single deep. Mr. Underwood – why not double? Mr. McQuillan - we don't think the community is ready for that. Mr. Underwood - Other cemeteries will do double. Mr. McQuillan – yes, but we have decided not to do that. Mr. Underwood – that will be in writing for all the people who buy cemetery plots? Mr. McQuillan – we will do, I am getting over my head here, we will not do double deep, Mr. Underwood – why not it is environmental friendly – Mr. McQuillan – it is, we have talked about it, the feeling was generally speaking that the Americans are not ready for that and we are trying to be as close to what people are use to as possible. We decided not to do it. It is single. Mr. Underwood – I have to ask these questions because I am naive. What are they being buried in? Just the body itself or is there a wooden casket. Mr. McQuillan – probably most often a wooden casket. Yes. Mr. Underwood – sorry I am being morbid but I just have to ask that question.

Bonnie Brimmeier – I was just given this but based on reading the summary of the law and I would be happy to look at the entire act it basically says and this is from 1923 – Mr. McQuillan – I think that one has been overruled. Bonnie – I am at a disadvantage because this is the first that I am seeing it. Just going by what this says just so everybody would know this wouldn't apply to just this type of cemetery but it would apply to any cemetery and it would require a petition n to the courts , it is not an automatic situation where the government would be maintaining it and also it is similar to any other property that has been neglected if you have a house that somebody walks away from we end up cutting the weeds and boarding it up and none of it is a desirable end but it does happen on occasion but I can't say whether this is still good law or not.

Steven Hurdle, 324 Mifflin Avenue, Wilkinsburg – Just to address your issue here that was a 1924 law that I think is still in effect but again I am not a lawyer but there was a 1972 Law that you referenced which says that the title states that a permanent lot care fund must be established for all new cemeteries and burial grounds. This fund should be used for the purpose of care, maintenance and preservation of the cemetery. There is a deposit for that and then it is 15% of your gross intake. So every time someone is buried 15% of the funds go into the endowment fund and then the endowment fund cannot be touched. That is going to be honored. It is interesting to say that this provision does not apply to any church or religious congregation or any association with that. So the fact that they are private cemeteries these are very strict rules for this kind of preservation fund which would be different if it were a church cemetery.

Mayor DeLuca – motion to Table Resolution No. 2011-005.

Mr. Underwood made motion to Table Resolution No. 2011-005.

Mayor DeLuca – is two weeks enough time for you to find out the answers
Bonnie? Bonnie Brimmeier – Oh Yes.

Howard Davidson - I was going to ask the Mayor to announce that we are tabling
for specifically two weeks, that would help us with advertising and the reporters.

Mayor DeLuca – O.K. two weeks.

Mr. Palumbo seconded the motion.

This motion is tabled.

Resolutions

Mrs. Kuhn made a motion to adopt **Resolution No. 2011-006** authorizing the
execution of a Contract between The Municipality of Penn Hills and Hoffman's Boarding
Kennels for Animal Control Services for a two-year period in the amount of \$30,000 per
year.

Mr. Underwood seconded the motion.

Mickey O'Connor – 1095 Maple Avenue – Moe, up or down from the last
contract.

Moe Rayan responded same price.

Mrs. Kuhn – I have several questions on this. In the duties section - has to
capture as many dogs running at large, to hold license dogs for a period five (5) days
after capture, all strays unlicensed and of good health for a period of 48 hours after
which time said dog will be placed or humanely destroyed. Does that mean that they
are only keeping the dogs for 48 hours, then after the 48 hours they can have that dog
destroyed? Moe Rayan replied unfortunately yes. Mrs. Kuhn – Is that the common law
on that? I mean don't they try to take it to a type of Animal Rescue Service to try and
see if someone can try and adopt the dog. Moe Rayan – the period of 48 hours allows
them to try and do stuff like that but most of the institutions do have enough of their own
so therefore the 48 hour period is the limit for them to keep them. Mrs. Kuhn – I guess
that is a little upsetting to me. Letter D – To answer and respond to all calls including
calls referring to road-killed dogs as quickly as possible after receiving said call. Now
as quickly as possible Moe is really a leeway. I mean we are talking about 48 hours
they are going to kill a dog, but yet if there is a dog that is hit on the road and dead they
are saying as quickly as possible and they don't see fit to put in a time. As quickly as

possible is to their discretion I guess. Moe Rayan – We never had any problems in the past with them, they are pretty responsive and again that is one of the reasons to recommend them. They do respond to our requests in a timely manner. We can look into that Mrs. Kuhn as far tightening up the ropes a little bit relative to the time for removal but in the past again we didn't have any problems with them responding.

