

AUGUST 19, 2013 COUNCIL MEETING MINUTES

The August 19, 2013 Council Meeting was called to order at 7:35 P.M. in Council Chambers at the Municipal Building.

APPROVAL OF AGENDA ITEMS

Mrs. Kuhn – Good evening I will call this meeting to order. The Agenda will stand as presented. Will you please rise for the Pledge of Allegiance?

ROLL CALL

**Mr. Underwood
Dr. Kincaid
Mrs. Kuhn
Mr. Palumbo**

Mayor DeLuca was absent he had a conflicting appointment and will not be present tonight.

Also present were Manager Rayan, Secretary Sorce, Purchasing Yeager, Finance Director Schrecengost, Gateway Engineer Minsterman, Planning Director Davidson, Officer Milos, Solicitor Alexander and Controller Futules.

CITIZENS TO ADDRESS COUNCIL

Mrs. Kuhn – First we have Keith and Theresa Tullis, can you please come up to the microphone and give your name and address.

Theresa Tullis – My name is Theresa Tullis and I reside at 233 Yosemite Drive in Penn Hills, Pa. The reason for my visit to the meeting is the lack of responsibility we feel meaning my husband and I that Penn Hills is taking to address the concern of the residents on that street. We live two doors away from Charles Warfield at 241 he breeds dogs. He has 16 Coon Dogs in cages. The smell is terrible. I mean terrible you can't even open your windows. The barking all night

long with the dogs. We have been living there for 12 years we actually built the house on Yosemite. Had we known that Penn Hills would not take any responsibility to take some action towards him for what he is doing we would never have moved into Penn Hills. To us Penn Hills is turning out to be like Wilkinsburg. Seems like Penn Hills doesn't care about the people that are working and try to take care of their property. They seem to cater to those who do not care. We also live next door to a woman at 231. She leaves her trash outside right by her garage all week long. It is never out the night before pick up it is always out there all day. Now what we are seeing on our property is now we are seeing rats starting to burrow under our fence through our mulch. And that is a problem that is affecting us and we would like something to be done about it. We call Code. We have called Code numerous times but nothing is done. Nothing is ever done. And it is really sad.

Mrs. Kuhn – I appreciate you coming before us tonight and believe me Mayor & Council does not take residents problems lightly and no one should have to live next door to a house that has 12 to 14 dogs. So we will address that question first. I don't know if Moe wants to address that or the Solicitor have you given some information on that?

Moe Rayan – just to address the concern relative to the dogs we are aware of the situation and Code Enforcement filed with the Magistrate's Office numerous times and I don't know if you are aware of that or not and the Magistrate took action and filed and actually made a decision to fine the individual that lives on that property. We are unable to get him to comply, even his house items were put for bid and nobody bid on them because they are all junk as you are aware. At this point we are consulting with the Solicitor to get some advice from the Solicitor's Office as to how we are going to proceed to evict that individual or take the dogs out of there. Our hands are tied right now.

Theresa Tullis – well why has it taken this long because we have been there twelve (12) years and we have been complaining since we have been there and from what we understand the previous tenants in

the area have also been complaining so why does it take that long it seems like to me there should be another elevation process where if I fine you and I fine you once I fine you so many times there needs to be something else that needs to be done that is a little more stronger because of course he is not going to pay the fines he knows nothing is going to happen.

Moe Rayan – well at this point I can't speak for the courts we went as far as we can as a Municipality filing with the Magistrate's Office that is why we are seeking the help from our Solicitor to determine the way and the avenue to get these dogs out of there. Nothing is working with that individual and so we are looking for help to help the residents and help you. We are not ignoring the matter as you stated. We have been filing with the Magistrate's Office continuously and the decision was made by the Magistrate's Office three or four times against the individual but we don't have any means to extract the dogs out of the yard. We just can't show up in somebody's home and grab them we have to follow the laws.

