

JANUARY 17, 2017 COUNCIL MEETING MINUTES

Mayor Kuhn - Good Evening everyone before I call the meeting to order I was contacted by the School District and our Community lost a young Penn Hill's School Senior this weekend, Donovan Baynes was in a terrible car accident and they asked if I would ask everyone to pray for his family and his friends and especially all the students at the School District and especially his football team players because they are taking this very very hard. So I hope that everyone remembers Donovan and his friends and family and all his school mates because this was very sad and very tragic and I know they had a vigil for him tonight at the School District at 5:00. Also I want to thank everyone for all the well wishes I received during my illness of six weeks. Far too many to mention personally but I do appreciate it as did my family. I appreciated the concerns and well wishes and prayers and I know in my heart that those prayers were answered.

APPROVAL OF AGENDA ITEMS

Mayor Kuhn - The Agenda will stand as presented with the exception of the Appointments they will be deleted at this time and we are having an addition at The Executive Session besides Personnel Matters we also will be discussing Real Estate. With those changes 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
Dr. Kincaid
Mayor Kuhn

Mayor Kuhn - and I do want to say before I ask for any Motions we do have two Boy Scouts in the audience. Do you want to come up and give your names?

Boy Scouts - Mica,
Aden

Mayor Kuhn - it very nice to see you and I am assuming that is your Mom and is that your Dad sitting there? I image that they are here for a badge and they usually have to attend some type of Council or Board Meeting so I welcome you and really congratulate both of you and Mom and Dad. It is wonderful to see these young men who are putting the time in so it is very nice to have you here and I hope you get something knowledgeable from our meeting tonight.

Also present were Rayan, Municipal Manager, Sorce, Manager's Secretary, Bruce Dice Solicitor, Schrecengost, Finance Director, Blackwell, Planning Director, and also Minsterman, Engineer.

MINUTES

Mr. Underwood made a Motion to approve the Minutes of December 19, 2016 Second Budget Hearing, December 19, 2016 Council Meeting Minutes and December 30, 2016 Budget Adoption Hearing Minutes.

Mrs. Sapp seconded the motion.

Mayor Kuhn - I would like to make a motion for all three, Solicitor is that o.k. to do?

Bruce Dice Solicitor - It is perfectly fine.

Dr. Kincaid - I would like to make a correction with the Second Budget Hearing the first one in the pile the second paragraph, three or four sentences down the comment that I made in regards to the Budget I thought I said compliments to the Manager but it got recorded Mayor. I would like to correct that.

Maureen Sorce - correction made.

Mayor Kuhn - before I call for a Roll Call I would like to thank Dr. Kincaid and I read the Minutes and you did a wonderful job in my absence and I thank you and I want to thank all of Council for the work that they did and I appreciate it tremendously.

Mayor Kuhn - no because I was not present at any of the three meetings.

Mr. Brodnicki - I am going to abstain from the Budget Hearing Minutes because I missed that but yes on the other two.

There being no further discussion the motion was passed by a 4-0 on the December 19, 2016 Council Meeting Minutes and the December 30, 2016 Budget Adoption Minutes and 3-0 on the December 19, 2016 Second Budget Hearing Minutes.

EXPENDITURES

Dr. Kincaid made a motion to approve the **Expenditures of January 17, 2017**, Journal Vouchers 0, \$0.00, CD Requisitions 4, \$2,050.00, Checks 36581 - 36631 – \$965,472.24, making a Grand Total of \$967,522.24.

Mr. Underwood seconded the motion.

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

ORDINANCES

Mr. Brodnicki made a motion to approve **Ordinance No. 2016-2592** - amending Sections 3.2 and 10.5E of Ordinance 2420 The Penn Hills Zoning Ordinance to Regulate Portable Storage Containers in Residential Areas.

Dr. Kincaid seconded the motion.

Mayor Kuhn - I do have a comment Chris in reading the memo and all the definitions I think this was a well needed Amendment to our Zoning because so many people do have containers especially now and I wanted to ask you does this also represent those green bag containers that you can get at Home Depot or Lowes?

Chris Blackwell - it does not. I believe it should be a separate Ordinance. I would like to propose an Ordinance to you that has dumpsters and bagsters as a separate Ordinance.

Mayor Kuhn - but we don't have that right?

Chris Blackwell - we don't have that now.

Mayor Kuhn - o.k. the only reason is because I have had two phone calls asking if it was covering the plastic ones because when they open them up they do have wood in there and the one person that called I rode by and they had bathroom toilets and this and that and what have you and they were sitting there for three weeks the person had told me.

