

## **JUNE 4, 2012 COUNCIL MEETING MINUTES**

**The June 4, 2012 Council Meeting was called to order at 7:30 P.M. in Council Chambers at the Municipal Building. Mayor Anthony DeLuca presiding.**

### **APPROVAL OF AGENDA ITEMS**

**The Agenda will stand as presented. Will you please stand for the Pledge of Allegiance?**

### **ROLL CALL**

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

**Also present were Manager Rayan, Planning Director Davidson, Engineer Minsterman, Solicitor Alexander, Finance Director Schrecengost and Secretary Sorce.**

### **APPROVAL OF MINUTES**

**Dr. Kincaid made a motion to approve the Minutes for June 4, 2012.**

**Mr. Underwood seconded the motion.**

**Mayor DeLuca abstained, he was absent from meeting.**

**There being no further discussion the motion was approved by a 4-0 vote.**

## **EXPENDITURES**

**Mr. Palumbo made a motion to approve the Expenditures: Approval of Warrants dated June 4, 2012. Journal Vouchers 0 - \$0.00, C.D. Requisitions – 11 - \$91,118.41, EECBG Requisitions 0 - \$0.00, Master 21312 – 21445 in the amount of \$1,484,185.25, Grand Total \$1,575,303.66.**

**Mr. Underwood seconded the motion.**

**Mrs. Kuhn abstained from Check #21414, yes on all others.**

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

## **RESOLUTIONS**

**Mr. Underwood made a motion to approve Resolution No. 2012-037 recommending conditional use approval to School House Finance, LLC., for the installation of six temporary classrooms at 200 Penn School Drive as described in their application.**

**Mayor DeLuca – motion fails for lack of second.**

**Howard Davidson – Mayor we will have a Zoning issue with this we need to make an affirmative, Mr. Alexander can correct me if I am wrong, we need to make a decision within a time period on this application.**

**Craig Alexander – where are we in the time line Howard?**

**Howard Davidson – I think we may have a month to spare but we will have to take action before a month is gone for sure, there is no two or three months, there is probably a month left.**

**Craig Alexander – o.k.**

**Howard Davidson – unless the applicant would voluntarily ask for an extension of time, we have a time limit to make a decision.**

**Craig Alexander – well we are not up against a time limit right now so we don't have to ask for the time waiver at this point.**

**Howard Davidson – I wanted to point it out that you probably will have to put it on your mid-monthly Agenda. If there is something you need me to do, let me know.**

**Mr. Underwood – why is it so tight Howard?**

**Howard Davidson – the State puts a time limit on an application, the application has to go in front of the Planning Commission, we have to advertise and post, that takes time, it goes in front of the Planning Commission and now it is in front of Council.**

**Craig Alexander – the Municipalities Planning Code requires action on any site conditional use application things like that within a certain amount of time and from what I am hearing, we are not up against that wall just yet.**

**Howard Davidson - well I will double check it tomorrow when I come to work I'll get the exact date that is a dead line for us and make sure I talk to you about it.**

**Craig Alexander – we will want to take action in some form or another when we know when that time frame is because if it is Council's pleasure to approve it then obviously you want to do that but if it is Council's pleasure not to you don't want to be up against what is called a deemed approval so that your inaction constitutes an approval. We can check out the time lines tomorrow, we have another meeting in two Monday's so we shouldn't be up against time crunches.**

**Howard Davidson – can we announce that now that this item will be, it will save me an advertisement , if we announce it now that this item will be on that Agenda two weeks from today.**

**Dr. Kincaid – question. I think I heard the Attorney say an inaction constitutes an approval, I don't understand that.**

**Craig Alexander – if you don't act within the time frame that you are required to act, it is called a deemed approval.**

**Dr. Kincaid – by whom?**

**Craig Alexander – by this board. The courts would file an application for deemed approval and the courts would rule that it has been approved.**

**Dr. Kincaid – so otherwise they would overrule, override our action.**

**Craig Alexander – only your inaction. You will make a decision one way or another.**

**Dr. Kincaid – we just did.**

**Craig Alexander – no there wasn't a second. It failed per lack of second.**

**Dr. Kincaid – thank you sir.**

**Alan Schuker – I just wanted to be recognized in this matter at this time. I am Counsel for the applicant here and with regard to a conditional use approval and we do have a court reporter here typically there would be some type of opportunity for the applicant to answer questions and things of that nature and to move matters into evidence and if we are not going to do that this evening I would just want to be sure that we have that opportunity to do that because if you would ultimately vote no on this we would have the right to appeal at court and we would want to make sure we had an opportunity to create a record so I guess what I am asking is if we are not going to be taking this up this evening will we be taking it up in two weeks and will we have the opportunity at that time to create a record. This is a**

**time sensitive matter for my client because what we are looking at doing is getting these temporary classrooms installed over the summer period when the students would not be in session and so obviously there would be a time window to be able to do that and at this point we did have a recommendation of approval from the Planning Department and from the Planning Commission and so it is a little surprising to come tonight and to hear and not even getting a second to get the thing off the table and so I would just like to know what we can expect in going forward.**

**Craig Alexander – do you know when you submitted your application? Do you know what the time frames are for approval?**

**Alan Schuker - well I am thinking it is 60 days for conditional use but I will have to check the MPC tomorrow morning myself, but I think it was April 26 is what I saw here as when we submitted the application . We had always anticipated that you were going to be moving forward this evening. April, let's see here, the County received it on April 26, April 23 was the day the owner signed it so it was either resubmitted the 23<sup>rd</sup> or the 24<sup>th</sup> of April, I would think.**

