

Borough of Ben Avon
7101 Church Avenue, Ben Avon, Pennsylvania 15202
Regular Meeting of Council – September 15, 2015
Minutes

Call to Order

Council President Earl Bohn called the meeting to order at 7:00 p.m.

Pledge of Allegiance

Council Members Present

Julian Wynnyckyj, Richard White, Earl Bohn, Michael Bett, Ken Opipery

Council Members Absent

Michael Wrbas, Philip Brind'Amour

Others Present

Robert Jones, Mayor

Anne Sweeney, Solicitor

Dale Regrut, Public Works Foreman

Carmella Hallstein, Secretary

Jim Rupert, Chief; Ben Avon Volunteer Fire Department

Norbert Micklos, Chief; Ohio Township Police Department

Public Participation

Jane Angelini of 7008 Church Avenue stated that she wanted to follow up on an item that was presented to council at the July meeting regarding the vacant property at 6934 Church Avenue. She stated that a petition signed by about forty people had been presented to council requesting that the borough look into what was going on with the property and that the property be properly maintained and brought up to code. Mr. Wynnyckyj stated that the property is in litigation and that First Indian National Bank holds the mortgage. He stated that the bank had taken care of cutting the grass and was in the process of taking care of the back taxes. Mr. Wynnyckyj stated that he is in touch with the bank's vice president but these types of issues take time to resolve.

Approval of Minutes

Motion: Mr. White; Second: Mr. Wynnyckyj; Motion carried by unanimous voice vote to approve the minutes of the August 18, 2015 council meeting.

Financial Report - Report given by Ken Opipery, Co-Chair and Richard White, Co-Chair

Motion: Mr. White; Second: Mr. Wynnyckyj; Motion carried by unanimous voice vote to approve the August 2015 financial reports as presented.

Motion: Mr. Opipery; Second: Mr. Wynnyckyj; Motion carried by unanimous voice vote to approve the September 2015 accounts payable reports as presented, authorizing payments of \$83,565.03 from the general account.

Administration Report – Report given by Richard White, Chair

Motion: Mr. White; Second: Mr. Wynnyckyj; Motion carried by unanimous voice vote to approve an Addendum to the Commercial Lease by and between the Borough of Ben Avon and the Avon Club Foundation retroactive to September 1, 2015, which extends the terms of the lease for a term of one year beginning September 1, 2015 and ending August 31, 2016.

The borough's Halloween parade will be on Saturday, October 24 at noon. The parade will begin at the corner of Church and Dickson Avenues and end at the fire station. Lunch will be served at the fire station. Trick or Treat will be on Saturday, October 31 from 6 p.m. until 8 p.m.

Public Works / Building and Property Report – No Report

Mr. Opiery requested an Executive Session to discuss potential litigation.

Public Safety / Code Enforcement Report – No Report

Public Affairs Report – No Report

Mayor's Report – No Report

Police Chief's Report – No Report

Fire Chief's Report – No Report

Tri-Borough Joint Planning Commission Report – No Report

Solicitor's Report – No Report

New Business

NorthWest EMS Service Agreement

Discussion was tabled until the October council meeting.

Resolution No. 2015-07

Mr. Bett stated that the resolution supports the Allegheny County Health Department in enforcing their regulations for the companies located on Neville Island. Mr. Bett distributed handouts to council. See Exhibits A, B and C.

Ted Popovich of 6606 Virginia Avenue distributed copies of a Notice of Violation that was issued to Shenango by the Allegheny County Health Department. See Exhibit D. Mr. Popovich stated that he is part of a group called Allegheny County Clean Air Now (ACCAN). He stated that ACCAN needs the help of all the municipalities along the river to support their efforts to have cleaner air.

Barbara Pace of 250 Nazareth Way, Pittsburgh read a prepared statement. See Exhibit E.

Angelo Taranto of 11000 Park Plaza Drive, Ross Township stated that he is a member of ACCAN. He stated that Shenango is one of the industrial plants on Neville Island that is polluting the area and is actually the second worst source of pollution in Allegheny County. Mr. Taranto stated that there were 111 violations in the first quarter of 2015 in just three categories of emissions from the plant, adding that the violations increased to 212 in the second

quarter. Mr. Taranto stated that ACCAN is hoping that all of the local municipalities will support them in asking the health department to more aggressively monitor Shenango and the other plants.

Mr. Bohn stated that he wanted to make a few comments for the public's consideration and the consideration of the members of council. See Exhibit F.

