

OCTOBER 17, 2016 COUNCIL MEETING MINUTES

The October 17, 2016 Council Meeting was called to order at 7:30 P.M. in Council Chambers at the Municipal Building. Mayor Sara Kuhn presiding.

APPROVAL OF AGENDA ITEMS

Mayor Sara Kuhn – Good evening everyone. It being 7:30 P.M. I will call this meeting to order. There is a change in the Agenda. **Ordinance No. 2016-2489** is being removed and that is at my request. I needed some further information from the Manager. Other than that the Agenda will remain as stated. Will you please stand for the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

All stood for the Pledge of Allegiance.

ROLL CALL

Mr. Brodnicki
Mrs. Sapp
Mr. Underwood - Absent
Dr. Kincaid
Mayor Kuhn

Also present were Rayan, Municipal Manager, Sorce, Manager's Secretary, Alexander, Solicitor, Schrecengost, Finance Director, Blackwell, Planning Director, Minsterman, Engineer and O'Grady, Water Pollution Control.

CITIZENS TO ADDRESS COUNCIL

Carolyn Vesce - 1687 Nash Avenue - I am here to talk about the fire whistle at the North Bessemer Fire Station. I live directly behind the fire hall. I have lived there and owned my home for twenty-five years and I have endured a direct hit for twenty-five years from that fire whistle. I just want to make clear that I appreciate and respect the work that the volunteers do and this is not about their service at all. I believe that the whistle is obsolete now with the technology that we have. My dad served as an active fireman for many many years. I grew up on Nash Avenue and now he is a life time fireman but he has passed since so I understand the passion and the commitment. I have also spoken to several other firemen and they do share my view. Like I said I support the fireman 100% and I have never as I said came to speak about this issue even though I believe it is an issue. I believe that there is a viable solution to this. As I mentioned before with the technology that we have today, I believe that there is no reason for the fire whistle any more. The firemen all have monitors in their homes, they also go off of an app off of their cell phone and we all know nobody is without their cell

phones any more it is 24/7. Most of the firemen do not even live in North Bessemer. They come from other areas to serve the fire hall so again it makes the point with the whistle because there is probably four firemen who live in our Community I don't know the exact number of that but the rest are not in North Bessemer. Over the past year the whistles are call outs if you want to call it that have been increased immensely. Like I said I have been there 25 years. There used to be maybe one maybe two a week excluding the every Saturday 12:00 o'clock whistle. A few weeks ago is what drove me here today. I was at home and it was a Friday Morning and the whistle had gone off six times within a twenty minute span with no response. No firemen. Like I said I live right there I see what is going on. In the past the whistle had been broken for months and the firemen were still able to respond so that kind of proves my point. Penn Hills actually has two fire stations who do not sound their whistles, Rosedale and Lincoln Park. Rosedale's Fire Chief shut it down because of the frequency of the alarms. Also I feel that he had compassion for his neighbors. Other surrounding Communities such as Plum do not blow their whistles. Plum has an App it is called Active 911. They seem to get to their fires just with that. So what I am asking today is what I am asking for will not hinder or prevent in anyway the firemen from responding to fires. So pretty much what I am asking for is some compassion after twenty five years of enduring it. It has directly affected our quality of life in my home and surrounding homes. I am simply asking for the same luxury that our Chief has that does not live near the fire hall at all so he does not hear that whistle. I strongly feel that the whistle has out lived its purpose. I guess that is about it and another point is if Rosedale and Lincoln Park have not sounded their whistles and I don't know what the period of time has been and it is working fine I don't know why they can't be examples for other fire halls. That is all.