Mayor DeLuca – I think that is probably just like the same reason as with the deer, Mrs. Kuhn – and that is what my question was, I have seen deer on the road for weeks.

Mayor DeLuca – after a week the State won't pick them up and the garbage will put lime on them. Moe Rayan – actually the State quit picking them up, The Game Commission quit picking them up so it is included in our garbage contract for the garbage company to remove the dead animals and if it is not in a timely manner they will apply lime on them until it is decayed. Mrs. Kuhn – Moe on that same letter D it says to patrol the Municipality a minimum of Five (5) days per week in search of dogs at large, but there is no time frame. Are they saying 1 hour, every day, 2 hours every day, what is the time frame that they would be here? Do we have any record of how long each day they patrol? It does not specify. Moe Rayan – I don't have the specific times but I can get it, our Police Department keeps track of all their activities within town, whether it is a pick up or a call out and so on and I will provide you with that. Mrs. Kuhn – Dispatch will be charged to the Municipality at \$30.00 per call, these calls will be verified in each month's report. Who Moe gets the report? Does that go to your office, does it go to the Police Department, who gets the reports and who checks the reports? Moe Rayan – All the reports goes through the police department to Diane Fitzhenry and she administers the Contract under the supervision of Chief Burton. Mrs. Kuhn – look on page four, letter C – a fee to be determined solely by Hoffman's Boarding Kennels shall be charged to any resident of the contracting Municipality for either: Placing in homes; or, destroying the animal, if the owner is not known, Moe who pays for that? Moe Rayan – I don't have the answer for that Mrs. Kuhn but I can get it for you but I believe all the expenses are paid by the Municipality.

Mrs. Kuhn – then on the last page, letter C – Hoffman's Boarding Kennels agrees to place cages for wild animals on residential property within the boundaries of the contracting Municipality at no charge to the Municipality or its residents. And then it has residents will be charged twenty-five dollars per animal when removed from cages placed on residential property. – first part is saying no charge but then it is saying there is a charge if they do then get the animal? Moe Rayan – Yes.

Mr. Underwood – what happens if it is removed by the resident after the animal gets caught and then the resident lets him out of the cage without paying. Moe Rayan – then they will get an empty cage. Mr. Underwood – charge them ahead of time. Mayor DeLuca - Moe maybe you or Ed could answer this – #6 State Reimbursement Money –

paid to the contracting Municipality will be paid quarterly to Hoffman's Boarding Kennels, 285 Cloverleaf Drive, Delmont, PA 15626, is the State still reimbursing?
Ed – I don't think we are getting any money from the State any more. Mayor DeLuca – is this like an old Contract and it hasn't been changed or anything? Should we review the language and take out stuff that doesn't comply? Mr. Underwood – can we table this Mayor until Bonnie Brimmeier our solicitor has a chance to look at it. .
Mayor DeLuca – yes.

Mr. Underwood made a motion to Table Resolution No. 2011-006.

Dr. Kincaid seconded the motion.

Mayor DeLuca – this motion is Tabled.

Mr. Palumbo made a motion to approve **Resolution No. 2011-007** authorizing the Municipality of Penn Hills to enter into a Lease Agreement with the Municipality of Penn Hills, as Lessor, and Penn Hills Baseball Association, as Lessee for Concession Stand #1 located in Turner-Friendship Park.

Mr. Underwood seconded the motion.

Don Sanker, 780 Long Road – How much is the Lessee? Mayor DeLuca - \$1.00.
Don Sanker – O.K. that is fine.