**Dr. Kincaid – my query is point of order. Is this discussion in order? All due respect Attorney but the Council has already taken action or inaction but you are addressing an issue that seems to me to be mute. So I just need to have an explanation. I am calling for point of order.**

**Mayor DeLuca – so for lack of second isn't that like action.**

**Mrs. Kuhn – I think lack of second means it is not up for discussion, am I correct?**

**Craig Alexander – that is absolutely correct. It is basically no action at all.**

**Alan Schuker – under the Sunshine Law any matter that is on the Agenda should be matter for the Public to comment or to address and I understand that you have not taken any action this evening but I am**

**trying to get some clarity as to when because we clearly should have an opportunity that is why we have a court reporter here to place a case on the record and I am wondering when that would be?**

**Craig Alexander – Alan there is a meeting in two weeks we will know tomorrow what our time frames are on this and I can confer with you tomorrow to find out whether the meeting in two weeks is the last opportunity to deal with this before the time frame expires.**

**Alan Schuker – o.k. thank you.**

**Mrs. Kuhn made a motion to approve Resolution No. 2012-038 awarding a contract to Huckstein Mechanical Services, Inc. for the maintenance of refrigeration, boiler, and HVAC equipment.**

**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 2012-039 authorizing the execution of an Agreement between The Municipality of Penn Hills and The Penn Hills School District for Tax Collection Services.**

**Mr. Underwood seconded the motion.**

**Mrs. Kuhn – If we look on the second page of it we have some information, Number 1 that the Municipality shall reimburse the District a flat fee of Thirty Thousand Dollars (\$30,000), I am assuming that is annually, is that correct Craig?**

**Craig Alexander – that is my understanding.**

**Mrs. Kuhn – and that would be for the collection of Municipal Real Estate , Mercantile, LST ad BPT. Now we had previously and I don't know if that was changed prior to this agreement, we were paying for an employee at the tax office, am I correct?**

**Craig Alexander – I thought you split the fee.**

**Mrs. Kuhn – I don't know Moe, I thought we paid for**

**Moe – we were paying for 1-1/2 employees.**

**Craig Alexander – 1-1/2, right.**

**Mrs. Kuhn – right that is what I thought it was so now with this new one Moe maybe I should address this to you I apologize Craig, now with this new one we are not paying that fee we are just paying a flat fee of \$30,000, is that correct?**

**Moe – that is correct. There is a \$30,000 flat fee for the collections of the items noted under item Number 1 and it is paid quarterly.**

**Mrs. Kuhn – and I do see on Number 2 we have that we shall reimburse the District on all postage, now is that just for the taxes that they send out for us, that wouldn't be for their own, is that correct?**

**Moe – that is correct. That is for our real estate vouchers they send out.**

**Mrs. Kuhn – and Number 3 the Municipality shall reimburse the District for all banking costs/fees or software costs attributable to the collection of taxes due to the Municipality, so we are only paying for the software that pertains to the collection of our taxes not of the software that would be in for the collection of their school taxes, correct?**

**Moe Rayan – that is correct.**

**Mrs. Kuhn – that would be separate that software.**

**Moe. – yes.**

**Mrs. Kuhn – and we are not to be charged for any of the utilities at the office, correct?**

**Moe – that is correct. The old agreement, if this one goes into effect, the old agreement will be voided and this one will take place.**

**Mrs. Kuhn – o.k. because I was going by, I was making comparisons Moe, so I just wanted to make sure I was correct in the changes, thank you.**

**Moe – that is correct. Thank you.**

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

#### **INTRODUCTION OF ORDINANCES, RESOLUTIONS, ETC.**

**Mr. Palumbo – I would like to see an Ordinance adopted for people throwing their grass into the street, also maybe a citation being involved in it since it is littering. I am getting a lot of complaints about people leaving their grass in the street and then ultimately it ends up in the sewer.**

**Dr. Kincaid – My comes under the heading of query – it has to do specifically with our school crossing guards. It is a question that maybe somebody can answer. Relevant to their time on duty I see them and I am sure everybody else sees them and it appears that we have quite a few of our school crossing guards using tobacco primarily smoking while on the job. I don't know that it sets a good example or not for our students or our Community so my query is what is the rule regarding that?**

**Mayor DeLuca – I don't think we have a rule on that.**

**Dr. Kincaid – Maybe it is time we get a rule on that.**

**Mayor DeLuca – is that a Union thing that we have to take up with?**

**Moe Rayan – I believe so. I am not sure we will have to check into that.**

**Craig Alexander – are the school crossing guards in a union?**

**Moe Rayan – yes.**

**Craig Alexander – I think that that is something that needs to be bargained for then.**

**Dr. Kincaid – thank you very much.**

**Mayor DeLuca – we will look into that.**

**Dr. Kincaid – O.k. thank you.**

**Mayor DeLuca – we will go into an Executive Session for personnel matters.**

**ADJOURNMEMNTS:**

**Mayor DeLuca entertained a motion to adjourn.**

**Dr. Kincaid made a motion to adjourn.**

**Mr. Underwood seconded the motion.**

**Meeting adjourned at 7:46 P.M.**

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**Maureen M. Sorce  
Manager's Secretary**

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**Date**

