

JULY 15, 2013 COUNCIL MEETING MINUTES

The July 15, 2013 Council Meeting was called to order at 7:40 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

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

Also present were Secretary Sorce, Planning Director Davidson, Solicitor Alexander, Water Pollution Director O’Grady, Gateway Engineer Minsterman, Controller Futules, Public Works Director Nosal and Code Enforcement Director McCafferty.

CITIZENS TO ADDRESS COUNCIL

Mayor DeLuca – do we have a spokes person for Suncrest Drive.

Yvonne Rollins – 237 Suncrest Drive – the residents were not notified that you were changing that area to a Commercial Area by allowing vehicles to be parked on our streets such as used cars, trucks even boats. This causes a problem on the street. It causes more traffic and more people to view the used vehicles and other merchandise. It blocks the other people coming into the area because of the boats and trucks and tow trucks being parked on both sides of the street. If you are coming up and someone wants to go down there is no room for either person to get past. Sometimes those viewers parked on the street blocking us completely to our homes. And as taxpayers we feel we are being taken advantage of by letting this continue to be in the neighborhood. Not only that they are there all hours of the night sometimes it sounds like they are throwing bombs in the area. Last night one went off around 12:00 awaking you. I am retired I don’t have to go to work but there are other people in the area that do have to get up and go to work. We would appreciate it if you as a Council would see that these things are removed from our streets so that we can have the freedom of our streets what we are paying taxes for. Thank you.

Mayor DeLuca – well real quick the Manager was looking into this, our Police Department served a notice of intent to evict the resident that lives at that house and also Code Enforcement has several complaints filed. John McCafferty can you please come up to the microphone?

John McCafferty – Code Enforcement Officer – we have had complaints on this particular house since 2010. We have had him in court several times and I have new violation notices sent to him and charges filed and we are waiting for a hearing date on both the owner and the tenant. The tenant will clean up and then he will bring back a lot more junk and that is what has been happening. I do have charges filed and we are waiting for a hearing date.

Mayor DeLuca – when you do get a hearing date can you let Council know so we can know what is going on with the property?

John McCafferty – yes.

Mayor DeLuca – so we have the charges going before the Magistrate and then I guess the owner of the house is going to evict him from the house.

Yvonne Rollins – that is what happened before it cleared up and then he came back. It seems like your word means nothing to this particular person or persons.

Mayor DeLuca – the owner is going to evict him. The Police hand delivered it. I have the police report here.

Yvonne Rollins – the noticed has been delivered.

Mayor DeLuca – yes it was June 21.

Yvonne Rollins – that has past.

Mayor DeLuca – I know but (how long does it take before notice of eviction)?

Mr. Alexander – did you file an eviction with the local magistrate?

Mayor DeLuca – no this is the owner of the property filed it against the renter.

Mr. Alexander – who is the owner?

Mayor DeLuca – John, who is the owner there?

John McCafferty - Casey Montgomery is the owner and that eviction notice was delivered on their behalf by the Penn Hills Police and they are filing charges with the Magistrate to have him evicted now. They gave him a 10 day notice and he has ignored that and so they are filing charges with the Magistrate.

Mr. Alexander – let me tell you how the process works. Unfortunately until there is an Order of Court that physically evicts somebody the tenant still has the right to remain in the property even when they are in breach of the lease. So what has to happen is that the landlord has to go before the local Magistrate and ask for possession and present the lease and show the Magistrate that the tenant is in violation of the lease. If the Magistrate believes the landlord the Magistrate rules in favor of the landlord and the tenant has ten days to leave the premises or file an appeal to the Court of Common Pleas. Provided that no appeal is filed to the Court of Common Pleas then the landlord would have to go back to the Magistrate and would have to get what is called a Writ of Possession and a constable would go out with the landlord and they would post that Writ of Possession on the property and then the tenant has an additional ten days to vacate the property and if the tenant doesn't vacate the property in those ten days then the police or the constable or whoever can physically evict the tenant from the property. But you can't do that until you get that Writ of Possession from the local District Justice.

Yvonne Rollins – I have even noticed that they are using empty houses where people have moved out to park their vehicles. The streets are to be used for taxpayers and people coming and going through. That is illegal to park on the streets with those vehicles. If Penn Hills needs the money, fine and get the money and put it in the Treasury Department and use it somewhere else. I don't know if any of the other neighbors have anything to say.

Mayor DeLuca – if you could come up to the mike please.

Alberta Howard – 262 Suncrest Drive – Good evening, I was the one that wrote the letter to Council pertaining to this problem. We have had this problem for some time and like you said it takes time to get him out of there. What are we going to do about the cars, the boats, the trucks and anything he gets his hands on? He has a business that he is using our street. Sometimes you can't even go down the street, I have seen people come and literally turn around because they cannot go down the street because this man is working on cars and trucks and trailers. Now he has at 261 Suncrest, that house is empty, he has a boat there, he has a trailer there, and he has a car there. Now Code Enforcement was there this morning and I saw them but they never went to 261. He has no right to park there. This is somebody else's property. This is supposed to be a residential area. He is using it for Commercial and this is not the first time we complained, we have been complaining, complaining, all these neighbors are here, raise your hands. They are here because this is what we have been putting up with.

Mayor DeLuca – are there any other houses vacant where he is using?

Alberta Howard – oh yes I have that on the list too. There is another house that is at 273 but that is a different story there. There is grass there that is growing as tall as I am. That house has been empty. No one has come to cut the grass, there are rats running all over the place. They are smoking reefer in there, next thing you know we

are going to have a fire. There is a lot going on and it needs to be addressed. We are kind of fed up with it now because we have been back and forth and back and forth and nothing is happening.

Mrs. Kuhn – excuse me. Just to clarify at 261 Suncrest you are saying that he is actually working on vehicles and running a business and it is residential?

Alberta Howard – no he is parking in the driveway and outside of the house on the street.

Mrs. Kuhn – but is he doing work there.

Alberta Howard – what he does is he takes them from 261 and takes them to his house. He parks them there until he works on them. He even has for sale signs on cars. People are coming up literally just like they are going to a parking lot looking at cars and boats and stuff and whatever stuff he is selling over there.