Mr. Bett stated that the violations have actually increased. He stated that DTE has owned the plant for seven years and has allocated \$60 million towards improving the plant but has not spent much it, adding that it was his understanding that the money had been allocated but not expended.

Motion: Mr. Bett; Second: Mr. Pipery Motion carried by voice vote to adopt Resolution No. 2015-07, which urges the Allegheny County Health Department to enforce all clean-air requirements on industrial plants located on Neville Island. Mr. Bohn and Mr. Wynnyckyj opposed the motion.

Verizon Cable Franchise Agreement and Trash Service Contract

Mr. White reported that the Quaker Valley COG is working on renegotiating the Verizon Cable Franchise Agreement, which expires this year. He stated that the COG is also starting to work on a new agreement for trash collection services, adding that the contract with Waste Management will expire next year.

Old Business

Ordinance No. 772

Motion: Mr. White; Second: Mr. Pipery; Motion carried by unanimous voice vote to adopt Ordinance No. 772, which establishes traffic regulations on Juniper Way and Marvin Way.

Executive Session

Motion: Mr. White; Second: Mr. Wynnyckyj; Motion carried by unanimous voice vote to adjourn to Executive Session at 7:55 p.m. to discuss potential litigation.

Motion: Mr. Pipery; Second: Mr. White; Motion carried by unanimous voice vote to adjourn from Executive Session and reconvene Regular Session at 8:08 p.m.

Emergency Management Coordinator

Mr. Bohn stated that Sam Diana had resigned as the borough's Emergency Management Coordinator and asked for recommendations for a replacement for Mr. Diana.

Adjournment

Motion: Mr. White; Second: Mr. Wynnyckyj; Motion carried by unanimous voice vote to adjourn the meeting at 8:10 p.m.

Respectfully submitted,

Carmella Hallstein

Borough Secretary

Many of my fellow council members and the mayor were elected on a platform of providing strong public safety. We have an opportunity to demonstrate support for strong public safety tonight.

If we had an epidemic of prostate cancer or breast cancer or AIDS in our community, we would be sure to act? But did you know that particulate pollution kills more people in the U.S. than breast cancer, AIDS, and prostate cancer combine?

According to the American Lung Association, there are 1250 premature deaths a year due to our poor air quality. Two thirds of the air pollution in the county is created in county. And we unfortunately live in a cancer hotspot. We all know someone who has cancer, asthma or other diseases. Earl Bohn reflected on how many people he knows with MS.

Did you know that Allegheny county cancer risk from air toxics ranks in the top 2 percent in the country. (See <http://s133684.gridserver.com/PDFs/PretaHaps.pdf>)? Our city ranks in the dirtiest 10 percent of monitored urban areas for average annual particle pollution. Some would say look where the monitors are placed. But that's only deceiving ourselves. Do you think other counties put their air monitors in cornfields in the middle of nowhere or to be effective near their sources of pollution? (See http://www.heinz.org/UserFiles/Library/2011-air_quality-THE-response.pdf)? Chemicals that cause genetic mutations can be up to 65 times more potent in on children than on adults. Children accumulate 50 percent of their lifetime cancer risk by the age of 2. (See <http://archive.sitrib.com/article.php?id=5053200&itype=NGPSID>)

Pennsylvania's constitution states that "The people have a right to clean air." We need is to let the Allegheny County Health Department is that we are support them and that they need to protect our citizens. They need to enforce the regulations that are already in place but being ignored.

Therefore, I move that resolution 2015-7 be adopted by council tonight.

Allegheny County tells Neville Island coke plant to address emissions

September 10, 2015 12:00 AM

Don Hopey / Pittsburgh Post-Gazette

A battle is baking over large, emergency coke gas flares and billowing emissions of black smoke that occurred on four occasions earlier this summer at DTE Energy's Shenango coke plant on Neville Island.

The Allegheny County Health Department has told the Michigan-based coke maker to fix the electricity supply problems that caused the upset conditions, but Wednesday the company said it couldn't anticipate the power outages and said it did not violate its air pollution control permit.

"Shenango believes that it has continuously operated all air pollution control equipment in accordance with good air pollution control practices, consistent with manufacturer's specification, and in a reasonable manner," Peter Libell, Shenango senior environmental specialist, wrote in a Sept. 8 letter to the health department. "As a result, Shenango believes that the four events identified in the ACHD's (Notice of Violations) letter do not constitute violations..."