Mrs. Kuhn –Just to make a statement on this and I think we are going to be doing 2 or 3 for these. This is a way for all of these Associations to make money for the Baseball, Softball, Football and what have you. And they are all volunteers who work very very hard for this. I know this because I was involved with the Football Association for many many years so I just want to commend all of them for all of the work that they do and they need to have that recognition because they do work very hard for the children of Penn Hills.

There being no further discussion the motion was approved by a 5-0 vote.

Mr. Underwood made a motion to approve **Resolution No. 2011-008** authorizing the Municipality of Penn Hills to enter into a Lease Agreement with the Municipality of Penn Hills, as Lessor, and Penn Hills Youth Football Association, as Lessee for Concession Stand # 2 located in Turner-Friendship Park.

Dr. Kincaid seconded the motion.

There being no further discussion the motion was approved by a 5-0 vote.

Dr. Kincaid made a motion to approve **Resolution No. 2011-009** authorizing the Municipality of Penn Hills to enter into a lease agreement with the Municipality of Penn Hills, as Lessor, and Penn Hills Girls' Softball Association, as Lessee for Concession located at Penn Hills Park.

Mr. Underwood seconded the motion.

There being no further discussion the motion was approved by a 5-0 vote.

Mr. Palumbo made a motion to approve **Resolution No. 2011-010** awarding a Contract for the Old Hulton Road Culvert Demolition and Replacement including the Base Bid and Alternate 1 to Fracassino, LLC in the amount of \$62,250.00.

Mr. Underwood seconded the motion.

Mickey O'Connor – 1095 Maple Avenue – This is a bridge that nobody owned until recently right? It is Eddie's bridge. Funding? Mayor DeLuca - It is State. Buy Back Program. Mickey – State Grant Money – Moe Rayan – It is a Buy Back Program, we received \$250,000 in exchange to maintain the bridge from the State. Mayor DeLuca – actually it belonged to the State and now we are taking ownership of it. Mickey O'Connor – They did deny that about 6 years ago. Moe Rayan – I almost forgot how to build bridges.

Mrs. Kuhn – Moe – I looked in the memos that we got and one of them was from Gerry Nosal. It was saying that he had called references and they had spoke very highly of the company and that they have completed many projects involving Culverts, but then it says the reference stated that Fracassino always completes the work within the Contract price and I verify that Hawkins is still in business and we heard that they are filing for bankruptcy but they are just reorganizing. What is that status there? Is reorganizing mean that they went into Chapter 11? Is that this Company that we are awarding this to or am I reading that wrong Moe? Moe Rayan – you are reading that correctly. They reorganized under a new company. Sara Kuhn – but their bonding and everything is in place so there will be no problem with awarding this contract to them if something would go array that we would be alright with giving it to them. I mean that made me a little concerned. Moe Rayan – they would have to meet all the requirements as far as their bonding, maintenance bond and so on before they are given a notice to proceed. They have to submit all their insurance and bond paper work. Mrs. Kuhn –

and I did see that we have I think 17 people that we received proposals from on this. Moe Rayan – yes, it was a busy bid opening day. Mrs. Kuhn – then you are comfortable with this Moe. – Moe Rayan - based on the information that we received from the references and again they have to submit all the performance bonds and so on to the Municipality prior to the notice to proceed is issued to them.

Rick Minsterman – Gateway Engineers – Normally you award the Contract, it is not executed until they submit the performance bond. So they will submit a guarantee with assurity bond that they will complete the project and if for some reason they do not then we would utilize the bond for its full amount of the Contract regardless of how much they have worked in doing the work and forever reason they do not finish the bonding company would come in hire a contractor at their own expense to finish that work. So that ultimately is your protection. By you awarding tonight if they can't produce a performance bond which may be because of the reorganization or for whatever reason then they would forfeit their bid bond or certified check and then you would either re-bid the project or look to the second low bidder. So we wouldn't enter into an agreement tonight even if you did award unless they produced all the necessary documents and the most and biggest one being the performance bond. Mrs. Kuhn – o.k. that is great Rick that is the answer I was look for.

