

PHOENIXVILLE BOROUGH COUNCIL

Tuesday, March 14, 2023

7:00 PM

MINUTES

(Minutes approved by Borough Council on April 11, 2023)

I. Pledge of Allegiance/Moment of Silence

II. Roll Call – Borough Manager

Mr. Ewald, President	Present
Ms. Burckley, Vice President	Present
Mr. Carminito	Present
Ms. Dugan	Present
Mr. Moore	Present
Mr. Kirkner	Present
Ms. Webb	Present
Mr. Weiss	Present
Mayor Urscheler	Present
Mr. Krack, Borough Manager	Present
Ms. Getzfread, Asst. Borough Manager	Present
Lt. MacIntyre, Police Lieutenant	Present
Mr. Denlinger, Solicitor	Present

III. Presentations

IV. Public Participation

Dennis Fenstermacher, resident. He expressed his concerns with a neighbor of his on E. Grant Street. The neighbor has numerous vehicles parked on the street in varying degrees of disrepair. He stated he is a former licensed vehicle inspector in Pennsylvania and he would never have passed these vehicles if he was asked to inspect them. He is hoping that something can be done to remedy the situation on his block.

V. Consent Agenda

A. Approval of the February 14, 2023 Regular Meeting Minutes.

B. Items from Parks and Recreation Committee:

1. Motion to approve a Temporary Community Event Application for Earth Festival at Reservoir Park on Saturday, April 22, 2023 from 10:00 am to 4:00 pm. Franklin Street above Fillmore and the Reservoir Parking Lot to be closed from 8:00 am to 6:00 pm. Conditioned upon receipt of valid Certificate of Insurance naming Borough as Additional Insured.
2. Motion to approve a Temporary Community Event Application for Phoenixville Police Department National Night Out on Tuesday, August 1, 2023 from 6:00 pm to 9:00 pm at the Recreation Center Parking Lot at 501 Franklin Avenue.

3. Motion to approve a Temporary Community Event Application for the Phoenixville Blues Festival in Reeves Park on Saturday, September 9, 2023 from 12:00 noon to 10:00 pm. Third Avenue closed between Main and B Street from 9:00 am to 12:00 midnight. Conditioned upon receipt of valid Certificate of Insurance naming Borough as Additional Insured.
4. Motion to approve a Temporary Community Event Application for the Phoenixville Green Earth Festival under the Veterans Memorial Gay Street Bridge and along the French Creek Trail on Saturday, September 23, 2023 from 9:00 am to 12:00 pm. Conditioned upon receipt of valid Certificate of Insurance naming Borough as Additional Insured.
5. Motion to approve a Temporary Community Event Application for Movie in the Park at Reeves Park on Saturday, September 23, 2023 from 7:00 pm to 9:30 pm. Conditioned upon receipt of all fees and valid Certificate of Insurance naming Borough as Additional Insured.

C. Items from Finance Committee:

1. Motion to approve the 2022 Pre-Paid dated 1/1/2023 - 1/31/2023 in the amount of \$337,330.68.
2. Motion to approve the 2023 Pre-Paid dated 1/1/2023 - 1/31/2023 in the amount of \$1,880,622.94.
3. Motion to approve the 2022 Pre-Paid Credit Card Statement dated 1/1/2023 - 1/31/2023 in the amount of \$119,462.89.
4. Motion to approve the 2023 Pre-Paid Credit Card Statement dated 1/1/2023 - 1/31/2023 in the amount of \$21,381.89.
5. Motion to approve the 2023 Pre-Paid ACH dated 1/31/2023 in the amount of \$41,669.62.
6. Motion to approve the acquisition of a recycling truck and a hook truck with separate leaf pickup, dump, and flatbed bodies.

D. Items from Personnel and Public Safety Committee:

1. Motion to approve the appointment of Jane Dugdale to the Tree Advisory Commission for the vacant term expiring June 30, 2025.
2. Motion to reappoint David Gill to the Recreation Board for a new term expiring April 30, 2027.

Mr. Carminito made a Motion to approve the Consent Agenda. Seconded by Ms. Burckley.

Motion Approved 8-0.

VI. Communications/Council Participation

Mr. Ewald stated we had a very notable week. Phoenixville was mentioned in the Governor's State of the Budget Address and read Governor Shapiro's statement aloud. He stated though the Borough experienced some initial growing pains and challenges, this mention of Phoenixville in the Budget address is something everyone should be proud of.