Mrs. Kuhn – well as far as the legal part of having the people evicted they are not allowed to have a business without a home occupancy permit, correct?

Mayor DeLuca – you are not allowed to run a business out of your house unless you get a permit.

Mrs. Kuhn – right. So that should be relatively easy to address without going through the long process. That seems to be two different items, isn't it?

Craig Alexander – it is absolutely.

Mrs. Kuhn - right so we have one item where we do have to go through the long process of having them being notified and going to the Magistrate and what have you but if he is actually running a business at 261 Suncrest then that should be able to be addressed through the Municipality.

Alberta Howard – he is running a business at 270 where he lives, he parks the cars and his boats and trucks, whatever he is working on he is parking them on our street. At 261 I am saying it is empty and he has taken over the premises there.

Mrs. Kuhn – so what he is doing is even though he resides at 270 he also is using the 261 property?

Alberta Howard – right and at any other place he can in front of my door and everybody else's. This man does not care. He is the boldest person I have ever seen. He just does not care.

Mayor DeLuca – let me ask you this Craig – for the cars that have for sales signs is there any way we can run a check to see who they belong and if they belong to the house on 270 can we tow them?

Craig Alexander – what is the Municipal requirement on how long you can keep a vehicle on a Municipal Road?

Mayor DeLuca – if he has five cars for sale on his street –

Mrs. Kuhn – yes I was going to say that there is an Ordinance Craig as long as it has a valid sticker and plate you can't do anything with it but on the same token you are not a loud to have more than a certain number. Is John here? John can you answer that, isn't that what it is you are only aloud to have a certain number of vehicles even if they are registered?

John McCafferty – if the car is registered and inspected it doesn't state in the Ordinance that you can have a certain amount, what the number is; it can be parked on the street if it is registered and inspected. If it is an abandoned vehicle you can't park it on the street or in the driveway.

Mrs. Kuhn – yes I realize that but if you have, but there is a number if it is on your property? Correct? If it is four cars on your property but you are saying these on the street?

Alberta Howard – he has a little bit of everything. There is no doubt he is running a business.

Mrs. Kuhn – if he is literally running a business and he doesn't have a home occupancy then there is something we should be able to do about it that is my point.

John McCafferty – he has gone to court, he cleans up everything and says he doesn't have a business, he cleaned up everything and then he brings everything back, he brings more junk back that is what he does and his yard is a dump and what he is doing now he is parking these vehicles like the residents are saying on vacant properties. 273 Suncrest is on the demolition list to be torn down. That is going to be torn down this year. He doesn't seem to care what anybody has to say or he does what he wants to do when he wants to do it. So until we take him to court. When we take him to court he cleans up a bit but about two months later there is more stuff in the back.

Mrs. Kuhn – well the thing is John no one should have to live in a Community under these circumstances so no one should have to live under those circumstances so if you would go to the Magistrate on a continual basis sooner or later I would hope the Magistrate would say this is an ongoing situation and something has to be done or even if you would notify the residents of when you are having your hearing so they could go

up and give testimony to the Magistrate that he most certainly is running a business there.

John McCafferty – The situation Mrs. Kuhn is that he doesn't own the property. He is not the owner of the property. Another person owns the property and I filed charges on both the owner and the Mr. Snyder the tenant of this property. They are trying to evict him. They told me they were going to be here tonight but they haven't shown up and nothing has occurred due to this eviction process.

Mrs. Kuhn – well through the eviction I understand and I know because of the fact I own a rental in Penn Hills and it took me eleven months to get the person out, didn't pay any rent all that time but that is the system that you have to go through. So I know that is very aggravating but I still feel that if someone is running a business it should be easily seen by one of our employees if we go look at that and if he is and he doesn't have a home occupancy permit then something should be done about that.

John McCafferty – well what I can do Sara is run the plates for the vehicles parked on the private property. 261 and 273 and the thing of it is as soon as I do that they will be gone he will put them somewhere else.

Mrs. Kuhn – so then what we have to do is do it again. Because if we continually make it inconvenient for him then maybe – you just can't do it one time and then if he comes back say well – if you continually do it for him then he is going to be inconvenienced and then maybe he will stop it because of the fact it is not right for people who live in a neighborhood to have to put up with that on a daily basis. That is not a neighborhood.

Mayor DeLuca – and John if he has his vehicles parked in vacant houses run them and then have them towed out of there immediately.

Mrs. Kuhn – and John if you do have him go to a Magistrate if maybe the residents could give a list of their names and addresses if we could have them be notified so they could give testimony at the Magistrates maybe that would make a difference also.

John McCafferty – I hope so.

Mayor DeLuca – John real quick when the eviction notice, maybe talk to Mr. Montgomery let him know if he could let you know when the eviction hearing is you will show up and give testimony and build his case so we can get him out of the house.

John McCafferty – o.k. I will talk to him.

Leslie Smith – 433 Grove Road – I just want to say one quick thing I walk around Suncrest and it is to the point that I can't or I don't feel safe or comfortable walking through that circle because there is just so much that is going on in that area. People

hanging out, he has a car pulled up to a car in front of him and he is jumping one with the other and doors are open and it is just crazy there. You would never actually believe that that is a home because it is just so much that is going on all hours. I walk late, I walk all different times but it doesn't matter. A lot of times I don't even go there I will go up to a certain point and then I will go around and come to a certain point and then go back around because I don't want to deal with it because there is just so much going on there. It is just not the cars it is the activity around the cars as well.