Mayor Kuhn - I appreciate your concerns and I do have letters that were sent to me by Kelly Walker, yours you sent one to me and a Frank Williams and I believe there was another one sent to me and then there is a double one from Kelly Walker. When I received the letters from the residents I did have a meeting with the Manager and I made a copy of the letters and I asked him to contact the Chiefs of each of the fire departments and for them to give their opinion and the reasons for the fire whistle to go off. I talked to the Manager this morning and he said that he sent everything out with the letters from the residents and my letter and I did hear from Fire Chief Capone who is North Bessemer's Chief and I did hear that Rosedale and I didn't know Number One in Lincoln Park didn't have theirs go off but Rosedale informed me that the reason that they discontinued theirs is because of the fact that their fire company is involved with the medical with some type of medical calls and that they get so many of those that aren't related to fire calls so they didn't feel that it should go off and then the firemen come and it is not really for a fire.

Carolyn Vesce - that happens a lot in North Bessemer.

Mayor Kuhn - I asked the Manager this morning if we could have each of the Chiefs give me their opinions on why they feel that it is necessary. Now I did speak to one at a meeting in the Municipality and he stated that the fire alarm they all do have

the modern technology but that really the fire alarms go off mainly to let the people who are driving in the area be aware that the fire companies are coming out and for the neighbors. Now I lived on 6th Street in Point Breeze and I was four houses up on the other side. So I know how loud the fire alarms are but I understand because I lived there myself and I had my children there when they were young and when I would put them to bed they would wake up but that is what the fire companies did so I did ask the Manger to contact each of the Fire Chiefs and have them submit to me just a small comment as to why they feel it necessary and if they don't feel it necessary to incorporate that into the letters also.

Carolyn Vesce - John Capone, I had a call out to him since Friday and he called me back this evening and he was quite rude to me and he really didn't even want to listen to me or hear me out which I found to be appalling. This man is in charge of a whole fire hall and you aren't going to listen, I have something to say and you can listen to me and he was really rude and his excuses were not anything that nobody has heard before.

Mayor Kuhn - like I said they are not Municipal employees and each fire company they own the fire companies

Carolyn Vesce - so it is totally up to the Chiefs?

Mayor Kuhn - the Municipality does not have any ownership in the fire companies is that correct?

Moe Rayan - that is correct.

Carolyn Vesce - the firemen own the fire companies?

Mayor Kuhn - yes.

Moe Rayan - yes.

Carolyn Vesce - Outright own them?

Moe Rayan - yes, they own the building and the structure and the volunteers belong to them, the Municipality subsidizes the fire companies

Carolyn Vesce - but they are funded through the Community.

Mayor Kuhn - excuse me Moe they are funded through the Municipality gets funding for their equipment.

Carolyn Vesce - oh because John Capone said just the opposite to me but go ahead.

Mayor Kuhn - we give I believe it is somewhere around \$40,000.00 each a year for each of the seven fire companies.

Moe Rayan - that is correct and in all it is around \$600,000 and some towards all seven fire companies.

Mayor Kuhn - but you do have to realize that isn't a great amount of money the equipment itself because I have done this research about five years ago when I was making a big push because of the fact they are almost to the point where they are not sending out their letters for contributions because they send out one was telling me 1500 letters and they are lucky if they received 300 back and every time I get a chance to speak regarding the firemen at the meetings, at the parade wherever I am at I explain to them they are volunteers they do not get any personal funding. The only thing we give is towards the equipment and towards the upkeep of the fire trucks. But they depend 90 well not 90% probably 60% on what is given by the residents and I try to explain to the residents if you and they are not asking for a lot of money they start out like at \$30, \$40

Carolyn Vesce - I have donated for years.

Mayor Kuhn - right and I try to explain to the residents it they would happen to go under because of not having the funding the Municipality would have to have paid fire men and there is no way any taxpayers in Penn Hills the majority of them would be able to afford that so as I said they are not employees of the Municipality, we do not own their structures they are owned by each individual fire company. All we can do is present the resident's complaints and then it would be up to each different fire company as what they choose to do and what they don't.