Jim Thompson, the health department's deputy director of environmental health, said Wednesday he is "frustrated and disappointed" with the company's response, adding that the department is "reviewing its legal options."

On Aug. 4, the Health Department issued a notice of violation letter to Shenango, stating that the venting and flaring of raw coke oven gas at the end of May through mid-June was a violation of county air pollution regulations, and asked the company to submit a plan within 30 days to "provide continuous electric power to critical equipment to avoid losing battery pressure control."

The 53-year-old coke works, which was purchased by DTE in 2008, has a long history of pollution problems. It was in violation of county emissions standards on 330 days in a 432-day period ending Sept. 30, 2013. To settle those violations, DTE agreed to a consent order in April 2014 that required it to pay a \$600,000 civil penalty and invest more than \$750,000 on equipment to reduce

emissions from its 56 coke ovens and quenching tower.

Mr. Thompson said the coke plant's performance improved following the consent order but has "leveled off" in recent months.

"It's not normal operations to have the frequency of these types of events that Shenango has been having," he said. "And it's not where we believe the compliance should be."

Don Hohey: 412-263-1983, dhohey@post-gazette.com or on Twitter @donhohey.

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Dirty Shenango

Power outages are no excuse for air pollution

DTE Energy's Shenango coke plant on Neville Island is back to bad business as usual.

A year and a half ago, the facility's Michigan-based owners paid a \$600,000 fine and committed \$750,000 to reducing emissions from its ovens and quenching tower.

It wasn't exactly a novel development in Shenango's history — the plant had been the subject of three previous federal consent orders plus one from Allegheny County and a joint order in 2012, all followed up with improvement plans. Each time, the coke works reverted to practices that violated county emissions standards, and the deal signed in April 2014 is proving no different.

This summer, emergency flares and billowing black clouds spewed into the air four times. In each case, Shenango told the county health department, its response to the incidents was appropriate.

On Aug. 4, the health department issued a notice of violation to Shenango, saying that venting raw coke

oven gas on four days from May 27 through June 15 was out of compliance with county air pollution regulations. It asked the company to make sure it would have a continuous electrical power supply so the problem will stop.



In a Sept. 8 response, the company said it doesn't consider the events to be violations, even though one lasted 117 minutes and another, 44 minutes. (The others were short — 14 minutes and six minutes.) Shenango said it has been communicating with Duquesne Light Co. in an effort to improve the reliability of its power supply.

The county health department, for its part, is justifiably unsatisfied with the response. Jim Thompson, its deputy director of environmental health, told the Post-Gazette's Don Hokey that it is reviewing its legal options.

Allegheny County should not hesitate to use whatever authority it can muster to force Shenango to be a better neighbor. The people who breathe the air it fouls have waited long enough.



Allegheny County Health Department

EXHIBIT D

Air Quality Program

301 39th Street, Clack Health Center Building 7, Pittsburgh, PA 15201-1811

Phone: 412.578.8103 • Fax: 412.578.8144 • 24-Hr. 412.687.ACHD (2243)

Rich Fitzgerald - County Executive
Karen A. Hacker, M.D., M.P.H. - Director

Notice of Violation

August 4, 2015

CERTIFIED MAIL – 91 7199 9991 7035 3398 4884

Mr. Mike P. Zowacki, Acting Plant Manager
Shenango Incorporated
200 Neville Road
Pittsburgh, PA 15225-1690

RE: Notice of Violation #150801 - Shenango Incorporated, 200 Neville Road, Pittsburgh, PA 15225 -
Article XXI, §2105.03 – Operation and Maintenance.

Dear Mr. Zowacki:

During the period from May 27, 2015 through June 15, 2015, several significant emission events occurred at Shenango's coke oven battery (Battery S-1) located at 200 Neville Road, Neville Township, due to a failure to maintain control of the coke battery during the loss of electrical power or malfunction.

This letter address the alleged violations of §2105.03 OPERATION AND MAINTENANCE of Article XXI Rules and Regulations of the Allegheny County Health Department Air Pollution Control ("Article XXI"). at your company's Neville Island Plant, as listed below.