Mary Wakefield & Darrell – 266 Suncrest Drive – we live right next door to the tenant and the tenant has been doing this for awhile with traffic coming In and out and people coming in and out and they are doing drugs in front of the house. They started with the husband and wife beating each other up, cops are called constantly, busting windows out. Then they started driving these quads around and it started with one and then they got golf carts and then just started going around the whole yard tearing up the grass. It is like putting a speaker to our bedroom window because they make so much noise it is just ridiculous. I call the cops so much and I think it is just falling on deaf ears and we are paying high taxes here and something should have been done about this years ago. Now the girlfriend moved out because he beat her up really bad so now there is a new girlfriend there with a whole bunch of children and the kids when I was backing into my driveway going into my garage they had a 16 month child in my driveway and I didn't even see her when I was backing into my garage and I just happened to look over and I saw the little child standing there and I had to get out of my car and physically take her to the house and the little boy whose is four was the one that was watching her. This is the type of things that is going on. They come in and make noise all through the night. They have the neighborhood kids coming through, they are teenagers up to their early twenties smoking marijuana, making a whole bunch of noise, two – three in the morning all day long sitting in front , loud music they don't care and when we are coming out of the driveway we can't even get out because they have everything blocked. I just happened to look out my window one day and one of the neighbors had something in his hand and gave something to the other guy like a drug transaction. It is just getting worse. Something needs to be done about that. And also address 274 has a dog that barks all night with a pan and I called several nights on that dog because they are not doing anything about the dog. He barks so much that he is hoarse. Then after he gets done he has this pan and he clings it and clings it and I can't get any sleep. My air conditioner is broken so I had to buy a portable air conditioner just to block the noise out and it is just ridiculous. I can't get any sleep and I work and I am tired and I don't know what else. Do you have anything Darrell?

Darrell Wakefield - the amount of rubbish that he has around the house – he has cans in the back of the house, he built a deck without a building permit which is unsafe, he has a son riding that quad whose is four years old he puts a helmet on him and stuff but still that is kind of young to be riding something like that and then it is downhill. The kid hasn't fallen off to my knowledge but that is a safety hazard too and I actually told him you should watch him a little more careful than that. They are blocking our driveway and one morning I was getting ready to leave and one of the neighbors he has this control over these young boys around there and one of them blocked my driveway

with a van so this particular time I was just fed up with this so I came out of my garage put it in reverse and he hurried up and moved his van so when I got up to the street I jumped out of the car and said look you are not going to be blocking my driveway like that because I don't have time to be playing with you always blocking my driveway I am going to just call the police from here on out and I am going to tell them to bring a tow truck and have it towed. Then one of them is on probation and the probation officer actually blocked my driveway one time. This is all annoying.

Mary Wakefield – it is getting worse as the years go on. The guy at 274 got shot. Somebody came up there and just shot the house up and the boy was down and it caused the traffic to go down some now that he is doing better the traffic is coming back up and we are just sick of it I wish you guys would do something because we are ready to move.

Mrs. Kuhn – I will say this I have written down most of the complaints and the Manager is not here today but I will also make sure that I get this to the Chief of Police. If someone is blocking your driveway you can call the police and they will tow that vehicle because they are not allowed to block your driveway and the thing that bothers me is I don't think any neighborhood should have to live through this but unfortunately sometimes you do get a neighbor that is difficult to get rid of but the only other thing that I have to say I hope that it doesn't get pushed to the point where you in your frustration go out and confront them because then something could happen to you so if you call the police on some of the things and if the police aren't coming then please let us know because then they are at fault there because I know how frustrating it is but in this day and age it is very dangerous to do that and I wouldn't want something to happen to you.

Mary Wakefield – actually the operator knows my name because I call so much and I think it is falling on deaf ears because the dog continues to bark, the neighbors continue to be outside and I am not sure if the cops are coming and doing anything maybe they are but the noise continues.

Mrs. Kuhn – well let's put it this way. The Police will have a log if anyone has been to the addresses at Suncrest.

Mayor DeLuca – we will talk to the Chief.

Mrs. Kuhn – these issues have to be addressed.

Mayor DeLuca – o.k. real quick. The two addresses 270 is running a business that is the one where the owner is trying to evict the tenant but 274 is where you are saying you have activity cars coming and going.

Mary Wakefield – both addresses and that is where the dog is too all night.

Darrell Wakefield – then he has a boat at 261 and he is blocking that driveway and that is not his home and he has a minivan up in the driveway.

Mary Wakefield – yes because the residents moved out, they were senior citizens so the daughter has the home and they are not there so they moved all their stuff over there so the little boy could ride his quad in their yard.

Mrs. Kuhn – that is one thing that can be definitely addressed too if because of the fact that if they go over there and show ownership and they have their boats and what have you on other people’s property you are not allowed to just use someone else’s property without permission. We will get this addressed with the police and if you would like to give us your phone numbers and we can get back to you.

Olivia Gilbert – 233 Suncrest Drive – two items I would like to mention. It is the fact that they have attracted all of these people who are intimidating and Saturday when my husband and I were driving down the street we get to the house there were three boats, a van, a hitch and then they pulled a car out of his driveway into the one lane that you can go down in the middle, we pull up guy over here with the door open to this vehicle the guy that rents there comes out because the door is open to the car so we beep the horn we think he is going to come out and move the car and he comes out and looks at us and walks back. So my husband decided we are just going to turn around and go back. So they started laughing when we turned around. One other thing that was really serious was about the beginning of spring I come down the street as I approach his driveway, he has two driveways one on both sides of his street so he can go around in a circle – I get to the first driveway there is a hedge so you can’t see anybody coming out just as I get there this little kid flies out in front of my car almost just hits the front of my car, I jam on the brakes the kids just whizzes around because there are two cars parked in front of his house so he whizzes around in the street Back around to the other side. I was so shook up I had to pull over and stop. So I am sitting there and here the kid comes whizzing around again. I am passed him then well I decided this kid is going to get hit so I got out of my car went back couldn’t find the people they are in the back somewhere where they have about seven or eight cars in the back yard and I get his attention and I tell him what is happening and he starts blasting the kid I mean he is a little kid and what he is going to do him and all of that but this kid could have gotten killed and to be intimidated like that in your own neighborhood is just ridiculous.

Mayor DeLuca – yes I agree.

Dr. Kincaid – just one question I have. Thank you Mr. Mayor. I am not clear on and I really appreciate the comments that Ms. Rollin, Ms. Smith, Wakefields and Ms. Howard and Ms. Gilbert to help us fully understand as you have heard Council talk about the situation but my real quarry is and I have been on the street and not recently are there any no parking signs at any place around the 271, 270, 261 etc. on either side of the street?

No name was given – I think they tore them down.