Solicitor Alexander – So Mrs. Tullis if I can follow up on that. Moe has turned that information over to me and I will follow up with the crimes code and see if there are any additional citations other than what was already issued to the Magistrate. Perhaps maybe going forward to the DA or something like that downtown in order to get this resident into compliance. So we are on top of this and we will do whatever we can do to help your situation over there.

Mrs. Kuhn – it is very upsetting Moe, I realize it doesn't fall on you but I mean when we have these complaints and it takes so long to go before the Magistrate and then the Magistrate is ruling in the favor of our complaint but then once that ruling is made then it just seems like it falls on deaf ears. If someone goes before the Magistrate for something and he gets ruled against then there has to be something by law that should be made to have this taken care of. I mean if that is the case why go through all the trouble to go to the Magistrate.

Moe Rayan – that is why we are referring this matter to the Solicitor's Office to handle that Mrs. Kuhn and of course the law is

beyond me. I just learned about this matter and I spoke with the Code Enforcement Officer and he informed me that there are several times where the Magistrate's Office issued a decision against the individual in favor of the Municipality at this point. We will continue to follow up, we didn't drop the ball, we are continuing to follow up with that but when it comes to the Magistrate's Office we can't overrule so that is why we are looking for different avenues to pursue this matter. As far as the trash I will follow up on that. I wasn't aware of that. I will follow up. Did you call Code Enforcement?

Theresa Tullis – yes and nothing happens. Nothing. Nothing at all. My husband came up here and took pictures with his camera, came up here showed garbage still there and this was probably last month when that happened when he came up here with the pictures and showed Code.

Moe Rayan – just to let you know the process is a little lengthy once you make a complaint they have to send a letter to the individual and provide them with some time to correct the problem.

Theresa Tullis – but they don't come out. They don't drive down to the residents.

Moe Rayan – well I am not going to speak for them. I will have to investigate. I am not defending anybody but I am just letting you know the process it takes at least you have to give the individual 10 days, 20 days to correct the problem just to be fair with everybody just on the same line. I will investigate.

Theresa Tullis – and then also is there a follow up? Once that letter is sent to the person to correct the problem is there a follow up to that person to see if they did correct that problem?

Moe Rayan – yes there is a follow-up.

Mrs. Kuhn – not to interrupt but it is very difficult because residents come up, residents call Mayor & Council on problems with Code Enforcement. I don't like our residents to think that it falls on

deaf ears so what I am suggesting is when you follow up on this tomorrow I would like some type of memo sent out that when there is a complaint if they would take the person's name and phone number that is giving the complaint and if they could call those people and tell them what the process is because of the fact the resident doesn't know what the process is so if it does take two weeks, three weeks or four weeks for the process that needs to be explained to our residents so our residents don't think oh well they are just not doing anything about it. I mean I don't mean to take your job or the Director's job but this happens more than it should and they need to be informing the residents of what the scenario is so that the residents don't think well I called, I came up and then nobody has contacted me on what is going on. These problems no one would want, I live in Penn Hills. I wouldn't want to live next to a house that had twelve or fourteen dogs and I wouldn't want to live next door to a house that has rubbish out in the front for a week. We have these rules and regulations on the books so we need to follow through with them and make sure that they are followed through. So I would like that to be put in to some type of memo so that when a complaint comes to Code Enforcement the people who made the complaint at least know what the scenario is and that we are following up on it and that they don't think that this is just falling on deaf ears. And the Solicitor will look into this situation because of the fact I don't understand it I am not an Attorney or the Magistrate but when someone comes before the Magistrate and the ruling is against them something should be done not just say oh well that was the ruling and we will go from there.

Moe Rayan – I will follow up.

Mrs. Kuhn – thank you very much.

Ms. Kuhn – next we have Thomas Montgomery to address Council. Is Mr. Montgomery in the audience? (Mr. Montgomery was not in the audience). O.K. we will go next to Greg Swatchick.