Chris Blackwell - I started on one but it is not prepared for you at this time but I totally agree that that is a problem and Code Enforcement deals with it on a regular basis.

Mayor Kuhn - because like I said a lot of people are purchasing them more so than the containers because of cost factors.

Chris Blackwell - I believe it to be those are totally separate. Those are totally different.

Mayor Kuhn - o.k. because they are an eye sore for the residents and they seem to sit there a lot longer than the containers because usually you rent the containers but when you get those plastic ones you pay a certain price and they just have a tendency to let them sit. So that will be coming at another date, you say that Ordinance?

Chris Blackwell - yes it will.

Mayor Kuhn - I think that you have covered everything that you possibly can for this Ordinance and like I said I do believe it was a necessary Ordinance and I am glad that we had enacted it. Any other comments from Council?

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

RESOLUTIONS

Mr. Underwood made a motion to approve **Resolution No. 2017-001** – exercising the option to extend The Contract with Crystal Clean Windows, Inc., for One Year until December 31, 2017.

Dr. Kincaid seconded the motion.

Mayor Kuhn - I just want to say Moe it is stated that there is no increase, this has just been renewed for another year at no additional cost.

Moe Rayan - yes this is the option in the contract that both parties us and the vendor agreed upon.

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

Mrs. Sapp made a motion to approve **Resolution No 2017-002** - exercising the option to extend The Contract with Ace Plumbing Service, Inc., for One Year until December 31, 2017.

Mr. Brodnicki seconded the motion.

Mayor Kuhn - again Moe this also is just a renewal with no cost increase, correct?

Moe Rayan - that is correct.

Mayor Kuhn - thank you.

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

Mr. Brodnicki made a motion to approve **Resolution No. 2017-003** - awarding a One Year Contract with Dr. David Sherer at Werntz Memorial Animal Hospital for Veterinary Services for The Municipal Canines.

Mr. Underwood seconded the motion.

Mayor Kuhn - Moe I just have one question here I know that it says in the Ordinance that he is the current veterinarian that we use, is that correct?

Moe Rayan - that is correct, yes.

Mayor Kuhn - He is not on call for emergencies so that has been even prior to that contract, is that correct?

Moe Rayan - yes correct.

Mayor Kuhn - o.k.

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

Mr. Underwood made a motion to approve **Resolution No. 2017-004** - awarding a Two Year Contract for Exterminating Services to Fort Pitt Exterminators, Inc.

Dr. Kincaid seconded the motion.

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

Dr. Kincaid made a motion to approve **Resolution No. 2017-005** - authorizing The Municipal Manager to execute any and all Agreements and/or Contracts required between The Pennsylvania Department of Transportation and The Municipality of Penn Hills.

Mr. Brodnicki seconded the motion.

Mayor Kuhn - Moe are they incorporating the letter about the seven man holes being incorporated into the Departments Prime Construction Contract?

Moe Rayan - yes. We asked them to install those, we normally ask them to install those manholes as they do the Road Improvement Programs but for this year for some reason PENNDOT decided to ask for a formal Resolution authorizing a Municipal Official to enter into a Contract with them. I don't know what prompted that but this is where we are at as far as we have to have a Resolution saying that we are going to supply the materials and so on and so forth.

Mayor Kuhn - it is stating that we supply the materials but they pay for the labor, correct?

Moe Rayan - correct. There is no cost to the Municipality.

Mayor Kuhn - thank you.

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

Mr. Brodnicki made a motion to approve **Resolution No. 2017-006** - approving the Transfer of Pennsylvania Liquor Control Board License No. R-12343 into The Municipality of Penn Hills from North Versailles Township.

Mayor Kuhn - no second. Motion fails for not having a second, is that correct Solicitor?

Solicitor - Can't pass without a second.

There being no further discussion the motion failed.

Mr. Brodnicki made a motion to approve **Resolution No. 2017-007** - approving a Minor **Budget** Amendment to the Community Development Block Grant Budget for Year 41.

Mr. Underwood seconded the motion.

Mayor Kuhn - I just have one comment here on the Attachment A I am assuming we are taking the \$794.42 out of the contingencies, is that correct Chris?

Chris Blackwell - The \$7,500 is coming out of the contingencies and going into the General Program Budget so it \$794.42 plus the \$7,500 for

Mayor Kuhn - I am sorry. So the \$7,500 is going out of the contingencies and that is going into the General Program

Chris Blackwell - It is not coming out of any program or hurting any project.