Dr. Kincaid – well I guess I should ask it another way but thank you for that answer. To anyone’s knowledge in this room is that area zoned on either side of the street for no parking.

Mayor DeLuca – I don’t think so.

No Name – there has never been no parking signs on the street, I have been there for forty years and we have never had any.

Dr. Kincaid – o.k. thank you very much. I think you get my drift and I think maybe it needs to be taken care of but not by us but by the citizens. Thank you.

Mayor DeLuca – so for the people of Suncrest we are going to look into the situation we got Code Enforcement we are going to keep on top of that. We are going to watch to see how that eviction process goes. Maureen do we have a blank piece of paper they can sign their name and address so we can get in touch with them or an e-mail address?

Darrell Wakefield – why don’t they just send a deputy sheriff to go up and evict them it is over thirty days?

Craig Alexander – We already addressed that issue. There is a lot of misconception about what happens within an eviction process. You have to go to the local Magistrate, you got to get the Magistrate to order eviction, you have to let the appeal period expire, then you have to get a Writ of Possession and let another small amount of time expire too before somebody will physically evict somebody from a residence. It is not Mayor & Council that would do that. It would be the landlord that obtains the Writ of Possession and then seeks law enforcements help in physical eviction.

Darrell Wakefield – a couple years ago there was another tenant staying there and the Deputy Sheriff actually did come up and evict him and he was only there roughly six months. He was paying his rent to the owner at that time. I don’t know if the same person owns the property but you know obviously he wasn’t paying the bank so the eviction went through. Does Casey Montgomery still own that house?

Mayor DeLuca – Montgomery – yes that is who owns its.

Darrell Wakefield – I understand that he is not paying the rent, this is what I was told today by Code Enforcement so I was wondering why the Deputy Sherriff hasn’t come up there to remove him.

Craig Alexander – whether he is paying the rent or not paying the rent is not a Municipal Issue. The Municipal Issues are the ones we just addressed a few minutes ago with the parking on the street and the various Code Enforcement issues with McCafferty back there that we are dealing with everyday. We can address the Code

Enforcement issues we can't address the payment of rent and things like that in the eviction process that is a landlord – tenant issue.

Darrell Wakefield – o.k. thank you.

Mayor DeLuca – one of the things our Solicitor did say maybe we can Zone the street residential parking only and issue permits to the residents that live on the street and then any car there we would be able to be towed if they were there for longer.

No Name – we don't need parking signs, we need him gone.

Mayor DeLuca – well we are working on it. The only thing we can do is the owner goes through the eviction process and have Code take him to the Magistrate. Sign in on the form with e-mail address and as things progress on the street we will e-mail you and let you know what is happening.

APPROVAL OF MINUTES

Mr. Underwood made a motion to approve the Minutes of June 10, 2013.

Mr. Palumbo seconded the motion.

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

EXPENDITURES

Dr. Kincaid made a motion to approve the Expenditures of July 15, 2013, Journal Vouchers 0 - \$0.00, C.D. Requisitions – 15 - \$65,416.14, Master 24754-25083 - \$1,991,951.59 making a grand total of \$2,057,367.73.

Mr. Underwood seconded the motion.

Jim Carnahan – 201 Jefferson Road – on page 26 – my favorite subject Nicks. You have a period 5-21-2013 to 6-18- 2013 for a total of \$14,756.00. Then there is three in there that are pretty big a total of \$5900 but you still have about \$8900.00. Is his contract up yet?

Mayor DeLuca – just renewed Jim. A one year extension on his contract that we approved. One of the things that we talked about when we bid out the automotive repair you know we bid out parts and we get parts for cheap. One of the problems why we don't get a lot of bids of this contract is when I talked to a lot of service stations that do repairs they make their money on the parts like they charge so much per hour. Unless we change how we do that but if we go the other way would we be saving money or you wouldn't know. That is something we have to look at. For the dates here Jim I agree I know we talked about this with the Manager before. Some of the

department heads hold it before they submit it and they should submit it in every month so it doesn't show up like 5-21 so we don't have that big gap.

Jim Carnahan – o.k. thank you.

Mrs. Kuhn – Mr. Mayor – I was going to address Nick's also because of the fact that it is a very large amount almost \$15,000.00. I know this when we had the invoice date it starts I think May 8 and it goes to June 27 so that represents close to two months but I do see on there again that we had a transmission rebuilt for \$2500.00 and I know that when we did the renewal of the contract I had asked the Manager that when we do something of that large amount that we would get a bid on that because of the fact that it is my information and I don't like to say it when the Manager is not here but it was my information from the Manager that Nick's doesn't really do the transmissions he farms it out. That makes me a little concerned because of the fact it looks like maybe you are getting a third party involved and so I did ask that before we voted on the renewal and I just would like to ask when the Manager comes back in I will question that again to see if in fact we did call on that because when there are large items like that I feel that we should have them bid.

There being no further discussion the motion was approved by a 5-0 vote.
Mrs. Kuhn abstained from Check #24851, 24902, 25055 to Don Kuhn Auto Body and yes to all others.

ORDINANCES

Mr. Underwood made a motion to approve **Ordinance No. 2556 of 2013** vacating Ordinance 2544 of 2012 adopting a Social Media Policy for The Municipality of Penn Hills and adopting a new Social Media Policy for The Municipality of Penn Hills, providing for a New Section 288.25 titled Social Media Policy of The Municipality of Penn Hills and authorizing the adoption of said policy to become part of the Administrative Code of the Municipality of Penn Hills.

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 **Ordinance No. 2557 of 2013** amending Ordinance No. 2420, The Municipality of Penn Hills Zoning Ordinance providing for a change in The Zoning District Category and corresponding Zoning Map change for the following property described below. Said Property is currently Zoned R-1A, Single Family Residential. The intent of this Ordinance is to change The Zoning of the parcel to M, Mixed Use, and C, Conservation.

Mr. Underwood seconded the motion.

