

## **MAY 13, 2013 COUNCIL MEETING MINUTES**

**The May 13, 2013 Council Meeting was called to order at 7:30 P.M. in Council Chambers at the Municipal Building.**

### **APPROVAL OF AGENDA ITEMS**

**Mayor DeLuca – Good evening we will call this meeting to order. The Agenda will stand as presented. Will you please stand for the Pledge of Allegiance?**

### **ROLL CALL**

**Mayor DeLuca**

**Mr. Underwood**

**Mr. Palumbo**

**Mrs. Kuhn            Absent**

**Dr. Kincaid           Absent – Death in Family**

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

### **CITIZENS TO ADDRESS COUNCIL**

**Parthena Adams – Good evening everyone. I sent a letter to Mr. Moe the General Manager so that you guys could hear my concerns. I live at the end of Deerfield Drive and it seems to be a real issue and it has been since 2008 because my home has been broken into and people use it as a cut through and I have gone back and forth to the Council Department, the Planning Department asking them what the process and procedure so that I could buy the right of way. And they gave me a run around because they said I needed a lawyer and I needed a survey so I talked to a lawyer, paid him some money and all he has been doing, I shouldn't be saying all, he has been trying to contact your Solicitor so he could find out the process and he charges me \$20.00 to \$30.00 every time he makes a phone call, every time he sends out a letter and I told him this is nickel and diming me I need to**

**know what process to go through and I talked to the General Manager and he said to talk to you guys and request that you give up your rights to the street, the right of way. When I bought the property there are trees that section it and cuts it off so when you drive down the street you run directly into the tree but kids and people can walk on the side of that and go all the back and then my property is open and it is a big problem because there is a court out there it use to be a tennis court and my basketball hoop is on it and the kids think they can come back there and do anything. So I would like to ask if you would give up your right of way. I know that I would have to move my property line over I am willing to do that I will be paying more taxes but I don't care I need this problem resolved.**

**Mayor DeLuca – Howard what is the zoning on the property.**

**Howard Davidson – I have looked at the Maps and it doesn't look like the Municipality has any particular interest in this right of way because she is at the dead end. I don't know whether she has approached the Nemic family, have you approached the Nemic family?**

**Parthena Adams – my neighbor, yes.**

**Howard Davidson – her neighbor on the other side would be affected and then her neighbor has a piece of property which the only access to that property is this right of way. I think the issue here is the Municipality of Penn Hills has no particular interest it is just these two families. These two families on the other hand probably are looking at a lot of legal fees, survey fee and some money to go through the legal steps to have this right of way vacated. So these situations sometimes come to a stale mate simply because of that reason sometimes people might simply plant a garden or just use it as open space but the bottom line the Municipality has no interest and if she wants to go through the steps she did the right thing by calling a lawyer and she ran into her first problem here lawyers cost money. I think if they prepared an Ordinance and came in front of you and did all the legal stuff to vacate this right of way this Council would say well we don't have any interest in this right of way it is o.k.**

**Craig Alexander – is this what we commonly call a paper street?**

**Howard Davidson – it is a recorded public right of way which means that this makes it more complicated because it is not just the property owner across the street it is anybody in the recorded plan they have an interest in this right of way.**

**Craig Alexander – I understand that it is a recorded right of way but it is an unopened street. It has never been opened.**

**Howard Davidson – I haven't walked it. I have looked at maps. I can show you aerial views of it; the only thing that happens at the end of this right way is a driveway to her house and a driveway to her neighbor's house. It is not a section where Public Works plows and salts for example.**

**Craig Alexander – and on the recorded right of way is it actually laid out as a street?**

**Howard Davidson – yes.**

**Craig Alexander – but it has never been open?**

**Howard Davidson – and it doesn't end with a cul-de-sac it just ends.**

**Craig Alexander – I understand, what I think may be the case is that Penn Hills when Howard says we don't have any interest I don't think we have any legal interest in the roadway in the paper street, what happens when a road there are two things I am going to talk about because Howard just hit the second thing being in a recorded plan but there are two things about a roadway that is laid out and unopened for a period in excess of 21 years. If that roadway appears on a plan or a drawing or some document and is dedicated for public use to a Municipality like the Municipality of Penn Hills and it is not opened for a period of 21 years the public i.e. the Municipality loses whatever interest it might of had in that roadway and the property itself reverts to the property owner on either side to the center line.**