The emission events as reported by Shenango are as follows:

1. May 27, 2015: Raw coke oven gas was flared from about 12:06 AM to about 2:03 AM (duration 117 minutes) resulting from Duquesne Light electric power interruption.
Shenango Report (BD #15-032/ACHD 18783), June 5, 2015
2. June 7, 2015: Raw coke oven gas was flared starting at about 6:38 AM (lasting about 14 minutes) resulting from an exhauster malfunction.
Shenango Report (BD #15-035/ACHD 18856), June 24, 2015
3. June 11, 2015: Raw coke oven gas was flared and many other unprocessed emissions were released starting at about 5:57 PM, lasting about 44 minutes resulting from Duquesne Light electric power interruption.
Shenango Report (BD #15-036 & 15-037/ACHD 18880 & 18881), June 24, 2015
4. June 15, 2015: Raw coke oven gas was flared starting at about 5:46 PM, lasting about 6 minutes resulting from an exhauster malfunction.
Shenango Report (BD #15-038/ACHD 18889), June 24, 2015

Please be advised that operation of Battery S-1 without adequate operating control is a violation of *Article XXI, Allegheny County Health Department, Rules and Regulations, Air Pollution Control: §2105.03* which reads as follows:

§2105.03 OPERATION AND MAINTENANCE

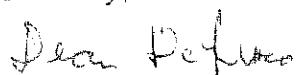
All air pollution control equipment required by this Article or any permit or order under this Article, and all equivalent compliance techniques which have been approved by the Department pursuant to this Article, shall be properly installed, maintained, and operated consistent with good air pollution control practice.

The Department requests that Shenango determine a way to provide continuous electric power to critical equipment to avoid losing battery pressure control creating raw coke oven gas venting/flaring events and report that determination within 30 days from the receipt of this notice describing your plan. Within 30 days of the submittal of this determination report, we request you schedule a meeting with us to discuss your plan and actions being taken to resolve the power interruptions and prevent future emissions episodes from such interruptions. Your cooperation in this matter will be considered in any enforcement action that may be taken as a result of the alleged violations.

This Notice of Violation is neither an order nor any other final action of the Allegheny County Health Department. It neither imposes nor waives any enforcement action available to the Department under any of its statutes. If the Department determines that an enforcement action is appropriate, you will be notified of the action.

Thank you for your anticipated prompt attention to this matter and future increased efforts to comply with all applicable regulations. If you have any questions, please call the Department's representative, William U. Clark at 412-578-8136 or e-mail wclark@achd.net.

Sincerely,



Mr. Dean DeLuca
Enforcement Section Chief, Air Quality Program

Cc: Jayme Graham, Air Quality Program Manager
William Clark, Air quality Engineer
File

Barbara Pace Mt. Nazareth Commons, 250 Nazareth Way, Pittsburgh, PA 15229
412-415-3286 Ben Avon Council Meeting September 15th, 2015

- 1) "By God, when you have money you can even breathe better air than other people." *
- 2) "bare of vegetation, poisoning the river, blackening heaven and earth and the lungs of the workers "**

Thomas Bell first published "Out of the Furnace" in 1941 documenting the trials and tribulations of steel makers in the early 1900's. Over hundred and fifteen years ago and we are still dealing with the same dastardly pollution issues.

A few years ago our group was called the Neville Island Good Neighbor's. That name proved to be more than **ridiculous** for the cause we had undertaken. We agreed to change our name to Allegheny County Clean Air Now. Shenango Coke Works (DTE) had been providing us dinner during meetings to resolve our disgusting air problems. We told them the cabbage dinners they were continually providing did not cover up the foul odor from the plant. We were served chicken thereafter. It did not take long to ascertain that their key people were not residing in the vicinity of the pollution. The plant managers and their families were residing in Westmoreland County, Butler County. As far away from the poisonous air as they could get.

We believed we were being used as pawns as their next plan of action was to have us be involved with the creation of a newsletter. They were spending thousands of dollars to fly in negotiators from Texas and their DTE headquarters. This money should have been spent on improving the quality of the scrubbers and addressing the many regulations they had not lived up too.

We had a young couple come to one of our monthly meetings held in the Ben Avon – Anvil and Anchor Coffee Shoppe at the advice of the columnist Brian O'Neil. They were looking very seriously at purchasing a home in Ben Avon. After attending just one of our meetings they bought a home in Mount Lebanon.

How many hundreds of years do human beings have to pay the price by having poor health for their children and loved ones just for the production of materials like coke. Ironic that we hear the word coke today and most immediately think of cocaine. Of course they both kill you in the end! 1)* page 132 2)* page 122

Ben Avon Borough Council
Comments in Public Session
Tuesday, Sept. 15, 2015

Council President Earl Bohn:

For your consideration. I have been involved in raising close to \$100,000 for MS research, a major portion of which is conducted in Pittsburgh. I have never heard the suggestion that pollution from Shenango contributes to multiple sclerosis. Michael Bett made a reference to me and MS. So that is just to set the record straight.