Mayor Kuhn - and that will increase the \$7,500 plus the \$794.42 to the \$8,294.42?

Chris Blackwell - yes that is correct.

Mayor Kuhn - thank you.

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

Mayor Kuhn - I do have a question on the previous Ordinance. Being that there was no second this is for the Solicitor is there a time element I want to make sure that it is not brought up that the Municipality did not enact on this and then they automatically are approved?

Solicitor - talking about a Deemed Approval. As I understand and correct me if I am wrong that it looks like from reading the Summary of the Ordinance that there was a hearing on this before and there was a presentation by a Lawyer on behalf of Giant Eagle.

Mayor Kuhn - If it was I wasn't in attendance. Now we did, did you want to incorporate this into the Minutes? (to the stenographer). I apologize I should have asked the question at that time.

Solicitor - I don't know if it is fair to ask her to review what has already happened but I think what we need to do is review the process by which it was presented. If they had an opportunity to present their application in a way that is consistent with the Liquor Law and see if the process of considering it and not passing it tonight applies with the Law. I would defer it to Mr. Alexander not having been part of this process but we will make sure it is legal to do what you did and we will tell you how to correct it.

Mayor Kuhn - o.k. because Chris first of all I know that in the one paragraph and I apologize but with me being missing for six weeks I am a little behind on what transpired but I know they have to hold two public meetings, am I correct?

Chris Blackwell - it is two advertisements, one Public Hearing which is advertised for tonight.

Mayor Kuhn - o.k. so we have the two then right?

Chris Blackwell - yes.

Mayor Kuhn - so my only question is I know from when I was on Planning sometimes if the Board does not approve something and it has been presented there is a time element and if the time expires then sometimes it is automatically approved.

Chris Blackwell - I believe in this case it is deemed approved and we actually had 45 days. By the time we got it it was November and we didn't want to put it on your Agenda but the applicant did agree to postpone to this day so it is 45 days and it becomes deemed approval and we are now well beyond the 45 days.

Mayor Kuhn - but the applicant signed a waiver saying

Chris Blackwell - they did not sign but they agreed that they would come to this hearing.

Mayor Kuhn - o.k. now we didn't have a public hearing on this prior?

Chris Blackwell - it would be tonight.

Mayor Kuhn - right but I am saying we never discussed this before the one we discussed was over by Shannon Road and the German Cemetery, am I correct?

Chris Blackwell - yes that is correct.

Mayor Kuhn - so we are o.k. with this with us not approving this?

Chris Blackwell - I think if you don't approve it I believe it's not that you didn't approve it but there was no action.

Mayor Kuhn - there was no action taken on it, right?

Solicitor - I think that the record should reflect that if there is anybody here representing Giant Eagle the applicant or anybody who would like to speak on behalf of this particular Agenda Item now is the time to come forward.

Mayor Kuhn - correct. My only concern is being that there was no action taken it doesn't fall into that area where it can be automatically approved.

Chris Blackwell - because there was no action it will be deemed approved.

Mayor Kuhn - o.k. so then what do we have to do for that because by taking no action then what is our time limit before it would be automatically approved?

Chris Blackwell - the way the law reads, correct me on this, when they apply we have 45 days to act and that is past.

Mayor Kuhn - so we already are past that.

Chris Blackwell - so now I believe tonight since there was no action it would be deemed approved.

Mayor Kuhn - it would be deemed approved?

Chris Blackwell - I think it would be deemed approved if there is no action taken on it, is that correct?

Solicitor - I don't know that it is necessarily right but we can correct this right now by somebody making a motion to deny it.

Mayor Kuhn - o.k. so that is what I want to make sure of here I don't want to make it because of the fact we did not act on it and I wasn't aware that the time limit had already past because do you understand what they are saying by not taking any action on it then the applicant can say it was automatically approved. O.K. so how do we go about being that we didn't have a second do

Solicitor - ask another Motion on the Agenda Item.

Mayor Kuhn - so you just have to make a Motion for the Resolution?
O.K. Gary why don't you do it the way we usually do it you are making a Motion for **Resolution for 2017-006** and read into what the Resolution is just like we are starting over.

Gary Underwood - I make a motion to

Solicitor - if your action is to deny their application this is for the record.

Gary Underwood - Make a Motion to deny **Resolution 2017-006**.