Tom Ayood - Good Evening no questions just a comment my name is Tom and I represent Mr. & Mrs. D'Andrea, they are the property owners that are the subject of the Ordinance. Just two things I understand we have to have a Public Hearing tonight so I think it would be appropriate as we move forward just to make sure our T's are crossed and I's dotted by announcing the Public Hearing giving people an opportunity to comment prior to your vote, taking any relevant testimony. I believe Mr. Davidson is going to make a brief comment or two. I also wanted to tell you as the property owner Mr. & Mrs. D'Andrea are in full support of the Ordinance as it is written up in the package provided to you. It says that this is being done to stop and prevent future litigation and that is true. It is to tidy it up from a procedural standpoint which will serve you the Municipality tax dollars paying for lawyers to resolve this. You should also know that an agreement has been reached with the neighbors who are represented by John Kamin and Mr. & Mrs. D'Andrea to also prevent litigation. So the goal is that everyone moves forward collectively without the necessity of incurring legal expenses and delays associated with legal proceeding. So that having been said I would ask that my comments be made a part of the Public Hearing and to the extent others offer testimony I ask that they be sworn in as I am an Attorney as you know an officer of the court and subject to those requirements and I can offer any answers to questions if anyone would have them. Thank you.

Mayor DeLuca – thank you.

Howard Davidson – in audible.

Craig Alexander – Mr. Swatchek we would like to have you sworn in since it is a Public Meeting.

Greg Swatchek – Mr. Mayor & Council I am in a little bit of an awkward position right now. I thought the meeting was at 7:00 this evening and came to find out that it was at 7:30. When I arrived here at 6:40 I had a three page writing that I placed at all of your positions this evening and very late was advised that there was an agreement reached so I guess this is formally submitted to you. I don't know how I can talk about other things that I haven't had a chance to review. This I had a change to author and as of 20 minutes to 7 it was a valid position that I or any prudent person would take. So I guess if you had time to read it accurately to the best of my ability describes my position and all the facts in this case up until the time the attorneys arrived very late. You may want to consider making a motion that is appropriate, I don't know all the procedures in Penn Hills but this just seems like a rushed process in terms of a valid review. I am sort of being asked to do two opposed things this evening and again as I started out it puts me in an awkward spot. Thank you very much.

Craig Alexander – thank you sir.

Mayor DeLuca – thank you. Any other testimony? O.K. we will close the Public Hearing.

Mrs. Kuhn – before I make my vote I just want to say that my vote is determined because of the fact that there is an agreement with the residents and Mr. D’Andrea. Based on that if the residents are satisfied then I would be satisfied to go along with it but I just want to ask and maybe I should have asked it before the vote, the buffer zone it is in place, am I correct?

Howard Davidson – in audible.

Mrs. Kuhn – let me ask this. When we are saying it is conservation now are you saying you can put residential homes on it?

Tom Ayoob – Attorney – I will answer that Mr. Davidson if you don’t mind. We are zoning it as a conservation district which is consistent with your zoning ordinance and uses are limited. More over the agreement that has been reached Mr. D’Andrea is promising in the conservation area not to construct any structures or to remove any trees.

Mrs. Kuhn – o.k. being that we are being on the court reporter that is what I wanted just to make sure of because you started the meeting by saying that Mr. D’Andrea and his wife are in agreement with the zoning and that they also are in agreement with the agreement that they have placed with the residents.

Tom – Ayoob Attorney – correct.

Mrs. Kuhn – so the buffer zone will remain that there will be no structures there?

Tom Ayoob— that is correct.

Mrs. Kuhn – and that would go on if Mr. D’Andrea because I don’t know if it is in the zoning change I don’t think we can stipulate that but that agreement would go on if Mr. D’Andrea would sell the property or if his Aires would have anything to do with the property?

Tom Ayoob – Attorney – correct – it has nothing to do with you but as a private agreement between Mr. & Mrs. D’Andrea and the resident neighbors who are a partied to that agreement.

Mrs. Kuhn – and it does go on if he would sell it or if his Aires?

Tom Ayoob– correct.

Mrs. Kuhn – o.k. thank you.

Tom Ayoob – you are welcome.

Mrs. Kuhn – my vote is yes.

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

RESOLUTIONS

Mr. Underwood make a motion to approve **Resolution No. 2013-041** authorizing The Proper Municipal Official to submit the 2013 Feasibility Study as prepared by Gateway Engineers to The Pennsylvania Department of Environmental Protection in accordance with the requirements of The Consent Order and Agreement.

Mr. Palumbo 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. 2013-042** – confirming the appointment to The Zoning Hearing Board of the Municipality of Penn Hills for a Five-Year Term.

Dr. Kincaid seconded the motion.

Mrs. Kuhn – I just want to say that I know Joe personally (Joe Tamburrino) and have known him for many many years. He has been involved in Penn Hills for many years and I appreciate him giving his service and I know he will do a good job because he knows Penn Hills and he has a lot invested in Penn Hills. So good luck Joe and I think it is a great appointment.

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

Mayor DeLuca – good luck Joe.

Dr. Kincaid made a motion to approve **Resolution No. 2013-043** approving The Community Development Application, Action Plan for 2013-2014, and The Home Program.

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. 2013-044** approving A Conditional Use Application for Holy Family Institute to operate a school at 100 Mulberry Lane Penn Hills, PA 15235.

Mr. Palumbo seconded the motion.

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

Mrs. Kuhn made a motion to approve **Resolution No. 2013-045** – awarding a Contract to Sports and Recreation Associates, LLC for alternate 1 of the Multi-Purpose Center Recreation and Accessible Improvements project.

Dr. Kincaid 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. 2013-046** – awarding a Contract to A. Folino Construction for The 2013 Municipal Paving Project for a Total Cost of \$381,588.92.

Dr. Kincaid seconded the motion.

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

Mrs. Kuhn made a motion to approve **Resolution No. 2013-038** – approving A Conditional Use Application for School House Finance, LLC. for the installation of four temporary classrooms at 200 Penn School Drive, and providing for a time extension and revisions to Resolution No. 12-040- of 2012.

Mayor DeLuca seconded the motion.