There being no further discussion the motion was approved by a 5-0 vote.

Mr. Palumbo made a motion to approve **Resolution No. 2011-011** amending The Five Year Consolidated Plan and Community Development Budget Year 35 and 36.

Dr. Kincaid seconded the motion.

There being no further discussion the motion was approved by a 5-0 vote.

Dr. Kincaid made a motion to approve **Resolution No. 2011-012** awarding a Contract to Merit Electrical Group, Inc. for the William McKinley Citizen's Center Electrical Upgrades project in the amount of \$139,880.00.

Mr. Underwood seconded the motion.

Mrs. Kuhn – I did notice that we did receive 8 bids but the bids did vary from \$139,000 to \$275,000 when there is that much of a variation I just want to make sure any change orders would be brought to Mayor and Council – is that correct Moe? Moe Rayan – yes that is correct. Mrs. Kuhn – I am always concerned that someone is coming in at a rock bottom bid in order to get the bid and then come in and kill us with

change orders. I just wanted to make sure we would be in charge of those change orders. Moe Rayan – yes.

There being no further discussion the motion was approved by a 5-0 vote.

Mr. Underwood made a motion to approve **Resolution No. 2011-013** awarding a Contract to McRandal Company, Inc. for The Penn Hills Multipurpose Center Bathroom Renovations – Plumbing Construction for all parts of Base Bid A 3; Base Bid B, Base Bid C, and Base Bid D, in the amount of \$53,500.00.

Mr. Palumbo seconded the motion.

Don Sanker, 780 Long Road – just curious what kind of work in a bathroom is required \$53,000 + \$7,000, \$60,000 worth of work. Are we just going to tear the bathroom out and start all over again? I just looked at the previous bid \$139,000 for electrical work, we are looking at buildings that have been around for a long time and they outlive their usefulness. Just Curious what kind of work is being done for \$60,000 in a bathroom? Sara Kuhn – This is the Multipurpose Center and respectfully I disagree on buildings that are of no further use. They also get to a point, just like your home, you have to update it or it goes into disarray and then it becomes an eye sore for the community and it also does not bring anything into the community. Don Sanker – I agree. Mrs. Kuhn - I feel that these are public buildings that have been put up, not by this Administration but by previous Administrations. I don't think it would be to the advantage of the Municipality or the residents to just let things go in disarray to where they become un-useful and become boarded up. I have to say that I do feel that you have public buildings that are to be used by the residents of Penn Hills then that is our job to make sure that they are maintained and brought up to the Codes that they need to be brought up to. Don Sanker – I am not disagreeing with you Sara, my question was what kind of work is being done in a bathroom that requires about \$65,000 - \$70,000 worth of work. Howard Davidson – Handicap Accessibility – Moe Rayan – ADA – it is expensive yes. Don Sanker – o.k. that is all I wanted to ask.

There being no further discussion the motion was approved by a 5-0 vote.

Mrs. Kuhn made a motion to adopt **Resolution No. 2011-014** awarding a contract to Thomas Didiano & Son, Inc. for the Penn Hills Multipurpose Center Bathroom Renovations – General Construction for all parts of Base Bid A 1, in the amount of \$7,850.00.

Dr. Kincaid seconded the motion.

There being no further discussion the motion was approved by a 5-0 vote.

Mr. Kincaid made a motion to approve **Resolution 2011-015** awarding a contract to Three Rivers Electric, Inc. for the Penn Hills Multipurpose Center Bathroom Renovations – Electrical Construction for all parts of Base Bid A 2, in the amount of \$5,920.00.

Mr. Palumbo seconded the motion.

There being no further discussion, the motion was approved by a 5-0 vote.

Mr. Palumbo made a motion to approve **Resolution No. 2011-016** approving the 2011 through 2013 Labor Agreement between The Municipality of Penn Hills and Municipal Employees Organization representing building and office employees and authorizing the proper Municipal Officials to execute same.

Mr. Underwood seconded the motion.