**Greg Swatchick – Thank you Deputy Mayor Kuhn –
Greg Swatchick – 648 Graymac Lane – first I would like to thank**

Mr. Rayan for putting me onto address you this evening. I am going to be brief there is a Steeler Game tonight I don't want to keep you beyond any football fans here. The only thing I have to do this evening is pass out two stapled sets of paper. One is sort of old history and one is new history and then I have a remark for a minute and then I will be done.

Solicitor Alexander – Mr. Swtchick just before you get started, the information that you passed out and the topic of your conversation has nothing to do with the pending appeal that you just filed recently?

Greg Swatchick – the information that I am submitting is historical to the activity of yester year. Going back to about 1995 I think you were actually Mr. D'Andrea's Attorney and so for my participation the origin indeed goes back that far and deals with that subject matter. Mr. Maiello represented us as interveners in a pro-bono manner and I think Mr. Sidick was for Penn Hills. So yes it goes back that far as the old packet and the new packet is merely, none of this is what was submitted by the Attorney but the new packet of information sort of is a segway in transition from the previous Council meeting where basically for lack of a better word we were sort of muzzled and weren't able to respond as we saw fit. It is a loose correspondence, yes and I just have a brief statement and I am done.

Solicitor Alexander – the only reason I asked was if you were going to talk about subjects with regard to pending litigation obviously you are permitted to do that but I was going to just advise Council not to respond back because that is a matter of litigation. Please go forward.

Greg Swatchick – understood sir. Sure. Thank you sir. I and several of my neighbors did file an appeal last week regarding the 452B10 Amendment we were required to do so because the time limit was running out and there was no agreements with Mr. D'Andrea among other issues. For those reasons we felt it necessary to file an appeal to the Zoning Change from R-1A to mixed use and conservancy. And as a sidebar comment if you would want to check with Zelianople they had a similar case to the lady that came before me dealing with

dogs. Not 16, 20 something and I saw pictures dealing with 18 wheelers and a fork truck unload dog food to her residence and everyone around has a similar complaint and it is in the courts but those key things as to what a kennel is defined to be she feels sorry for dogs and takes them in, keeps some, sells some, gives some away but in the interim it is a real nuisance to her neighbors so it may be helpful. Of course Zelienople may have different rules but Pennsylvania at large may have some consistency there. Thank you Council, I appreciate it.

APPROVAL OF MINUTES

Mr. Underwood made a motion to approve the Minutes of July 15, 2013.

Mr. Palumbo seconded the motion.

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

EXPENDITURES

Dr. Kincaid made a motion to approve the Expenditures of August 19, 2013, Journal Vouchers, 1 - \$563,844.38, C.D Requisitions 21 - \$291,832.21, Master 25084 – 25395 - \$2,174,522.87 making a grand total of \$3,030.199.46.

Mr. Underwood seconded the motion.

Mickey O’Conner – 1095 Maple Avenue – General Comment – No specific check – I noticed going over this list some of these invoices date back to July, this is August and the vendors haven’t been paid yet. I think when you people start extending your once a month meetings an extra week Administratively you ought to let Moe know you are going to do this so he can go ahead and tell Finance go ahead and release some of these checks because I know if I don’t pay my taxes on time what do I get. I get a notice. These people haven’t

been paid since July I am surprised they haven't turned off some of your equipment. So I think you better administratively –

Mrs. Kuhn – Moe do you want to address that?

Moe Rayan – yes, Mickey the Finance normally as a matter of fact they brought it to my attention today that one of the vendors requested payment. I have some limitation to authorize a prior to payment if need be. I have contacted Mayor & Council and obtained authorization to release monies and we haven't heard of any problem from any of our vendors. The Finance Department has the ability to contact me if they get contacted from someone and if it is beyond my ability to authorize payment I can call Council and get approval. Nothing that we do prevents payment if the vendor is looking for cash we can authorize payment.