Alan Shuckrow – Good evening ladies and gentlemen I was here last month without a goatee I have grown that in the interim but I am the same guy that was here last month. This is a continuation of the Public Hearing on the Conditional Use Modification request that we had last month. At the end of the hearing last month, it was indicated that there were some questions raised regarding whether the modular units needed to have a sprinkler system and a fire alarm and it was indicated that your Code Enforcement officials would look into that and we have our Architect Susan Lami here tonight as well. I know that in your packet that there was a memo or an e-mail from Mr. McCafferty dated July 2, 2013 which is in your packet and attached to that were some code sections and Mr. McCafferty had concluded that the trailers did not require sprinkler systems and also that a manual fire alarm system is not required in this situation and I would offer last month we got up to exhibit 6 in the record I would offer Mr. McCafferty's memo and the attached code sections as exhibit 7 at this time. There were also some questions regarding the covered walk way and how we got to where we got to and there was also some recollection I think that Mrs. Kuhn had recalled that there had been some discussion in a meeting last year regarding that and I have here that Susan Lami wrote to Mr. McCafferty regarding that issue and I would offer that as exhibit 8 and I can have Ms. Lami come forward and answer any questions regarding that but I think this letter explains how we got to where we got to and why the walkways are constructed the way they are and I think that would be important to be in the record

as well. Susan could you come forward just for a moment please. Do you want to swear everybody in at the same time and then there are some people in the audience that may testify.

Craig Alexander – Alan didn't we already do the Public Comment sections of the Public Hearing last time though?

Alan Shuckrow – well my understanding is that the record is still open and I had indicated at the end that we might have some additional information.

Craig Alexander – I don't have any problem with additional information, I believe you brought a letter but I believe that the public comment portion has already been concluded. If you have additional witnesses I don't have any problem with you bringing them forward.

Alan Shuckrow – yes we do have some witnesses. We have Miss Lami, we have some additional information from our developer, we have the principal of the school for this year that has some information, we have a teacher who actually taught in the modular unit this year is here and I have an affidavit. We do have some parents here who would like to speak and I would ask that they be awarded that opportunity if Council doesn't mind.

Mayor DeLuca – I think we will take the additional testimony of the witnesses but I think we had enough comments from the parents attending the school from the last meeting.

Alan Schuckrow – my only concern would be that there were some people here last month who did have some concerns and I hope we are addressing that but we have some people here tonight that are supportive of the units as well and have some nice things to say so just to make sure that you can hear that.

Mayor DeLuca – I think we had a mix of both of them last meeting, you had people in favor of the trailers and some people not in favor of it so I think we are good but we will hear the testimony that you have.

Alan Schuckrow – o.k. thank you I appreciate that.

Craig Alexander – let us just have a group swear in of whatever potential witnesses you might have.

Did the swearing in of the witnesses.

Susan Lami – Lami, Grubb Architects, my firm was the firm that prepared the drawings that were submitted to Planning and to your Building Department for issuance of a building permit for the project. At that time, everything that was submitted, complied with all Local, National, State, Federal Codes and your very qualified staff

reviewed it correctly approved it and the units were installed. I know questions came up last time about sprinklers obviously they are not required by the building code and I am really here just to answer any other questions you might have about the construction of the units.

Alan Schuckrow – at this time I would like to call Danelle Conner forward who is the principal for this year for the school. Last time Dr. Davis was here and Dr. Davis will still be at the school but she was the principal sort of in a pinch hit role at the end of the year this year. Danelle will be the principal this year. So last time Danelle there was some concern about the intercom system or whether we had an intercom system can you tell council what the result of that is?

Danelle Conner – So Dr. Davis and I worked together to investigate some of your questions, there is an intercom system that can be run through a traditional intercom and also through the phone system so that is set in place.

Alan Schuckrow – in the modular units?

Danelle Conner – in the modular units, yes.

Alan Schurckrow – if Council approves the one year extension that we are requesting will that system be operational?

Danelle Conner – correct.

Alan Schuckrow – then there was also some mention of an issue relating to water in the bathrooms, can you explain that to Council what that issue is.

Danelle Conner – certainly. That had been brought up at the last meeting. We spoke with the four teachers who use the modular units. Three of the teachers had no issue with water in terms of drinking water and also for the bathroom facilities. One teacher did have an issue and once that was brought to light it was ordered and within two days they had the water that they needed. So going forward to ensure there is no lapse in the water that is needed we will have a procedure set in place where maintenance will go into the modular units three times a week to see if there is any need for water to be ordered.

Alan Schuckrow – and also we heard the fact that the units are not required by code to have a fire alarm but we did hear some concerns about how audible the fire alarms might be. What are you planning to do for this year regarding that issue?

Danelle Conner – we will be mounting a speaker at the back of the building so they will be able to hear any of the fire alarms.

Alan Schuckrow – and there was some question about security around the modular units. Can you explain to Council?

Danelle Conner – So just as last year we will continue to have a security guard and as last year we will continue with the walkie talkie system. We also will have the intercom system on the phones so they can certainly contact the office if there is an emergency. We have also added additional staff. So we will have paraprofessionals and instructional aides who will be there to support students. We will have more people available at this coming school year.

Alan Schuckrow – o.k. there was a question raised in regard to our enrollment whether we would be able to have the whole school even though we would not be able to expand this year. Can you explain to Council how we will be dealing with that?

Danelle Conner – as it was mentioned last time, we believed that Frankstown Road was going to be available to us for the coming school year and once we realized that occurred we actually reduced the number of students that we would accept. At one point our enrollment goals were to have five kindergarten classes, five first grade classes, five second grade classes, three third and three fourth. Once we realized we would probably have to stay within the space we actually reduced the number of students that we accepted and at Kindergarten, First and Second Grade we actually reduced the number of classrooms. So we made every effort to collapse the enrollment and to reduce the number of students we accepted and we stopped accepting new students.

Alan Schuckrow – So you are only going to have four sections in Kindergarten, First and Second as opposed to your projection which was five?

Danelle Conner – correct, yes.

Alan Schuckrow - then I think Mrs. Kuhn had asked this question as well – what happens is Council doesn't approve this, what is the backup plan for this year and what would that be?