Carolyn Vesce - well that is very unfortunate. A comment to him in our conversation just so you know what kind of man he is he said well since you are up it usually goes off at two, one o'clock , three o'clock in the morning and that is what I said after twenty five years I want to go to bed and be able to sleep all night. Twenty five years ago I was a lot younger and I could handle it but I am older now I don't want to deal with it. Short of selling our house and moving which is probably an option but do we want to, we have our house the way we like it and we don't mind living in Penn Hills we like it all of our family and friends are around so his comment was well since you are up anyways why don't you come down and volunteer and I said I have a better thought and I will tell you what I said because I was very angry I said how about if I come to your house and blow a siren at your house and he said well you can do what you want to do and I said to him all I want is a little compassion can you think about it?

Mayor Kuhn - I will say the membership not just in Penn Hills but across the nation of volunteer firemen is down tremendously and the ones that are still there are older ones so it is very difficult for them to even get volunteers and the only suggestion

like I said I will have the Manager ask and that is all I can do I can't direct because of the fact they are individually owned what their opinion is and the only other thing I can suggest is if the Community is concerned about something maybe you could ask if you could speak at one of the entire firemen's meetings so you could address all of the firemen and see what their take is.

Carolyn Vesce - would a petition be a good idea because he seems to think it is just six people and I said no?

Mayor Kuhn - well the thing of it is if you went to a meeting and I don't even know if they do that

Carolyn Vesce - they do on Thursdays.

Mayor Kuhn - but if they would allow public input at their meetings

Carolyn Vesce - do I have the right to just walk in there as a resident?

Mayor Kuhn - I don't really know. I would have to ask the solicitor.

Craig Alexander - That would pertain to whatever their by-laws say. They aren't covered by the Sunshine Law so whatever their by-laws provide for provide for what public input they may or may not need.

Carolyn Vesce - so if I just walked right in there and asked to speak at the meeting they could either tell me no or yes?

Mayor Kuhn - or maybe you could send a letter saying you would like to have permission to speak at one of their meetings and to see if a problem in the Community could be resolved amicably. Like I said I don't know if that would work but that might be an avenue that you could take. O.K.

Carolyn Vesce - it is just unfortunate that he is just so closed minded.

Mayor Kuhn - well that is why I say it would be nice if maybe do you know any of the other firemen?

Carolyn Vesce - yes.

Mayor Kuhn - well then I think you could approach them that would even be better. Approach them and tell them what the situation is and how the neighbors feel and you would appreciate if you could come and speak to all the firemen, that would probably be better than mailing a letter.

Carolyn Vesce - o.k. thank you.

Mayor Kuhn - you are welcome.

MINUTES

Mr. Brodnicki made a motion to approve the Minutes of October 3, 2016.

Mrs. Sapp 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 October 17, 2016**, Journal Vouchers 0, \$0.00, CD Requisitions 12, \$247,533.43, Checks 35683 - 35829 – \$1,822,030.37, making a Grand Total of \$2,069,563.80.

Mr. Brodnicki seconded the motion.

Mayor Kuhn - I have a few questions. Page 6 there is a \$12,271.30 for manhole covers. I was just wondering Moe is this just for replacement and repair and we are not having a problem with theft on these?

Moe Rayan - these were provided to the contractor doing the resurfacing program for replacing those manholes and some of them are for repairs as well, so those are for just day to day operations.

Mayor Kuhn - o.k. and on Page 5 to Bruce Dice and Associates it is on Sayre's Lawn that is the one that we have sued because they did not do what the bond said they would and I see that we do have an expenditure for the attorneys. Will that be reimbursed by the bond company on the settlement that we asked for?

Moe Rayan - well that is going to be part of the settlement. Right now we are just going through the Deposition Proceedings. At this point it was postponed the last one and we provided them with additional information but we have not heard what the next step is but it is part of the settlement.

Mayor Kuhn - o.k. because of the fact and that might be the next question that I have I do not know the law, the Solicitor and the Attorneys do but I thought that when we had a contractor that was bonded that if there was a problem that is why he is bonded so I don't understand why we have to be going through all of this and having these added costs if he did not do what his bond said that he would do.