Mr. Kirkner shared the passing of Neal Donahue. Mr. Donahue was a long-time North Side resident and the former Chief of Friendship Fire Company before it became just a water rescue and dive team operation. He expressed his condolences to the family of Mr. Donahue.

Mr. Ewald stated he appreciates Mr. Kirkner's dedication to sharing the passing of our residents. It is not a happy responsibility but one that Mr. Kirkner takes seriously. He reported on the Tour of PXVNEO with representatives Brian Regli, Governor Shapiro's Executive Director for Critical Investments, Louie Krak, Acting Coordinator for Infrastructure Implementation at DEP, David Wade, Chief of Staff to Ben Kirshner, Chief Transformation and Opportunity Officer, and Heather Cowley, Energy Program Specialist working out of the DEP Energy Programs Office's (EPO) Southeast Regional Office. This opportunity is a tremendous realization of what the Borough has been working toward.

VII. Mayor's Report

Mayor Urscheler reported on the events occurring in the Borough, including Orion Communities Casino Night, Sts. Peter and Paul held a remembrance service on the one-year anniversary of the war in the Ukraine and the Phoenixville Community Education Foundation fundraiser. He encouraged residents to look into the very active VFW here in town and with the upcoming St. Patrick's Day Celebration he noted the Uber and Lyft spots available in front of the Main and Bridge Street lot for those coming downtown to celebrate.

VIII. Appointments

- A. Call for Residents interested in being appointed to various Boards and Commissions. Current vacancies exist on the Zoning Hearing Board, Recreation Board, HARB, Tree Advisory Commission, and Human Relations Commission.

Mr. Ewald encouraged residents to continue to apply for openings on the various Boards and Commissions and stated openings can be found on the Borough's Website.

IX. New Business

- A. Review ZHB Application from 675 W. High Street requesting a Special Exception

to change a non-conforming use of a building or structure from an automobile repair shop to another non-conforming use proposed to be a warehouse, storage and office space for a plumbing business and to determine whether to send the Borough Solicitor to the March 15, 2023 Zoning Hearing Board Meeting.

Mr. Krack stated the building's last use was a non-conforming one and Mr. Messere's request is for another non-conforming use.

Mr. Denlinger explained the background of the request for the Special Exception to change the non-conforming use of the property at 675 W. High Street. He stated no action is necessary on this item unless the Council has an objection to the Special Exception.

Mr. Moore stated the request was discussed at the Planning Commission Meeting and there were no objections and no recommendation from them on the ZHB Application.

Ms. Burckley stated it's a pretty straight forward request for business use in a building that was previously a business in the Residential Infill area.

Mr. Denlinger stated a building can go from one non-conforming use to another non-conforming use under the Borough's Zoning Ordinance.

- B. Motion to award the 2023 chemical bid for Ammonium Sulfate to the next lowest responsible bidder Brenntag Northeast.

Ms. Burckley made a Motion to award the 2023 chemical bid for Ammonium Sulfate to the next lowest responsible bidder, Brenntag Northeast. Seconded by Mr. Weiss.

On the Question:

Mr. Denlinger explained the termination of the original contract award and the Borough needs a supplier and it's appropriate to award it to Brenntag Northeast.

Motion Approved 8-0.

- C. Motion to approve the Civil Service Commission Resolution for Adoption dated March 6, 2023 which recommends changes to their Rules and Regulations.

Ms. Burckley made a Motion to approve the Civil Service Commission Resolution for Adoption dated March 6, 2023 which recommends changes to their Rules and Regulations. Seconded by Ms. Webb.

On the Question:

Mr. Kirkner commented on the third sentence which says "To be eligible to apply for a position in the police department, an applicant must have satisfactorily

completed or must be currently enrolled in a Pennsylvania Act 120 approved Police Academy training Curriculum and may be required to qualify(after instruction) with a police issue firearm". He asked if that is an option for the applicant or must they qualify.

Lt. MacIntyre stated all officers shall qualify after being hired to the department and must requalify each year.

Mr. Kirkner stated he has an issue with the use of may as it implies it's an option.

Ms. Burckley stated the essence of this amendment is to allow those in the academy to apply and make offers to applicants in the academy. She asked if they would need to qualify after graduation or would they need additional training after they are hired by the Police Department.

Lt. MacIntyre stated they would qualify at the Academy but would have to qualify with the department after they are hired as part of the department's policies and procedures.

Ms. Burckley asked if we need to amend the Motion and change the wording,

Mr. Weiss asked if the question is related to the requirements for applying to the Borough's Police Department. He believes it is in their to provide flexibility for those wishing to apply, but it is not the condition once they are hired.