Mickey O'Conner – I know you can. I have sat up in that office many many years and had many many vendors call me in the summer time when you people decided to take an extra week off.

Moe Rayan – well that extra week off has nothing to do with paying the vendors.

Mickey O'Conner – o.k. I just wanted to make sure we weren't upsetting any of the vendors out there.

Moe Rayan – have you gotten paid, are you looking for money or something.

Mickey O'Conner – I get mine from the Courts, thank you.

Mrs. Kuhn – I have a few. Check No. 25102, 25227 and 25330, page three. I am assuming Moe that I know that I have made this comment before. This is Campbell, Durant, Beatty, Palombo and Miller. I see that there are quite a few charges here for professional services and I think I was told before a lot of this is because this is litigation and it has already been ongoing and that is why we still have them and we are not having them done in-house, is that correct?

Moe Rayan – that is correct. These are all pending litigations from probably back in 2009, 2010 still pending.

Mrs. Kuhn – o.k. because as I have said I know that if we have in-house it is sometimes less costly so I just wanted to make sure that we were still watching for that. Check No. 25340 page six – I see that is two Chevy Caprices. I just wanted to know I am assuming that is the Police Department – PD means that, is that correct?

Moe Rayan – yes.

Mrs. Kuhn – so that means Moe we have two new cars on the road, is that correct?

Moe Rayan – actually we should have all four vehicles, most of them are in, I am not sure what we had last week but prior to that all of our SUV's are in , the four patrol vehicles , I believe the Traffic vehicle is in and I believe one of the Detective is in as well.

Mrs. Kuhn – you know what my next comment is Moe? If the new cars are on the road then my maintenance is going to be going down hopefully.

Moe Rayan – that is what we hope for and that is what we try to do Mrs. Kuhn. These vehicles are on the road 24 hours a day. We are watching on a daily basis, nothing is being done without authorization and investigating the problems that we have with the vehicles. If we need help from Public Works the Police Department contacts Public Works and our in-house mechanics they take a look at the problem and make sure that the repairs are appropriate.

Mrs. Kuhn – I know I bring it up constantly Moe but it is because of the fact that the expenditures were close to \$8,000 on mechanical repairs and as I said maybe because of the fact the business I am in I also have trucks on the road 24 hours and a lot of them have 80,000 to 100,000 miles on them also so I know that that does cause somewhat of a problem but I just want to make sure we are careful with it

because it seems no matter what we try to do our maintenance is very high for the vehicles. I am just hoping someone is just watching it for us.

Moe Rayan – it is high and we are recognizing it and we haven't done a comparison with other Police Departments but we can perhaps try to do that but we are careful what we are doing and I am watching the expenditures on the vehicles and so on. We are not just cutting checks that are not warranted.

Mrs. Kuhn – Thanks Moe, the last one is on page 12, it is Gateway Engineer. It is relatively high and I just have a few questions. It is the HUD Rodi Sidewalk Services. I noticed that we had one, two, I think three charges on that. I am just not sure what that was.

Howard Davidson – Chris Blackwell and I were just today looking at a good set of drawings on this. There is a missing link on Rodi Road, a CD project. It is out in front of the other sidewalks for Frankstown West because we have Penn Dot issues on Frankstown Road. It is a CD project that is moving along we are looking forward to going out to bids now.

Mrs. Kuhn – do you have the funding for the project? That is what my question is? I just want to make sure we just weren't doing the engineering. We definitely have the funding for the project, is that correct?

Howard Davidson – we have enough money for this piece and we have enough money for sidewalks on Frankstown but I want to qualify that the section of Frankstown Road is so long that I don't think we will have enough for all of that so we may be asking for Phase II or Phase III out there in the western section of Frankstown Road. But this missing piece on Rodi Road it will be one of the first ones you will award and yes we have the money for it.

Mrs. Kuhn – do you know approximately Howard how much footage it is on there?