Craig Alexander - I believe that we did go after the bond company and that is not my area but we did file a breach of contract action against them as well so that is what

they are disputing. Moe has calculated the damages based upon the amount of money that had to be generated in house because the Municipal employees had to do the work for the last few months of the first year of the contract and the Municipality incurred those costs and had to actually buy equipment in order to do that so Moe calculated those damages. We filed a breach of contract and I believe that the bond is being attached as well. Moe can speak on that because I was not involved in the bond proceedings.

Mayor Kuhn - o.k. it is just so unrealistic to me when you have someone receive a contract and is bonded and they obviously did not do what the contract stated because they didn't do the work and they didn't do it for the second year that they had then that is difficult so it is very upsetting that this is in place to say that it should cover the Municipality and the taxpayers money and then we have to go through this legal merry go round and then have a settlement made and have it appealed and what have you. I didn't think that would be the problem if you had it bonded.

Moe Rayan - well when we went after the bonding company, the bonding company consulted with their vendor and they disputed the cost and that is why it started the litigation.

Craig Alexander - Now that Moe mentioned I remember I think they offered I think like \$1,300.

Moe Rayan - \$1,000.

Mayor Kuhn - but right there why was it bonded and why are they only offering \$1,000 that to me if just not reasonable.

Moe Rayan - well their client is disputing the cost and then each party has to present the court at this point their case and then eventually either an arbitration or downtown would have to decide but we do have our facts together and our documentation and we have payroll and we have reports we have everything to support our case.

Mayor Kuhn - alright Moe as I said that is just absolutely mind boggling to me when you have a bond. On Page 11 Maiello for \$24,340.00 I am assuming that is Real Estate Liens that they have filed.

Moe Rayan - that is correct.

Mayor Kuhn - now is that the amount that we pay them for filing the liens?

Moe Rayan - all inclusive, filing with the courts and their fees to do the filing.

Mayor Kuhn - and then we receive the money is that right?

Moe Rayan - when the properties start exchanging hands, yes. There are liens on the property and whenever there are time for transactions we will receive that fee on the property that is has a lien.

Mayor Kuhn - so are we saying that Maiello receives their money up front before we receive the liens that we addressed or are these ones that were already finalized?

Moe Rayan - no these are for filing for them to prepare all the filings that is their fees.

Mayor Kuhn - so that is what it costs just for them to file?

Moe Rayan - that is correct.

Mayor Kuhn - so the Municipality pays that for the filing fees?

Ed Schrecengost - for the filing fees and they charge the property owners and we get fees back.

Mayor Kuhn - o.k. thanks. Plus Maureen I want to thank you for doing the holes on the tops so we were able to find out what page they were at. That was very nice of you so thank you.

Mayor Kuhn abstained on Check #35800 to Don Kuhn Auto Body for \$600.00 for rent and yes on all others.

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

ORDINANCES

Mr. Brodnicki made a motion to approve **Ordinance No. 2016-2490** -amending Sections 3.2, 5.21 and 12.5 of Ordinance 2420, The Penn Hills Zoning Ordinance authorizing the keeping of chickens as a special exception.

Dr. Kincaid seconded the motion.

Mayor Kuhn - now I will ask for comments from the audience but the last time that this was on we spent probably over an hour on it at least so if anyone wants to speak if you had spoken at the previous meeting I would appreciate it if you would let those comments be what was on record unless there is something new.

Greg Swachek - 648 Grammac - These are just a few new comments. Chris or somebody authored this Ordinance I just wanted to point out on Page Two on the

bottom right corner it says so they cannot tray should probably be stray so if somebody wants to put an S in front of that.

Mayor Kuhn - where is that at?

Greg Swachek - second page bottom right corner, literally the bottom right corner word.

Mayor Kuhn - o.k. I see it. Very good Greg I read this and had everything circled.