Danelle Conner – the school would continue to function we would just have to arrange some spaces within the building and we would also have to collapse grade levels which then would increase our enrollment of students in the classrooms. So the ratio would have to go up from possibly 21 students per teacher to 28 -29 students per teacher which would have a detrimental educational impact on our students.

Alan Schuckrow – so is it fair to say that the school could continue without this approval but that is would be better educationally in your opinion if Council would approve this?

Danelle Conner – correct.

Alan Schuckrow – o.k. thank you very much. Next we have Andy Scherer who is the owner of the 1700 Universal Road Property where we are hoping to be expanding to

next year and there were some questions about whether we would be able to get this done and Mr. Scherer had said that we would. He has just a little bit of an update just to show you that we are still moving forward.

Andy Scherer – o.k. I will keep this very brief. We are in the process of the due diligence on the property and at the site we are making good progress there and we have completed the survey, Phase I Environmental has been done and we are awaiting the report. We have begun the design process and we are on track to have a home for these students that are currently in the modular units beginning next fall, the fall of 2014.

Mayor DeLuca – real quick – you said you were the owner of the property on Universal Road. You actually bought the property you just don't have the sales agreement?

Andy Scherer – I have it under agreement.

Mayor DeLuca – so you are not the owner of the property?

Andy Scherer – that is correct.

Alan Schuckrow – it is the sales agreement that we put into evidence last month. Our next witness is Steve Sereda who is a teacher at the school and a teacher in the Modular units this year. Mr. Sereda has some remarks regarding his experience with the modular units.

Steve Sereda – Good evening my name is Steve Sereda, this coming school year will be my 7th year as a teacher with Imagine Schools. Prior to this past year I have had experience teaching in modular units while a permanent building was being sought. Coming to teach at Imagine Penn Hills is very similar to my previous experiences. Personally I love teaching in modular units especially the ones we have at Imagine Penn Hills. In my previous experience with Imagine in Prince Georges County, Maryland the modular classrooms were only separated by a thin wall. This permitted the students and teachers to easily hear other classrooms next door. The mods we have here in Penn Hills provides privacy between the mod classrooms. In addition unlike the mods I have previously taught in our mods have bathrooms. Personally I think the loss of instructional time each day adds up to weeks of lost instruction by the end of the school year which is detrimental to the academic growth of our students. Having bathrooms in the classroom greatly reduces the loss of instructional time. The modular classrooms at Image Penn Hills are in phenomenal condition. They are always kept clean and in full working order and meet the demand of technology that is necessary in elementary school classrooms. Since the modular units are outside it is understandable that safety may come up as an issue. The modular units have two doors, one at each end of the mod and both doors are kept locked to anyone wishing to enter. Accessing the mods from the outside is only possible by one of two keys, one of which is in the teacher's hands and the other kept in the main office. The mods are

always able to be exited from the inside. In addition a security guard does periodic rounds around the modular classrooms checking the doors and the surrounding area. In the winter time the steps and ramp to the classrooms of the mods have always been shoveled and salted to ensure safety when walking. All of my students love to be in the modular classrooms. Throughout the year they like transitioning to the main building from the mods because it gave them some fresh air and they felt like they were given more a sense of responsibility which aided in my classroom management and they especially loved the mod during extreme cold or hot days because we are the only ones that could actually adjust our classroom temperatures. In closing I would like to reiterate the fact I love teaching in the modular classrooms. I feel they are bigger easier to hang visual aids in and provide the flexibility necessary for a teacher to meet the needs of the students. There is not a doubt in my mind that modular classrooms provide me and the students that a traditional does and even a little bit more. It is my opinion that the modular classrooms should remain in Imagine Penn Hills while we are ironing out the details of our permanent home. Anything less would be detrimental to the school teachers and most importantly the children of Penn Hills which all this is supposed to be about in the first place. Thank you.

Alan Schuckrow – finally I have another one of the teachers from the Modular Units wanted to be here tonight but was not able to be here and she provided me with a sworn affidavit which I could read but I did make a number of copies but rather than reading it I will offer it as exhibit 9 and if I could approach I will pass out to Council and maybe you could take a moment to read it unless you want me to read it out loud.

Mayor DeLuca – no you can hand it out.

Heather Bowser (sworn affidavit) – letter – To Whom It May Concern, Last year we all had our doubts about the use of modular units. Being a teacher who was going to teach in one, I was skeptical and had no idea what to expect. Once they arrived, my worries were put to rest. They were nice and spacious, and the parents that came to visit agreed; we were all pleasantly surprised. The students responded well to them, also. It was beneficial for the students to be at the same location for the sake of our MicroSociety Program, but also gave our older grade level the opportunity to have space to call theirs. Naturally, our older students are leaders, but in MicroSociety they don't always feel that role, as our younger students can also be owners and managers. As leaders, they showed responsibility and control of themselves while entering in and out. Another benefit of being in the modular units, was the lack of distractions the students experienced, as they were preparing for our state assessments. The restroom was not used as an escape because it was down the hall; it was conveniently in our classrooms which minimized loss of instruction. Our students weren't worried about which classes or friends were passing through the hallway; and when it was time to transition, the third grades went together. Safety was never an issue, as our doors remained locked and students were not leaving and coming to the modular themselves. I am aware that we originally asked to have the moduls for one school year, and to be honest I was sad at the thought of packing it up and sending it away. I have truly enjoyed teaching in it, and hope to return to it for another school year. Our

MicroSociety is extending to a more character education approach, and to have our students together for another year to experience the true meaning of our traits is a great opportunity. If the modulars are taken away from our students, where will they be? I don't believe that larger class sizes or rooms not designated as classrooms are the answer. Our students deserve a learning environment that is safe, meaningful and enjoyable. The unit is not just a modular to me it's my classroom and a place where great learning is taking place! Sincerely, Heather Bowser

Alan Schuckrow – and that will be exhibit nine and her name is Heather Bowser for the record. That is the evidence that we were going to offer again. We do know that there are some parents and students even here tonight that are in support of the application and I understand your ruling, would I be able to have a show of hands of the people that are here and maybe we could indicate for the record – everyone raise your hand that is here for this, this evening. O.K. I counted twenty in favor.

Craig Alexander – o.k. give or take.