Mayor Urscheler clarified that once an applicant is hired, they are required to comply with the policies and procedures of the Police Department.

Mr. Ewald stated it's may to apply but shall after they are hired.

Motion Approved 8-0.

X. Resolutions/Ordinances

- A. Motion to adopt a Resolution acknowledging Eric Schmidt for his service on the Beautification Advisory Commission.

Ms. Webb made a Motion to Adopt a Resolution acknowledging Eric Schmidt for his service on the Beautification Advisory Commission. Seconded by Ms. Burckley

Motion Approved 8-0.

Mr. Ewald read the Resolution aloud for the record.

- B. Motion to adopt a Resolution acknowledging Michael Hill for his service on the

Beautification Advisory Commission.

Ms. Burckley made a Motion to Adopt a Resolution acknowledging Michael Hill for his service on the Beautification Advisory Commission. Seconded by Ms. Webb.

Motion Approved 8-0.

Mr. Ewald read the Resolution aloud for the record.

- C. Motion to adopt a Resolution acknowledging Jane Dugdale for her service on the Beautification Advisory Commission.

Ms. Webb made a Motion to Adopt a Resolution acknowledging Jane Dugdale for her service on the Beautification Advisory Commission. Seconded by Ms. Burckley

Motion Approved 8-0.

Mr. Ewald read the Resolution aloud for the record.

- D. Motion to adopt a Resolution acknowledging Tom Ransom for his service on the Beautification Advisory Commission.

Ms. Webb made a Motion to Adopt a Resolution acknowledging Tom Ransom for his service on the Beautification Advisory Commission. Seconded by Ms. Burckley

Motion Approved 8-0.

Mr. Ewald read the Resolution aloud for the record.

- E. Motion to adopt a Resolution acknowledging Vincent Tavani for his service on the Beautification Advisory Commission.

Ms. Webb made a Motion to Adopt a Resolution acknowledging Vincent Tavani for his service on the Beautification Advisory Commission. Seconded by Mr. Carminito.

Motion Approved 8-0.

Mr. Ewald read the Resolution aloud for the record.

- F. Motion to adopt a Resolution acknowledging Shanlee Fisher for her service on the Recreation Board.

Ms. Burckley made a Motion to Adopt a Resolution acknowledging Shanlee Fisher

for her service on the Recreation Board. Seconded by Ms. Webb.

Motion Approved 8-0.

Mr. Ewald read the Resolution aloud for the record.

G. Motion to adopt an Ordinance amending Chapter 6 Conduct - Part 4 Noise.

Mr. Kirkner made a Motion to adopt an Ordinance amending Chapter 6 Conduct-Part 4 Noise. Seconded by Ms. Burckley.

On the Question:

Mr. Denlinger explained the constraints of the current Ordinance and over the last ten years, municipalities have removed the decibel limits from their ordinances. The equipment is expensive and has to be inspected annually. In most cases, when a noise complaint is happening, the equipment is not available to the responding officer.

Ms. Burckley stated she has gotten these complaints from residents and this is one of the biggest challenges for the Police Department.

Mr. Moore asked how we typically enforce this.

Lt. MacIntyre explained every officer receives training and the complaint is assessed based on the time of day when the noise complaint is received. The problem with measuring the noise decibels is having the equipment available and that it is certified as well as having a qualified person to operate the equipment. At this time, even the courts are moving away from decibel meters as they relate to noise complaint cases before them. He stated it is an outdated form of enforcement.

Mr. Moore asked about the loading and unloading of items between 9 pm and 7 am. He stated we have many restaurants that would be taking out trash and using dumpsters during this time period. How does this section apply to them?

Mr. Denlinger clarified that each complaint is accessed individually at the time of the noise complaint.

Mr. Kirkner thanked Staff for their work on this and he appreciated the updated definitions of this amendment. This Ordinance cleans up this section and he feels it is more enforceable.

Mr. Ewald stated he agrees with Mr. Kirkner and making these updates and corrections to our Ordinances is important.

Motion Approved 8-0.

XI. Hearings

A. Conditional Use

1. Motion to recess the public meeting and open the hearing on the Conditional Use Application from Hardware Landlord, LP and Arnold Andersen for an Automobile Sales & Services (Pep Boys) at the property located at 700 Nutt Road, Suite 530.

Ms. Burckley made a Motion to recess the Public Meeting and open the Conditional Use Hearing for 700 Nutt Road, Suite 530. Seconded by Mr. Weiss

Motion Approved 8-0.

Mr. Denlinger opened the Conditional Use Hearing at 7:44 pm.