Greg Swachek - well the spell check doesn't catch those things, you know how important law is and of course it is understood what was meant but just to fix it. Now Page Two at the top Section 5.21.A it says special exceptions in an R-1 District. I was just wondering and I don't have it memorized the R-1, 2, 3, R-1A how does it impact those other districts? Is it intended to just say R-1 or are there other things that should be listed there as well?

Mayor Kuhn - I am assuming that this is the only area that the Zoning Change would cover is that correct Chris?

Chris Blackwell - the R-1 and the R-2 District it says special exceptions, and special exceptions in the R-2 district are the same as the R-1, R-3 are the same as the R-1 and C is the same as R-1.

Mayor Kuhn - so everything just falls back to R-1.

Chris Blackwell - yes that is correct. Home occupations and the keeping of chickens would be permitted in R-1, R-2, R-3 and C.

Greg Swachek - o.k. thank you very much. The next page on the top it talks about 25 feet away from occupied dwellings and I am not positive but the actual location of the structure relative to the nearest property line is that picked up when you get an accessory use structure portion of the law applied so it wouldn't have to be specifically stated here.

Mayor Kuhn - I think that would be covered when they came in for their building permit, am I correct?

Chris Blackwell - yes.

Greg Swachek - and the last thing I have because I ran into this one time when someone built a garage. It was a case where one owner had so much land and adjacent parcel was owned by the same person. So an accessory structure being the garage was put on with no primary structure. So I learned at that time that I shouldn't of appealed it because of the Zoning Lot Concept where you can pretend that it is the

same owner that those parcels all count for the area to count to apply an Ordinance to. So I guess I was wondering maybe Craig or Chris would be able to comment. If we do have a situation where someone has five acres combined can they just as a matter of right have chickens?

Chris Blackwell - it states that a chicken coop would be an accessory use meaning that a home must be in place first. Because if someone owns say three acres or four acres or two acres we would say that they own six acres or whatever it is and they would be permitted to have chickens.

Greg Swachek - the very last thing and this is at the bottom of page one and this is just probably for our Ordinance and everybody else's land in excess of five acres. It probably intends to be greater or equal than five. Five acres is a nice break out of a parcel so if somebody has five acres I think they should be allowed to have chickens even those this says in excess of five acres and some crazy lawyer some time down the road may try to exploit that so if you want to I don't have strong feelings on it you could put greater or equal than five acres and just take out the restricted excess only. There are a lot of parcels that have nice even five acres when they are sub divided and that would just maybe fill in a potential loop hole. And I just wanted to thank Chris for all of his work o.k. you last time Mayor he sort of prepared something thinking it was going to fly through and then adjusted to accommodate some other things that weren't necessarily considered and I just think that all of Council is doing the right thing voting unanimously for what we have here and I think this will be welcomed by all the people who you pointed out that had no idea this was even simmering and now we can put it on the back burner and forget about it. Thank you very much.

Mayor Kuhn - you are welcome.

Chris Blackwell - Just too address Mr. Swachek's last comment under Farm it says in excess of five (5) acres or more so I believe it covers that.

Mayor Kuhn - You have put so much time into this and just to let the public and the media know that is why we have public Council Meetings that we read each individual Ordinance and Resolution so that we get the input from the residents who are affected by our Ordinances and Resolutions and we had a great deal of comments at the previous meeting on chickens but by doing that the people and the government were able to work together to come up with a solution that was acceptable to each and so I appreciate all the work that has been done on this and I do agree that this is the best way to go because of the fact as I stated we may have a child who is ten years old and says I might want to have chickens and like everything else they take care of them for two months and then all of a sudden they have no use for them and now we have chickens who are not being taken care of and residents have to put up with that so with the way that we have presented this they have to go for a special exception to the Zoning Hearing Board you are going to have people who are genuinely concerned about raising chickens because they would not go through all the work that they have to

do and the expense on a whim. So I think this is a win win for everyone and I do thank you again Chris.

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

Mrs. Sapp made a motion to approve **Ordinance No. 2016-2491** - amending Ordinance 2542 of 2012 and revising the Schedule of Fees for Permits, Sewer Charges, Land Development Application Review, Public Hearing Charges, Printing Charges and other Municipal Fees.