Alan Schuckrow – so that is all the evidence we have. I would ask you to, I know you have some concerns and some issues were raised last time, I think we did a good job of addressing those concerns here this evening and these units will be safe and as we indicated last time and as you have incorporated into your proposed Resolution as condition number 6 we understand that these are temporary and we are willing to put our money where our mouth is basically and stipulate that we are relinquishing our rights to have any further extensions. It would be this one year provided that you approve this and that would be it. We do see that on here which is what we indicated last time. So thank you.

Mayor DeLuca – thank you. The hearing is closed. Any comments from Council.

Mrs. Kuhn – being that we already had the hearing last time and all our comments are in there, but I do just have one question that I would like to have answered is when we were discussing the two new rooms that were going to be added to the school it said that they were taking out the art room and the resource rooms and I believe it was Carolyn Davis and we were talking about special education and she said that they had several offices downstairs that they could utilize for space for the art room and they were looking to use that also for the resource room. But it was also stated in the minutes that there was a second grade class I believe it was that had to be taken out of the trailers because they were disruptive in the middle of the year and they couldn't for whatever reason they took them out and when they took them out they put the special educated children in the trailers and we did have testimony from a Mother and I believe her name was Jade and saying that her concerns were because of the fact that one of her children were special ed and that he bolts and she went in length so I am not going to go over it because it is already in the minutes but it is my understanding that special ed children are not to be put out of the general population of the school district of the school itself because of the fact that is why they have this for so they interact with all the children and I believe that is a federal law if I am not mistaken.

Craig Alexander – I think that is by and large correct but It would depend on what the IUP of the individual student would state. The Federal Law and I know Alan does some school law as well talks about integration and keeping the children integrated but if their IUP requires them to be secluded then they can be.

Mrs. Kuhn – but the whole special ed was transferred into the trailer so it wasn't one individual?

Danelle Connor – I think there was a miscommunication. The Special Education was not moved outside. It just so happened it was a second grade classroom that had one or two students with an IUP. All of our second grade classrooms have one to two students with IUP's in our building so it was just a matter of which class went out there. It was this particular class had this particular student. Our special education students are completely integrated into the classrooms. They are not separated. So the resource room is just used say for just small group testing. So if there is a student with an IUP and there IUP indicates that they need small group testing they are pulled into the resources room for small group testing while all of the other students are completely integrated into the classroom. So that was a general second grade classroom that just happened to have one to two students with special ed.

Mrs. Kuhn – o.k. I was quoting from a representative Carolyn Davis I think it was is she here?

Danelle Conner – Carolyn was not able to make it tonight. However Mr. Sereda it was his classroom that was outside and he was the second grade teacher and he is a general education teacher.

Mrs. Kuhn – after we talk here are we going to vote Mayor? As I said last week to the parents that weren't here this has nothing to do with the teaching I am sure the teaching is wonderful we had students talk at the last meeting and they were very well spoken and they spoke well for the school. But this is to deal with the building. And last year it was very difficult and Mayor and Council took it very serious to allow the trailers and we were told last year exactly basically what you are saying this year. That this is temporary and we made it very clear that as of June 30, 2013 those trailers had to be removed and based on the school and the parents accepting that that is why it was approved last year. That we were very clear that we would let these trailers be in place and that they had to be removed by June 30, 2013 and everyone was in agreement. So I know that the parents might be disappointed and upset but I don't feel that that should be addressed to Mayor & Council because Mayor & Council acted in good faith last year on what was presented to us and what was told to us. So it is the people who were in charge of having a facility in place for 2013-2014 school. So that is where the problem lies. Mayor & Council acted on the good faith that was given to us by Imagine School and what they told us they would do. Based on what they said we voted to approve the trailers. Thank you.

Mayor DeLuca – any other comments. Just a couple comments I echo what Deputy Mayor Sara Kuhn has said. The trailers were supposed to be temporary. I just think it was poor planning on Imagines part not having any building to go to for the school to grow. I have seen these modules at different school districts like Duquesne School District, Steel Valley had them and they are temporary. I don't believe they are good for kids to be learning education in these modules. I know one of the parents said you need a choice. With the amount of different Charter Schools out there in Allegheny County there is a choice and there are multiple choices. Propel is one of the biggest ones. I am not in favor of extending it for another year. I think Imagine should have planned better and they should have got the building up and running before this year came about. We are not taking any more testimony. With that Maureen Roll Call.

There being no further discussion the motion was not passed by a 5-0 vote.

Mrs. Kuhn – now before we go on Solicitor being that we presented the Resolution as we stated do we now have to make a motion of denial?

Craig Alexander – that is correct. You either have to approve or deny the application and voting the approval down is not the same as a denial. So a motion to deny if that is Council's intent would be in order.

Mrs. Kuhn – o.k. I make a motion to deny.

Dr. Kincaid seconded the motion.

Mayor DeLuca – we will do a voice vote. All in favor of denial say I.

There being no further discussion the motion for denial if a 5-0 vote.

ITEMS FOR CONSIDERATION

Mayor DeLuca – to appoint our Municipal Manager for The Municipality of the Emergency Management Coordinator.

Mrs. Kuhn – I make a motion I move that the Mayor's nomination that Mohammed F. Rayan as the Municipalities Emergency Management Coordinator be approved and that all necessary documents be forwarded to the Commonwealth for Gubernatorial Appointment.

Dr. Kincaid seconded that motion.

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

Mayor DeLuca – can we do all of these appointments at the same time?

Craig Alexander – absolutely.

Mayor DeLuca – I would like to have a motion for the following appointments.

Joseph A. Opsitnick – Traffic Safety Committee

Jerry Chiapinelli – Planning Commission Committee

Liza King – Planning Commission Committee

Leo Schrantz – Planning Commission Committee

Dr. Kincaid – I so move.

Mr. Underwood seconded the motion.

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

ADJOURNMENT

Mayor DeLuca entertained a motion to adjourn.

Dr. Kincaid made a motion to adjourn.

Mr. Palumbo seconded the motion

The meeting was adjourned at 9:09 P.M.

DATE

MAUREEN M. SORCE
MANAGER'S SECRETARY