Howard Davidson – I would be guessing, maybe \$20,000, \$25,000 for this first piece. It runs from Duncan Donuts to the Doctor’s Offices there. So it is not a very long piece on Rodi Road but it is an important one though.

Mrs. Kuhn – well sidewalks would be nice on Rodi Road I agree, I just wanted to make sure we had the funding for it.

Mrs. Kuhn abstained on Check 25280 and 25281 to Don Kuhn Auto Body in the amount of \$150.00 and for the rental of \$600.00. Thank you Ed.

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

RESOLUTIONS

Mr. Underwood made a motion to approve Resolution No. 2013-047 approving an Amendment to The Rules and Regulations of The Personnel Board of The Municipality of Penn Hills regarding the validity of The Civil Service Eligibility List.

Mr. Palumbo seconded the motion.

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

Mr. Palumbo made a motion to approve Resolution No. 2013-048 awarding a Contract to Tresco Paving Corporation for The 2013 Community Development Paving Project.

Dr. Kincaid seconded the motion.

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

Mrs. Kuhn – before we make that motion there is a correction – the second WHEREAS the amount should be \$52,300.00 which is at the

bottom of Number 1 for the total cost instead of the \$96,932.00. It is amended.

Mr. Underwood made a motion to approve Resolution No. 2013-049 awarding a Contract to Jadell Minnifield Construction Services, Inc. for The Community Development Demolition Package #6 Project.

Dr. Kincaid seconded the motion.

Gary Henderson – 7833 Thon Drive – I just wanted to say thank you for the demolition on 7837 Thon Drive.

Mrs. Kuhn – thank you very much. It is very nice for someone to be appreciative and I am glad to see that we have as many as we do and the one on Verona Road has been pending for a very long time now.

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

Mr. Underwood made a motion to approve Resolution No. 2013-050 authorizing The Proper Municipal Official to enter into an Agreement with Taser International at a cost of \$8,159.00 for five (5) years commencing in 2014.

Dr. Kincaid seconded the motion.

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

REPORTS

Mrs. Kuhn – I have a question on the Delinquent Letters that went out for the sewage problems. I have been getting many phone calls from residents as well as I know your staff has gotten many phone calls from residents. Now everyone knows the problems with the sewers and it is not that Mayor & Council or myself I don't want to

speak for Mayor & Council but it is not that we don't expect everyone to pay their sewage bills that is an absolute. However, in this case when we do a contract for someone to take care of our delinquencies I don't understand why when they sent out the delinquencies number 1 they sent it out on Penn Hills Municipality Letterhead. By doing so the residents assumed that the information came from the Municipality. I am assuming that when they take our liens that they naturally get a percentage of what they bring in. But by having it on Municipality Letterhead it was I know myself and I know the staff has had to handle a great deal of comments and the issues which really and truthfully they weren't advised on, we didn't even know the letters went out. So I want to understand why the letters went out on Municipality Letterhead and not on their letterhead. That should have been what they were addressing because once again not only Mayor & Council getting the questions but it took a lot of time which is tax payers money for your staff to have to answer all these questions and the second problem I have is why did it take five years? When I had my residents calling me yes I am telling them everyone has to pay their sewage bill but why on earth I had a hard time explaining to them when they said it was five years that they had not received this I know myself I might keep my records for five years but I have a son and two grandchildren who live in Penn Hills and I would bet a bottom dollar they don't have their receipts for five years so it was a very long time for it to go out. I am not real happy and I didn't know whether you could contact them and address these questions because of the fact this was handled in my opinion very badly.