Dr. Kincaid second the motion.

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

RESOLUTIONS

Dr. Kincaid made a motion to approve **Resolution No. 2016-055** – authorizing The Municipal Manager to enter into a Network Equipment Replacement Purchase Agreement with The Electronic Information Network for Computer Upgrades at The Penn Hills Library and The Lincoln Park Library.

Mr. Brodnicki seconded the motion.

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

Mr. Brodnicki made a motion to approve **Resolution No 2016-056** - authorizing The Proper Municipal Officials to execute all Documents and Agreements with ALCOSAN for a Green Revitalization of Our Waterways (GROW) Program Grant for The Churchill Country Club Sewer Lining Project.

Dr. Kincaid seconded the motion.

Mayor Kuhn - I just have one comment so that the Public is aware that this is a that the GROW Program provides financial and technical assistance to Municipalities for storm water and grown water reduction projects. It stops excessive water from entering the sewer collection system. What the Municipality is looking for is a Grant in the amount of \$232,790.00 which represents 85% of the project and Penn Hill's cost would be \$41,000.80. This hopefully we will receive this grant because this would be a great help with the Municipal Sewer costs. Any other comments?

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

Mrs. Sapp made a motion to approve **Resolution No. 2016-057** - authorizing the Proper Municipal Officials to execute all Documents and Agreements with ALCOSAN

for a Green Revitalization of our Waterways (GROW) Program Grant for Sewer Lining on Orin Street.

Dr. Kincaid seconded the motion.

Dr. Kincaid - the only question I have is the timeline.

Mayor Kuhn - Moe you would have to answer that question, is there a timeline?

Moe Rayan - well we presented ALCOSAN with a letter of interest and they invited us to go through this application process along with other Municipalities and the actual program will probably commence next year with the expectation to complete the project within two to three years.

Mayor Kuhn - again this Resolution is for a project to line approximately 2,100 feet of sewer pipeline on Orin Street. To reduce infiltration of steam and storm water to potentially eliminate 1.89 million gallons of extra water annually at an estimated project cost of \$335,730 and we are requesting a grant amount of \$285,371 which represents 85% of the project cost reducing Penn Hills cost of the project to \$50,359.

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

Mr. Brodnicki made a motion to approve **Resolution No. 2016-058** - adopting the 6-Year Capital Improvements Program of 2016-2021.

Dr. Kincaid seconded the motion.

Mayor Kuhn - we did hold a Public Hearing on this and so did the Planning Commission and we received input from the residents.

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

REPORTS

Mayor Kuhn - I do have a report that again I had met with the Manager and given him complaints that residents had sent to my attention about the Police Department and the Manager turned them over to the Chief and the Chief gave me a response on all of the complaints that had been initiated and to show exactly what the Municipality had done towards the complaints. My only question would be Moe did anyone contact the residents with the information that the Chief gave me?

Moe Rayan - I can't answer that. I know I didn't Mayor but I can check with the Chief and see if he had any contact with these folks.

Mayor Kuhn - o.k. if you could because of the fact then that way then the residents know that we did not just throw their complaint in the waste basket that it was given to the Chief and the Chief did do an investigation on it and had come up with the comments that the Chief had. I don't know if you still have that list of people if not I will see if I still have it.

Moe Rayan - I still have the packet that you gave me.

Mayor Kun - o.k. that is great. I appreciate it Moe just so they know that we are following up on their complaints and not just ignoring them.

Moe Rayan - I will.

Mayor Kuhn - o.k. we will have an Executive Session on Personnel Matters and Real Estate.

ADJOURNMENT

Mayor Kuhn entertained a Motion to adjourn.

Dr. Kincaid made a Motion to adjourn.

Mr. Brodnicik seconded the Motion.

The meeting was adjourned at 8:20 P.M.

DATE

MAUREEN M. SORCE
MANAGER'S SECRETARY