**So it is my opinion that Penn Hills doesn't need to vacate that roadway because it is already vacated per se by operation of law because we never accepted it and opened it within that 21 year period. So that helps you with us. Where you still have a problem and I don't know if you can overcome this, is what Howard just mentioned this is in a recorded subdivision so even though the public has lost its right to traverse over that right of way every single property owner within that recorded subdivision retains what is called a private contractual right over the right of way. One of the members of that subdivision if they wanted to could open that road at some point because it is on that recorded subdivision but that likely would never happen but in the State of Pennsylvania mere non use isn't sufficient to abandon a right of way there has to be some affirmative action that shows an intent to abandon. For instance if you were to construct a fence over that property because that is your property subject to a right of way and that fence stayed there for a period of 21 years then those contractual private rights of way would be lost. But you have no problem with us there is no public right of way over that property anymore because it has never been opened. But you have a problem with those people that are in that recorded subdivision plans.**

**Parthena Adams – o.k. I looked at that subdivision and the only two names I see on there are Moray and Nemic and I am the Moray because I bought the property from him and Nemic is my neighbor.**

**Mayor DeLuca – so what process does she have to do to try and get that land?**

**Craig Alexander – my opinion is that she already owns the land to the center line of that road o.k. but anyone in that recorded subdivision has the right to cross over it so if it is only you and Mr. Nemic or whatever his name is all he has to do is consent to extinguish the right of way. I am just telling you that without any information this isn't legal advice because I really don't know who is on the recorded plan, but if only you two are it is simple.**

**Parthena Adams – o.k.**

**Mayor DeLuca – So basically she has to have her lawyer I guess contact your neighbor and if he consents to it then it is between them and the Municipality is out.**

**Craig Alexander – the Municipality is out, you don't even have to use your lawyer if you don't want to you can go and talk to your neighbor and save yourself \$30.00. That is pretty cheap for a lawyer you know.**

**Moe Rayan - give me that lawyers name.**

**Parthena Adams – thank you.**

**Mayor DeLuca – you are welcome. Next we have to speak is Sherry Matthews.**

**Sherry Matthews – thank you for letting me be here today. I brought some pictures what is happening is that the neighbors across from me this has been an ongoing issue over the year's just one thing after another and now what they did recently they attached a basketball hoop to one of the utility poles. I brought pictures to show you and since they put this basketball hoop these young men are going on and off my property and since they have been over there my property has deteriorated. I am going to bring you some pictures so you can actually see it. The one picture shows how they attached a basketball hoop on the utility pole, the other picture is the distance between the pole and my property and how there is not a lot of room so when you have several young men six or seven especially if they are not that good at playing basketball the ball is always going on my property and they are hanging out on my property and they are leaving trash and not picking it up, I have to put out money in order to restore some of the damage that has been done. I took some pictures for example this pack of cigarettes obviously they are smoking on my property and then when I pull up to get into my garage I mean they actually do not want to move they actually look at me like the nerve of you I am sitting in my car waiting for them to move off my property and they just look at me a while and then I am just so frustrated I can't even talk about it. My hedges have holes in them. I tried to take**

**these pictures when they weren't there because I don't want to cause anymore problems. I want to know are you aloud to have basketball hoops.**

**Craig Alexander – The utility companies do not permit that.**

**Sherry Matthews – the cable is on there for one thing and they are out there and summer is coming I know it going to be like a hangout and some of us do work. I get up 3:30 in the morning to go to work and they are out there playing basketball and like I said it is on that pole and there is cable on there and it could interfere with our cable services. Like I said I don't really communicate with them I have tried over the years and it gets nowhere. I would like for that to be removed and I would like an authority to tell these neighbors that they are not allowed to trespass on my property I have had signs up and they have taken them down and I don't particularly want signs up on my property. It doesn't look very appealing. I would like these people to be arrested if they are trespassing. They do not have permission to be on my property and that is a violation and I am really getting sick of them. This has been going on for nearly eight years and they don't take any accountability for their actions. Just because they don't have any pride in their own property I am just really frustrated actually.**

**Mayor Deluca – I can see that. What we can do. I have talked to the Manager. We are going to call Duquesne Light and have them take off the basketball hoop off of their pole because you are not allowed to have something like that on their pole. Contact Chief on trespassing to see what the law is on that.**

**Moe Rayan – you just have to call 911 when these kids are on your property to dispatch a vehicle.**

**Sherry Matthews – that does not do any good. This has been going on for 8 years. They come out and the associates at 218 Dorothy Drive they don't take any accountability, they just say these are not my children, I don't know who these kids are and then the police come out and they are frustrated, I am telling you I have been**