Second, I was at the community advisory panel meeting I think in the summer of ... when did you have your walk-out? ... (2013) I was at the meeting on the evening that Jim Thompson, who was then the head of the air quality section, reported to us, members of the community who were interested in seeing that the management of Shenango tow the line on pollution and their obligations to the community and the law. His report to us was as follows: the air monitor in Avalon, the one that sits a block off the boulevard ... has been there for years, that for the first time in the history of that site, that monitor was recording full compliance with particulate matter, including the new tough nano-particulate matter standard.

When Jim Thompson said that I looked to the other members of the CAP to the environmental activists, the professionals and the amateurs -- GASP and Clean Water Action were represented -- for cheers, high-fives, a congratulations to management or even a thank you. They looked as though the news had been that their dog had died. To learn that the air quality monitor in Avalon was recording full compliance left them visibly depressed. And it made me wonder, "why are they here if they are not here to see that the air gets cleaned by enforcement of air regulations?"

You'd think that news would be cause for cheers and or self-congratulations if not congratulations to the management of the plant. It was a moment of great curiosity. Soon thereafter those folks resigned in protest and accused other members of the CAP of being part of a company propaganda machine.

A couple other thoughts for your consideration: At one time one of the nurses from the Northgate School District, I believe she was the head nurse, was a member of the CAP. After a meeting where GASP or CWA made comments similar to Michael's, I asked her, "what are the causes of asthma in children?" She said the leading cause is obesity and the second-leading cause is cigarette smoke, including second-hand smoke. Somewhere further down the line you can find air pollution.

As chairman of the Suburban Health Foundation, the foundation that supports what's left of Suburban General Hospital, we twice -- in two consecutive years -- funded \$25,000 for the Air We Breathe Conference, co-funded by the Heinz Endowments. At one of those conferences, a researcher made a presentation of his findings on the causes of childhood asthma. His findings suggest that rhinovirus, the virus that causes colds, in some cases infiltrates the bone marrow of children and makes their pulmonary systems highly susceptible to aggravation from lots of sources. That research is under way. The cause of childhood asthma is not known. Why Northgate has a high count is not fully known.

It's also known that in China, where they live as we lived in the '50s, with black skies, dumping whatever they want into the air and the water, the rates of childhood asthma are far below what they are in America, where our skies are a lot cleaner than what they used to be. There is a lot of contradictory information about it.

(re request that ACHD increase monitoring of Shenango) Had you joined or stayed with the CAP you would have learned that there is 24/7 monitoring of all emissions from the site by, I think, four sources now. The county does it with their certified observers. There's 24/7 electronic observation; I believe it's with infrared. There are the volunteer watchers who check for opacity. And if it's not instituted is soon to be instituted, the Summa canisters, which will be staffed by members of the community. 24/7/365 somebody is watching and recording what goes out the stack.

I believe it was the Post-Gazette that reported recently that in August the company was sited again in addition to the consent decree that was issued and agreed to by the company. Your fight is with ACHD. I'm not sure what more Ben Avon Council can do to have the county act as you would have them act, knowing that there are layer upon layer of enforcement actions going on now. You mentioned the GASP lawsuit that is pending in the court.

Someone mentioned speeding tickets. You may have heard this when you were a member of the CAP. Had you stuck around you would have head this again. When DTE bought Shenango in 2008 it bought it from a family that ran it as a privately owned company and starved that plant for maintenance and capital improvements. Since then DTE has allocated and is spending upwards of \$60 million on cleaning out the ovens, the flues, the regenerators and everything that goes to capturing the particulate matter.

The violations that had occurred before '08 when the family ran it typically lasted for hours in a day. When they were in violation they were in violation big time with very dark clouds for long periods of time. When they are in violation now it can be a matter of seconds in a minute and every degree of darkness of smoke over the limit is measured against time. It is like a speeding ticket. It's the difference between doing 50 miles an hour on Route 65 or doing 85 miles an hour on Church Avenue in Ben Avon. And it does matter. They are getting better. They are not perfect, and they still violate the regulations. But things have improved greatly.

One of the biggest benefits for air coming off that island has been ownership by DTE.