Mayor Kuhn - o.k. that is a Resolution of the Municipality of Penn Hills, County of Allegheny, Commonwealth of Pennsylvania, approving the transfer of Pennsylvania Liquor Control Board License No. R-12343 into The Municipality of Penn Hills from North Versailles Township. Do I have a second on this Motion?

Mr. Brodnicki seconded the Motion.

Deirdre Borowicz - Giant Eagle Representative.

Mayor Kuhn - I am sorry about that but like I said I didn't think that the rest of the Council was aware by not taking action it would be automatically approved.

Deirdre Borowicz - I completely understand and because we agreed to extend it there is no issue of it being prior approved at this point. Additionally our Attorney is not here tonight and I would like to request continuance and we would pay all expenses and we definitely apologize for the inconvenience.

Mayor Kuhn - I have no problem having a continuance on it but I will does Mayor & Council want to present for the record any comments or do you just want to have it to be put on at a later date.

Solicitor - I am sorry, does this lady represent Giant Eagle?

Deirdre Borowicz - yes.

Solicitor - If she is requesting a continuance to present additional evidence or information on the application we would want her to agree on an extension until the next scheduled Council Meeting where she would be given the opportunity to present whatever you have and the Council should also be given the opportunity to discuss and present any information that they need to use.

Mayor Kuhn - o.k. so where we are at this point is if you are giving and you represent Giant Eagle, correct?

Deirdre Borowicz - that is correct.

Mayor Kuhn - and you are asking for a continuance of this so we can put it on, basically we are tabling it, correct?

Solicitor - that is correct.

Moe Rayan - you have to state your name for the record.

Deidre Borowicz and I apologize I am getting a cold right now.

Mayor Kuhn - that is alright. So do we table this and then put it back on?

Solicitor - it is essentially going to be listed for the next available Council Meeting.

Mayor Kuhn - so we are not tabling this and then putting it back on?

Solicitor - the reason for the tabling is giving them another time extension so we are covering all the basis. We were prepared to deny it tonight. Motion was made and seconded and even voted on I think.

Mayor Kuhn - I don't know it failed for a second we did not vote on the first because it failed on a second so action was taken am I right Maureen?

Maureen - yes, we never voted.

Solicitor - so in the meantime she has come forward and requested for a continuance and extension of time they mean the same thing so any action on this Agenda Item will be deferred until next month, that is the way I interpret this.

Mayor Kuhn - o.k. but just for the record you are stating it is you who is asking for the continuance?

Deirdre Borowicz - yes, that is correct.

Mayor Kuhn - o.k. and then that way the time period is not an issue, am I correct Chris?

Chris Blackwell - that is correct, I believe so it says the Municipality under 47 P.S. 461 that is the Liquor Control Board Law must after a hearing approve or deny the request transfer by way of Resolution or Ordinance within 45 days of this request. So that is why I am concerned about the time frame.

Mayor Kuhn - and like I said I was concerned with that and the only reason I was aware of it was because of my time on Planning. So I am going to ask to table this. Do I have a Motion to table **Resolution 2017-006**?

Mr. Brodnick made a motion to table **Resolution 2017-006**.

Mayor Kuhn - you don't have to read into it. Do I have a second?

Dr. Kincaid seconded the motion.

Mayor Kuhn - Motion made in second so this will be tabled until Mayor & Council take it off the table and put it back on. Probably the upcoming meeting if Giant Eagle and your Attorney can get back to us.

Deirdre Borowic - thank you that would be perfect. I definitely appreciate it.

Mayor Kuhn - thank you. O.K. sorry about that but like I said we really didn't vote on the first one so I don't think there is a problem because of the fact we didn't vote on it it just failed and then we revisited it. We need a vote for tabling.

Mr. Underwood	yes
Dr. Kincaid	yes
Mayor Kuhn	yes
Mr. Brodnicki	yes
Mrs. Sapp	yes

Mayor Kuhn - sorry for the confusion.

There being no further discussion the motion to table **Resolution 2017-006** was a 5-0 vote.

Mayor Kuhn - we are having an Executive Session after our meeting regarding Personnel Matter and Real Estate. Do I have a Motion for adjournment?

ADJOURNMENT

Dr. Kincaid entertained a Motion to adjourn.

Mr. Underwood seconded the Motion.

Mayor Kuhn - thank you for coming everyone.

The meeting was adjourned at 7:50 P.M.

DATE

MAUREEN M. SORCE
MANAGER'S SECRETARY