**doing this for years it gets nowhere. I am sure the police with everything going on they have enough to do, they need to be held accountable. They need to be fined or something but this business of calling the police it is not going anywhere.**

**Moe Rayan – I can't fine them. It has to be the police when they are caught in action on your property. They have to make the arrest; they have to see them on your property when it happens so I am suggesting that you contact the police as soon as you see something some type of action that is going to lead to them trespassing on your property. I am a civilian I can't do anything no matter what position I have it has to be through the authorities of the police. They are law enforcement folks and they have to do that. I can't do anything about that. It has to be through the police department when you contact 911 but like the Mayor was saying we can talk to the Chief and I have already talked to the Chief about that to perhaps increase patrol in that area. I don't know if you noticed that or not I know you work different hours at the hospital I believe from the last time we met, but the Chief is aware of that and he did send an e-mail out to the Sergeants and the Lieutenants to increase the patrol in that area.**

**Mayor DeLuca - let me ask you this is it mostly when they are on your property is when they put that basketball hoop up?**

**Sherry Matthews – yes that is when it increased and when the trash increased.**

**Mayor DeLuca – o.k. so if we get the basketball hoop down from the pole chances are they won't be hanging out on your property.**

**Sherry Matthews – it may definitely make an improvement.**

**Mayor DeLuca – if they try to put it back up if you call the Manager's Office again so we can let Duquesne Light know so we will have them come and take it down so every time they put a basketball hoop up we will just continue to take it down.**

**Sherry Matthews – isn't it some kind of violation?**

**Moe Rayan – the property itself belongs to Duquesne Light, I will contact them tomorrow and then find out the procedure and give them the address and so on.**

**Sherry Matthews – what is your name sir.**

**Moe Rayan – my name is Mohammed Rayan and I am the Municipal Manager.**

**Craig Alexander – Duquesne Light if they continue to put a basketball hoop on their electric pole they may choose to take some action against those folks too. They would have the authority to do that.**

**Gary Underwood – the question I have is there are three basketball hoops, one portable that is at the edge of the driveway right on the street where there is a car parked in the driveway and there are two that are apparently ruined basketball portables that are further toward the house is this a relatively new one that was just put up within the past three days?**

**Sherry Matthews – no this one was put up about three weeks ago when the weather started getting better they put it up and they have this car, the car actually it is a disabled car but they moved it into their driveway.**

**Gary Underwood – is it white?**

**Sherry Matthews – no it is green, it is green a large Oldsmobile and it has been on the street for years. They can't even drive it and they moved it into the driveway but all the other kids on the street they have basketball hoops and they do it in their driveways which are permissible.**

**Gary Underwood – even if they are at the edge of the property and playing on the street correct me if I am wrong, it is illegal, they cannot do that.**



**Sherry Matthews – they cannot do what?**

**Gary Underwood – they cannot put a portable or any basketball hoop right at the edge of their property and play on the Municipality street.**

**Sherry Matthews – well they do that.**

**Garry Underwood – well that is part of it. In one of your pictures I just happened to see that you just passed out there is at least a couple of cars that are parked on the wrong side of the road. Your street if I believe and it can be corrected in the paper work you cannot park on either side of that street no car whatsoever. It has to be parked on the person's premises not on the street. So when you are parked illegally on the other side going the opposite direction that is a violation. Also you have a crime watch group. Has that been helping you?**

**Sherry Matthews – I don't even know of them. Can you address that car situation with them because there has been times that there have been several cars they have gotten better because we have addressed it several years ago they were actually blocking me from getting into my driveway, that is a very narrow street and sometimes they have those SUV's and they would block and I would have to swing into my driveway. One time I actually damaged my car trying to get into my driveway.**

**Gary Underwood – yes I noticed it is a narrow street. It is a violation for anybody on that street whether you are parked on the correct side or the wrong side of the street.**

**Sherry Matthews – are you willing to address that with them?**

**Gary Underwood – that is up to the Police.**

**Mayor DeLuca – what we will do is we will talk to the Chief and tell them to send a Patrol down there and take a look to see where the cars are so if they are parking incorrectly to make sure and issue the**

**tickets and we will talk to Duquesne Light to make sure they take down the basketball hoop from the pole.**

**Sherry Matthews – I want to address that this is a safety hazard because the street is very narrow and when they are all out there sometimes cars drive relatively fast and still it is just the fact that all these kids are out there and you don't really see what is out there unless you come along the curve and if you are driving at a certain speed somebody can actually get hurt.**

