

Borough of Ben Avon
7101 Church Avenue, Ben Avon, Pennsylvania, 15202
Minutes – Regular Council Meeting – March 18, 2008

Council Members Present

Todd Smith, Dan Herchenroether, Judy Konitsney, Ken Opiery, Lloyd Corder, Mark Colenbrander, Sue Weiss

Council Members Absent

None

Others Present

Ken Opiery, Sr., Mayor
Chuck Perego, Borough Solicitor
Carmella Hallstein, Borough Secretary

Call to Order

Council President Ken Opiery called the meeting to order at 7:00 p.m.

Public Participation

None

Approval of Minutes

Motion: Dr. Corder; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to approve the minutes of the February 19, 2008 council meeting.

Engineer's Report

Mr. McGee presented and reviewed a list of capital projects for 2008 (see Exhibit A). He stated that the window replacement and military service memorial projects at the VFD building would be implemented in 2008, noting that the contracts for these projects were awarded in 2007. Mr. McGee stated that new projects for 2008 would be relatively small and include items such as guide rail installation and sewer projects. He stated that the borough was well ahead of the curve regarding compliance with the Sanitary Sewer Overflows Consent Order and at this point was not faced with any significant capital outlay unless something unforeseen happened such as a sewer collapse.

Financial Reports

Mrs. Konitsney presented the February 2008 revenue and expense report and the March 2008 accounts payable reports.

Mrs. Konitsney made a motion to approve the February 2008 revenue and expense report. Mr. Herchenroether seconded the motion. Mrs. Weiss asked about the expenditure for \$2,415.20 charged to account 411320, noting that the account was already over budget by \$1,015.20. After reviewing the report, it was discovered that there were several errors in the year to date budget variance column. Mrs. Konitsney rescinded her motion. She stated that the report would be corrected and presented at the April meeting.

Motion: Mrs. Konitsney; Second: Dr. Corder; Motion carried by unanimous voice vote to approve the March 2008 accounts payable reports as presented.

Administration Report

No Report

Public Safety Report

No Report

Public Works Report

Mr. Colenbrander stated that he received a bid for \$2,995 for video surveillance equipment for the new borough garage. He stated that the equipment consists of four infrared cameras on a DVD player that records whenever there is motion.

Motion: Mr. Colenbrander; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to authorize the expenditure of \$3,000 for the purchase of video surveillance equipment for the borough garage.

Mr. Colenbrander stated that the traffic signal at Brighton Road and Ohio River Boulevard was broken, noting that the loops on Brighton had not been working and were timing out. He stated that the repairs took a little extra time because Traffic Systems helped the borough out by actually rebuilding some parts, which required extra time but saved the borough a lot of money.

Resident and Community Relations Report

Dr. Corder stated that the North Boroughs Independence Day celebration and fireworks display is scheduled for Saturday, June 28, 2008 at the Avalon Field. He stated that the North Suburban Chamber of Commerce has again asked Ben Avon to help support this event. Mr. Smith stated that the borough contributed \$750 to the event last year.

Motion: Dr. Corder; Second: Mr. Smith; Motion carried by unanimous voice vote to authorize a contribution of \$750 to the North Suburban Chamber of Commerce to support the North Boroughs Independence Day celebration and fireworks display.

The annual North Boroughs Clean Up Day will be on April 12. Dr. Corder stated that one of the Girl Scout troops has volunteered to work at Avon Park, adding that he is still looking for volunteers to work in other parts of the borough.

Mayor's Report

No Report

Police Chief's Report

No Report

Solicitor's Report – *Mr. Perego gave the report*

Kelly Brewer sent the borough a claim because she damaged her tire rim on Ohio River Boulevard. The claim was referred to PennDOT.

Carol Mitchell from Alder Drive sent a letter to the borough complaining about kids playing basketball in the street and damaging her property. Mr. Perego stated that this is partly a private

property issue and partly a police issue. He stated that there is not much council can do about the problem; the kids are playing basketball in the street, which is a public place and as long as they are not interfering with traffic there is no reason why they cannot play there. The code enforcement officer has looked at the portable basketball hoop and determined that it is not interfering with traffic on the street or pedestrians on the sidewalk. The code enforcement officer will be asked to revisit this issue.

Mr. Perego received an email from Ohio Township asking the borough to enact an ordinance approving the joint police agreement between Ben Avon and Ohio Township. Ben Avon already adopted an ordinance to approve the agreement. Ordinance 730, which complies with the Intergovernmental Cooperation Act, was adopted on March 27, 2007. There is no need for Ben Avon to take any action.

William Karn who lives at 518 Dickson Avenue sued the borough in Federal District Court. The matter has been referred to the borough's insurance company. Mr. Perego requested an executive session to discuss the issue.

Mr. Perego attended the Joint Planning Commission meeting last week. The commission wants a consensus of the borough councils as to whether or not the three communities feel that zoning enforcement should be on an individual basis or joint. Currently, Avalon and Ben Avon hire Building Inspection Underwriters (BIU) on an as needed basis and Bellevue has two in house building/code enforcement officers. Bellevue has a much tougher caseload with lots of development and commercial properties. The concern about separate enforcement is that the joint ordinance might be interrupted differently. Ben Avon's contract with BIU is a three-year contract that expires in November of this year, but has a clause that allows either side to terminate the agreement upon thirty days notice.

Fire Chief's Report

Chief Buckman presented the Fire Company's activity report for February 2008. He stated that the pumper was scheduled to go out for state inspection and preventive maintenance.

New Business

None

Old Business

Solicitorship

Mrs. Weiss stated that she and three other council members met and discussed who they would like to interview for the position of solicitor and had selected Mr. Perego and three other candidates. She stated that they also discussed having all council members present at the interviews and asked the other council members for their availability. Mr. Perego stated that if you are going to have more than three council members at a meeting to discuss hiring someone, it should be done in an advertised meeting. Mrs. Weiss asked Mr. Perego if it was his interpretation that you have to invite the public if four or more council members are present to conduct the interviews. Mr. Perego stated that you have to advertise, but you can go into an executive session, which you are allowed to do, then go out of executive session to adjourn. He stated that you could not have a meeting of more than three members of council without violating the Sunshine Law unless you are absolutely not deliberating. Mr. Colenbrander stated that the selection of the four candidates at the previously held meeting should be thrown out

since it was done at a non-public meeting. Mrs. Konitsney agreed with Mr. Colenbrander. Mrs. Weiss stated that council should then find a date that could be advertised for everybody to come and revisit the more than twenty resumes that the borough received. Mr. Perego suggested advertising several dates, adding that you could cancel any meetings that are not needed.

Motion: Mrs. Weiss; Second: Mr. Herchenroether; Motion carried by voice vote to advertise meetings on Thursday, April 3; Thursday, April 10; Thursday, April 17; and Thursday April 24, 2008 at 7:00 p.m. at the Ben Avon Borough Municipal Building for the purpose of reviewing applications for solicitor and/or conducting interviews.

Mr. Pipery, Jr. and Mrs. Konitsney opposed the motion.

Executive Session

Motion: Mr. Herchenroether; Second: Mrs. Weiss; Motion carried by unanimous voice vote to adjourn to Executive Session at 7:45 p.m. to discuss litigation.

Motion: Dr. Corder; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to adjourn from Executive Session and reconvene to Regular Session at 8:10 p.m.

Adjournment

Motion: Dr. Corder; Second: Mrs. Weiss; Motion carried by unanimous voice vote to adjourn the meeting at 8:10 p.m.

Respectfully submitted,

Carmella Hallstein

Borough Secretary