Mr. Denlinger explained the process of the hearing and the location of the project requesting the Conditional Use.

Mr. Denlinger explained the hearing will be continued until April 11, 2023 at 7 pm, at which time the Council can render their decision.

Ms. Burckley made a Motion to recess the Conditional Use Hearing. Seconded by Mr. Weiss

Motion Approved 8-0.

Hearing recessed at 8:37 pm

XII. Reports of Committees, Boards, and Commissions

A. Planning Commission - Mr. Moore

Mr. Moore encouraged residents to view projects under review by the Planning Commission on the Borough's Website.

B. Historical and Architectural Review Board – Ms. Dugan

Ms. Dugan stated there was no HARB meeting this month.

C. Phoenixville Regional Planning Committee – Mr. Kirkner

Mr. Kirkner stated the PRPC is working on a Regional Trails Plan and Chester County is holding the first public meeting for the Chester County Trail Master Plan.

D. Recreation Board – Ms. Dugan

Ms. Dugan reported on programs offered by the Recreation Department, including Youth Co-Ed Flag Football, A Safe Sitter program, Junior Pickle Ball, and Self-Defense classes.

E. Tree Advisory Commission – Ms. Burckley

Ms. Burckley reported on the community volunteer tree planting on April 22, 2023 and explained the removal of the Callery Pear trees over the next three years in the Borough and the planting of Dogwood trees and Cherry trees to replace them starting with the planting of a Dogwood at the end of this year's Dogwood Festival.

XIII. Council Action referred from:

A. Personnel and Public Safety Committee (**Burckley**, Webb, and Weiss)

Ms. Burckley reminded residents there are still openings on Borough Boards and Commissions.

B. Parks and Recreation Committee (**Moore**, Carminito, Dugan, Weiss)

1. Motion to approve a Temporary Community Event Application for the Annual Dogwood Festival from May 17 through May 20, 2023 (6:00 pm to 10:00 pm Wed - Fri) and (12:00 Noon to 10:00 pm on Saturday). Streets to be closed are 2nd and 3rd Avenue between Main and Starr Streets throughout the event. For the Dogwood Parade, Franklin Avenue between Fillmore Street and Bridge Street, Grant Street between Fairview Street and Ann Street, and Main Street from Bridge Street to 5th Avenue at 11:00 pm to 2:00 pm on Saturday, May 20, 2023 for the parade. Conditioned upon receipt of valid Certificate of Insurance naming Borough as Additional Insured.

Mr. Moore made a Motion to approve a Temporary Community Event for the Annual Dogwood Festival and Parade. Seconded by Ms. Webb.

Motion Approved 7-0-1. Ms. Burckley abstained due to conflict of interest.

C. Policy Committee (**Kirkner**, Burckley, and Ewald)

Mr. Kirkner stated the Policy Committee meeting on April 28, 2023 is cancelled.

D. Infrastructure, Technology Transportation & Sustainability Committee - (**Weiss**, Burckley, Carminito, and Webb)

1. Motion to approve the proposal for renovations at 218 Church Street subject to an easement agreement with the Borough and to a professional services

agreement whereby the applicant agrees to cover the necessary legal costs and recording fees.

Mr. Weiss made a Motion to approve the proposal for renovations at 218 Church Street subject to an easement agreement with the Borough and to a professional services agreement whereby the applicant agrees to cover the necessary legal costs and recording fees. Seconded by Ms. Burckley.

On the Question:

Mr. Moore stated he appreciates the property owner for his investment to keep the wrought iron on the building.

Motion Approved 8-0.

F. Finance Committee (**Dugan**, Ewald, Kirkner, and Moore)

Ms. Dugan stated the Finance meeting on April 28, 2023 is cancelled.

XIV. Public Participation

David Saneck, resident. He stated he recently read an article about fungus in the town where Jack Daniels is brewed and aged and he encouraged the Council to consider this when approving an expansion at Blue Bird Distilling.

XV. Communication/Council Participation

Mr. Ewald encouraged residents to use the Notify the Borough feature on our website to report issues in the Borough.

XVI. Staff Reports

- A. Manager
- B. Police
- C. Fire
- D. Planning and Codes
- E. Public Works
- F. Finance
- G. Human Resources
- H. Recreation

XVII. Executive Session – None

XVIII. Adjournment

8:54pm. Ms. Burckley made a Motion to Adjourn. Seconded by Ms. Webb.

E. Jean Krack
Borough Manager

Transcribed by: Jennifer Logan
Administrative Assistant
March 2023