**Mayor DeLuca – yes we will talk to the Chief.**

**Sherry Matthews – do I need to be in contact with anyone as a follow-up?**

**Moe Rayan – I will talk to the Chief and contact Duquesne light and then probably the Chief or someone will take action. Once he reports back to me I will contact you.**

**Sherry Matthews – do you have my address?**

**Moe Rayan – yes.**

**Sherry Matthews – I appreciate any help you can give me; I am really trying not to cause any more problems with getting into a disagreement with them. That is why I game here.**

**Moe Rayan – anytime you feel uncomfortable you have to dial 911 there is no small call you have to call 911 no matter what you must contact 911 please.**

### **APPROVAL OF MINUTES**

**Mr. Underwood made a motion to approve the Minutes of April 15, 2012.**

**Mr. Palumbo seconded the motion.**

**There being no further discussion the motion was approved by a 3-0 vote.**

### **EXPENDITURES**

**Mr. Palumbo made a motion to approve the Expenditures of May 13, 2013, C.D. Requisitions, 19 - \$15,628.37, Master – 24255-24517 - \$1,965,644.91 making a grand total of \$1,981,273.28.**

**Mr. Underwood seconded the motion.**

**There being no further discussion the motion was approved by a 3-0 vote.**

### **RESOLUTIONS**

**Mr. Palumbo made a motion to approve Resolution No. 2013-026 awarding a Two Year Contract to Quality Services Incorporated for Janitorial Services at various Municipal Facilities at a Total Cost of \$95,809.20 (Annual Cost of \$47,904.60).**

**Mr. Underwood seconded the motion.**

**There being no further discussion the motion was approved by a 3-0 vote.**

**Mr. Underwood made a motion to approve Resolution No. 2013-027 awarding a Contract to Reinhart Food Service for food products for The Home Delivered Meals Program for One Year with the option to renew for One Year.**

**Mr. Palumbo seconded the motion.**

**There being no further discussion the motion was approved by a 3-0 vote.**

**Mr. Palumbo made a motion to approve Resolution No. 2013-028 authorizing the submission of The Consolidated Annual Performance**

**and Evaluation Report to The Department of Housing and Urban Development.**

**Mr. Underwood seconded the motion.**

**There being no further discussion the motion was approved by a 3-0 vote.**

**Mr. Underwood made a motion to approve Resolution No. 2013-029 authorizing an Agreement with Richard K. Mahone and Heather Mahone for a deck being constructed within a Sanitary Sewer Easement at 321 Wilson Drive.**

**Mr. Palumbo seconded the motion.**

**Mayor DeLuca – I just have one quick one Moe, I see we televised the sanitary line so the sanitary line is good not just that portion but the entire portion?**

**Moe Rayan – that is correct. The area was televised in accordance with the Consent Order and Agreement with the DEP and they just reviewed it again prior to providing recommendation to approve it and at this point today the sanitary line is sound and the area surrounding the line itself is also sound.**

**Mayor DeLuca – that goes for the next Resolution as well, I have seen the memo but I don't want them to spend a lot of money and then next year we will be tearing them up.**

**Moe Rayan – at this point the review indicated that there were no problems with the lines.**

**There being no further discussion the motion was approved by a 3-0 vote.**

**Mr. Palumbo made a motion to approve Resolution No. 2013-030 authorizing an Agreement with Michael P. Mulaski Construction within a Sanitary Sewer Easement at 222 Marshall Drive.**

**Mr. Underwood seconded the motion.**

**There being no further discussion the motion was approved by a 3-0 vote.**

**Mr. Palumbo made a motion to approved Resolution No. 2013-031 authorizing The Execution of Agreements(s) with The Allegheny County Department of Human Services/Area Agency on Aging to provide Services and Programs to Senior Citizens in the Total Amount of \$239,312.00 for the period of July 1, 2013 through June 30, 2014.**

**Mr. Underwood seconded the motion.**

**There being no further discussion the motion was approved by a 3-0 vote.**

**ADJOURNMENT**

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

**Mr. Underwood made a motion to adjourn.**

**Mr. Palumbo seconded the motion.**

**The meeting was adjourned at 8:02 P.M.**

---

**DATE**

---

**MAUREEN M. SORCE  
MANAGER'S SECRETARY**