Moe Rayan – well I can try to answer the first question why it went on letterhead initially four years ago when we gave them the contract the thoughts were to put it on Municipal letterhead to be handled or to be sent to the residents in a mild manner seeing a letter from the Municipality versus a collection agency but as you can see it has backfired this time because it is four or five years later but that was the initial reason why we went with it at that time what they advised us as to call it as a mild letter to the residents asking them to go ahead and make the payments on their delinquent sewage but after four years I get it, we requested the same thing the answer we got they were going down the list. I understand five years is a long time. I

can try and get a better answer but really there isn't a better answer than that from them, they told us they were going down the list and all the offices throughout the Municipality received complaints from the residents and we get it and we try to put them on the right track to contact Portnoff and try to discuss the matter with them. It doesn't mean that it makes it easier on the residents, I certainly understand but I can follow up and see if I can get a better answer for Mayor & Council and the residents.

Mrs. Kuhn – o.k. like I said I am not saying that if you were delinquent that you shouldn't pay it because if everyone else pays it then everyone has to pay it. My problem was the fact of the time, of the time element, I don't know why it took that long to get that out and now it makes it very difficult because of the fact how are we explaining this to our residents saying well I don't have an answer as to why it took five years. That is what I am looking for. I mean because of the fact I got many phone calls and I don't have an answer for them and I explained to them everyone has to pay their sewage but in the same token it is very difficult well they paid it or they didn't get their bill. From what I am hearing from some residents Portnoff is saying one thing now I don't know if they are or not, I asked if they could give me the name of the person who was giving this but it caused a lot of problems that I don't think was necessary to be caused. If you could look into it and give us some report, I would appreciate it?

Moe Rayan – it certainly would have been a lot easier if the letters went out sooner than they have, yes.

Mrs. Kuhn – and the other question I have is on the residents that were here last month from Suncrest. We asked that a follow up would be done on it with the residents and I did ask that it would be looked into if their complaints I felt were valid and I wanted to make sure that we followed up on them because once again they felt that they had been calling the Police and 911 and what have you and nothing had been done and I know there was a problem with the eviction and the Solicitor did explain to the residents the time element that it takes for

that. The other situation was that he was running a Commercial business and that he would need an Occupancy

Moe Rayan – Home Occupation

Mrs. Kuhn – Home Occupation. So I didn't know if anything was followed up on and I didn't receive anything in my packet and I know that you were out of the office so I just would like to have some kind of report Moe exactly what the status was with the information that was given back to those residents.

Moe Rayan – well actually the reason Mr. Montgomery well I am not sure that is the reason I probably shouldn't say that but I am anticipating that Mr. Montgomery didn't show up this evening because the decision was in his favor. The individual was given 10 days to leave the premises and we are just going to have to wait and see.

Mrs. Kuhn – so there was a hearing at the Magistrate's Office?

Moe Rayan – yes and the Magistrate gave a decision and gave him ten days to leave town.

Mrs. Kuhn – so that is where it is at?

Moe Rayan – so that is where it is at as far as that. The ten days I believe started last Wednesday so we talking probably about some time after the holidays. That would be the time line and then of course after that if he doesn't go out on his own there is a different process now they send out the constables along with our Police Department and try to make him leave that way. If he doesn't go peacefully in ten days, there is another process so it isn't over yet.

Mrs. Kuhn – o.k. so were the residents informed because I know they gave a list and I know Maureen sent us out a list with all the names and phone numbers and I didn't know if they were informed that there was a hearing and what the decision was?

Moe Rayan – actually going through this right now I was out last week so I didn't hear anything about the decision until this morning so we are going to follow up and I have the list and Maureen has the list and also Chief Burton has the list of the individuals relative to the complaints that we received with regards to drug activities and so on.

Mrs. Kuhn – o.k. Moe thanks, I just wanted to make sure that we follow through with the residents. Hopefully this situation will be resolved.

Moe Rayan – that's o.k.

Mrs. Kuhn – any other reports? After the meeting we will have a Executive Session to discuss personnel. Motion for adjournment.

ADJOURNMENT

Deputy Mayor Kuhn entertained a motion to adjourn.

Dr. Kincaid made a motion to adjourn.

Mr. Underwood seconded the motion.

The meeting was adjourned at 8:17 P.M.

DATE

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