Moe Rayan – Contract negotiations as follows:

The Wage Increase for the 2011 – 2013 is the same as in the expiring Contract 3% - 3% - 3%. Longevity increments are increased by \$10.00 making the new yearly increments \$50.00 instead of \$40.00. In the case of an employee being retired or permanently disabled, the Municipality will buy back a maximum of one-half of the unused sick dates accumulated at \$55.00; in the expiring Contract the days were bought back at \$45.00. If an employee voluntarily terminates, the Municipality would buy back a maximum of one-half of the unused sick days accumulated at \$45.00; in the expiring Contract these days were bought back at \$35.00. Regular full-time employees who have accumulated in excess of one hundred and twenty-five sick time days will be reimbursed at the rate of \$65.00 per day for any unused such excess accumulated days at the end of the calendar year. In the previous Contract employees were paid \$50.00 per day for the excess day. Regular part time employees will receive a 3.0% wage increase for 2011, 2012, and 2013. This is the same increase they received in the prior Contract years. Regular part-time employees will have two additional paid vacation days; Memorial Day and Labor Day. In the expiring Contract regular part-time employees had Thanksgiving, day after Thanksgiving, and Christmas Day as holidays. Regular part time employees shall be entitled to four scheduled working days off at their normal rate of pay for bereavement leave due to a death in the employee's immediate

family. In the past, regular part-time employees were entitled to two scheduled working days off. All the other changes were housekeeping and clarifications.

Jim Carnahan – 201 Jefferson Road – When is the Contract going into effect?
Moe Rayan – if it is approved this evening it will go retroactive January 1, 2011. Mr. Carnahan – that is what I wanted to know if it was going to be retroactive, thank you.

Mickey O'Connor – 1095 Maple Avenue – Where are we at with the residencies.
Moe Rayan – It is still being reviewed by the Court.

There being no further discussion the motion was approved by a 5-0 vote.

Mr. Underwood made a motion to approve **Resolution No. 2011-017** authorizing the appropriate Municipal Official to enter into an amended agreement to The Employee Assistance Program Agreement with UPMC Life Solutions.

Mr. Palumbo seconded the motion.

Mrs. Kuhn – Just for the audience, maybe they aren't familiar with what the Life Solutions are but they are the people that came out during the critical incidence for stress debriefing in 12/6 of 2009. The only question I have Moe is I do think that this is absolutely necessary but on page #2 where it has reimbursement, it has down there that the verbiage says population of 51, a total of \$538.56 for the first year and a monthly rate of \$44.88. Is the \$44.88 for all 51 or is it times 51? Moe Rayan – that is for all 51. Mrs. Kuhn – so for the 51 total it is only charging us \$44.88 a month for 51 officers to have this. Is this correct? Moe Rayan – yes. Mrs. Kuhn – thank you.

There being no further discussion the motion was approved by a 5-0 vote.

Dr. Kincaid made a motion to approve **Resolution No. 2011-018** urging the Pennsylvania General Assembly and Governor of the Commonwealth of Pennsylvania to enact a statewide process to safeguard the economic stability and prosperity of the residents of the Commonwealth by providing the predictability and equity that exist with regard to property ownership in every other state.

Mr. Underwood seconded the motion.

There being no further discussion the motion was approved by a 5-0 vote.

Mr. Underwood made a motion to approve **Resolution No. 2011-019** exonerating the Penn Hills School District Tax Office from the collection of 2010 Real Estate Taxes.

Dr. Kincaid seconded the motion.

Don Sanker – I am assuming these are the uncollected 2010 Real Estate Taxes. Those that are delinquent, which you are now turning over to another agency to collect. Moe Rayan – they are the unpaid and then they will go to Maiello and Maiello to collect. Don Sanker – thank you.

There being no further discussion the motion was approved by a 5-0 vote.

Dr. Kincaid made a motion to approve **Resolution No. 2011-020** awarding a Contract to T. Parke Lawn and Landscaping, LLC for the boarding up of abandoned buildings and/or cutting high grass for 2011.

Mr. Underwood seconded the motion.

Don Sanker – Is there any amount associated with this particular Resolution – to A maximum of, so much per, I don't see a dollar amount? Mayor DeLuca – It is \$175 for boarding up a structure and \$150 for cutting high grass. Don Sanker – thank you.

There being no further discussion the motion was approved by a 5-0 vote.

REPORTS

Mrs. Kuhn – I know that we worked really hard and the School District came in on us with our LERTA and I was just wondering where we are, maybe Howard, maybe not necessarily tonight but maybe just giving Council the updates on what is coming into the Municipality. We all too often make Resolutions, Ordinances, go through all the work of it and we in this case contacted and had a lot of work with the School District to do it. Once it is enacted I just don't want it to go by the way side so I was wondering have we made any attempts in approaching any companies, businesses or what have you done to let them know what we have approved so we are being pro-active in the Resolution that we passed? Howard Davidson – I can tell you briefly that we have followed up by contacting the County and I recently received a letter from the Director of the Department of Economic Development of the County that expresses their willingness to partner up and join us with the LERTA Programs. He simply asked me for a detailed map of our boundaries. So I expect them to follow up and adopt a County portion. We

haven't had any takers yet, so I don't have any good news in that regard but maybe I think it is time for me to write some press releases and maybe ask Patrick to write a story about it – follow up story to encourage people out there as far as the housing part. If they want to build an addition on their house they may qualify under this program if you remember that detail. I don't have any news to report in terms of an applicant, nobody has come in to apply down at the Plum Creek Corridor for example. – Mrs. Kuhn – what I am asking Howard is that we are aggressive in this, I don't want this to be all just paperwork done by Mayor and Council, the School District and the County and that we were all three able to work together to bring it into being and then it just not be aggressively pushed so that we get something from it other than just we made an Ordinance from it. Howard – O.K.

Mayor DeLuca – I just have a quick report. I read in the paper about the McKeesport Municipal Authority that they bought Javisburg Sewer System and Duquesne's Sewer System and the reason why they were doing it was Duquesne was looking at it for them to upgrade their sewer system. They were looking at a \$14million bill to upgrade their infrastructure, McKeesport is looking at a \$16 million infrastructure improvement so with this I think that most of the Municipalities in Allegheny County are getting to the system where Penn Hills has already went through where we upgraded our sanitary system and hopefully we get some good news toward the end of this year where we are in the maintenance phase of it, but I think that this article here this is what you are going to see in the future, more Municipal Authorities buying out other sanitary systems which would go along with ALCOSAN'S Plan probably in the future they would like to see five authorities controlling all the sanitary systems. This is just to show the public that infrastructure improvement for the sewers is very costly and a lot of these Municipalities are going to get hit with what Penn Hills got hit with.

Mr. Underwood – I think we should strongly look into the legality and what we may incur with the Marcellus Shale Oil Drilling to protect our area and our citizens and maybe come up with a Resolution to deal with that. Mayor DeLuca – I think that was on the Discussion Session, so we will have it for the next meeting. Mr. Underwood – O.K. thank you. Mayor DeLuca – Also Howard if you could get this started on the Blight, I would like to start some brain storming some ideas that I have, I would like to see if we could get a couple days with Stacy Rullo here and have our Magistrate here, Code, Yourself, Moe and just bring some ideas and what we can do legally. – Howard Davidson – well that was one of the things on the Discussion Session. Mayor DeLuca – I know I just want to get some dates. Howard – Do you want me to put some possible dates together then? Try to get the Library Room? Mayor DeLuca – yes just get some dates and we will throw around some ideas, because next meeting we will be talking about some ideas I have. I would like to get some more ideas. Maybe we can see what Stacy can do on the LERTA Program.

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Mayor DeLuca – we are going into recess – litigation – everyone leave the room and come back when we are finished.

ADJOURNMENT

Mayor DeLuca entertained motion to adjourn.

Dr. Kincaid made a motion to adjourn.

Mr. Underwood seconded the motion.

Meeting adjourned at 9:44 P.M.

EXECUTIVE SESSION

Personnel

MAUREEN M. SORCE
MANAGER'S SECRETARY

DATE