

Borough of Ben Avon
7101 Church Avenue, Ben Avon, Pennsylvania, 15202
Minutes – Regular Council Meeting – June 17, 2008

Council Members Present

Todd Smith, Dan Herchenroether, Judy Konitsney, Ken Opipery, Sue Weiss

Council Members Absent

Lloyd Corder
Mark Colenbrander

Others Present

Ken Opipery, Sr., Mayor
Chuck Means, Borough Solicitor
Carmella Hallstein, Borough Secretary

Call to Order

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

Public Participation

Susie Whitcraft, chair of the Avon Club Foundation Scholarship Committee presented awards to the 1st and 2nd place winners of the annual Avon Club Foundation Scholarship. Mrs. Whitcraft stated that each year, the Avon Club awards scholarships to two deserving female high school seniors who plan to continue their formal education. Stephanie Stewart, the 1st place finalist received a \$1,000 scholarship and Abigail Francis, the second place finalist received a \$500 scholarship.

Arlon McGaha of 223 Park Avenue asked about the status of the row houses on Park. He stated that it is becoming very difficult to sell his house because of the condition of the row houses, adding that the property is not secured and there are numerous cats going in and out. Mr. McGaha stated that although the property owner presented renovation plans to council last year, nothing has happened to date. Mr. Opipery, Jr. stated that the property owner had planned to refurbish the units, turn them into single-family houses and sell them. He stated that something happened and the property owner did move forward with his plan. Mr. Opipery, Jr. stated that for sometime the borough was not able to get in touch with the property owner. He stated that the borough is addressing the problem through the code enforcement officer and the county health department. Mr. Opipery, Jr. stated that the code enforcement officer has sent several letters to the property owner and he intends to file a citation with the magistrate this week. He stated that with the help of County Council Representative Matt Drozd, the borough was able to get the Allegheny County Health Department involved. Mr. Opipery, Jr. stated that the health department sent the property owner a standard form letter and also inspected the property, which resulted in another letter that gives the owner ten days to cleanup the property. He stated that in the worst case, the borough would have to incur the cost to board up the units to ensure that the property is safe and secure. Mr. Opipery, Jr. stated that the owner has filed for a permit to demolish one of the buildings. Mr. Regrut stated that the building inspector told the property owner that demolition work could not begin until the borough received proof of insurance for the demolition contractor and written notification that all utilities had been shut-off. Mr. Opipery, Jr. stated that no matter what the property owner does in terms of demolition and renovations, the

property needs cleaned up and maintained now, the cats need to be removed and the property needs to be secured. Mr. Smith stated that he contacted four animal service companies about removing the cats. He stated that three of the companies were not interested, adding that he was still waiting to hear back from the fourth company, Critter Control.

Approval of Minutes

Mrs. Weiss said that the statement in the minutes, "He stated that I do not charge the borough \$175 an hour," that was made by Mr. Perego is different from what she heard. Mrs. Hallstien stated that Mr. Perego did say that he does not charge \$175 per hour. She stated that Mr. Perego said he charges a blended rate that includes a retainer of \$500 per month that comes out on average to about \$120 per hour. Mrs. Weiss stated that the proposal that Mr. Perego gave council dated February 28, 2008 includes, "\$175 an hour for my time for all subsequent matters such as rezoning of the borough, litigation, and contract drafting." Mr. Opiery, Jr. stated that the function of the minutes is to record what is said in the course of the meeting, not to dispute what was said and if Mrs. Weiss was disputing what Mr. Perego said, it had nothing to do with the contents of the minutes. Mr. Herchenroether stated that what is in the minutes is what was said. Mr. Opiery, Jr. asked if this was an issue for anyone else, there were no additional comments and he called for a motion to approve the minutes.

Motion: Mr. Herchenroether; Second: Mrs. Konitsney; Motion carried by unanimous voice vote to approve the minutes of the May 20, 2008 council meeting.

Engineer's Report

Mr. Opiery, Jr. stated that the contractor started work on the windows at the VFD/Community Center building and found that the lintels that support the weight of the masonry above the windows are completely deteriorated and need to be replaced. Mr. Opiery, Jr. stated that he and Mrs. Konitsney reviewed the capital fund account and determined that the borough could cover the extra expense. Mrs. Weiss asked why the contractor did not know about this problem before. Mr. Herchenroether stated that there is no way to know about this kind of problem until you open the hole.

Motion: Mr. Smith; Second: Mr. Herchenroether; Motion carried by voice vote to approve Change Order No. 1 as submitted by the borough engineer for \$8,870 for the Community Center Window Replacement Project.

Mrs. Weiss opposed the motion.

Financial Reports

Mrs. Konitsney presented the May 2008 revenue and expense report and the June 2008 accounts payable report

Mrs. Weiss asked for a definition of item 411500; fire relief reimbursement. Mr. Opiery, Jr. stated that fire relief reimbursement is an annual grant that the fire department receives from the state. Chief Buckman stated that this is what is called the Foreign Fire Insurance Fund. He stated that every fire company in the state gets funds based on the community's insurance valuation. Chief Buckman stated that the money is usually received in September or October. He stated that the money goes through the borough's books and then to the fire company's relief association to cover items such as insurance and equipment. Mr. Opiery, Jr. stated that the \$10,000 expense on the May financials actually represents money that the borough gave to the

fire department to offset some of the cost of the new bunker gear. He stated that the expenditure was booked to line item 411500 in error, noting that it should have been booked to line item 411260, bunker gear. Mr. Opiery, Jr. stated that the error would be corrected, adding that there would be a \$10,000 credit to account 411500 and a \$10,000 debit to account 411260 under current month activity on the June revenue and expense report.

Motion: Mrs. Konitsney; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to approve the May 2008 revenue and expense report as presented.

Motion: Mrs. Konitsney; Second: Mrs. Weiss; Motion carried by unanimous voice vote to approve the June 2008 accounts payable report as presented.

Public Safety Report

Mr. Opiery, Jr. stated that a letter was received from NorthWest EMS regarding ambulance response times in the Pittsburgh area. He stated that two NorthWest EMS locations were among the top three locations for best response times. Mr. Opiery, Jr. stated that the response time in Ben Avon is 5.3 minutes, which is very good.

Public Works Report

Mr. Opiery, Jr. stated that there was a water main break on Saturday morning on Perrysville Avenue that damaged the asphalt. Mr. Opiery, Jr. stated that the borough engineer inspected the roadway and deemed it to be safe. He stated that there is no undermining just buckling of the pavement in certain areas. Mr. Opiery, Jr. stated that the borough would file a claim with the water authority, but added that the authority is usually protected from these types of claims. He stated that the water authority is obligated to fix the roadway where they dig to repair the water line and any damage beyond that is the borough's responsibility. Mr. Opiery, Jr. stated that the damaged area is approximately 90' by 10', adding that it will be difficult to get a paving contractor that is willing to do such a small job. He stated that the paving should cost \$3,000 to \$6,000 but would probably cost double that amount because the job is so small. Mr. Opiery, Jr. stated that since West View Water is going to have a contractor here to repair their part, it makes sense to have them repair the entire damaged area and bill Ben Avon for its share of the cost. Mr. Herchenroether asked if there was an opportunity to repair a bigger section of Perrysville Avenue since all of the equipment would be here. Mr. Opiery, Jr. stated that this was a good idea if the borough could afford it because Perrysville Avenue is in bad shape. He stated that he would work with Mrs. Konitsney to review the general fund account to determine if any transfers could be made to the capital fund account. Mr. Means stated that West View Water is going to have all of the mobilization expense, which is a big portion of any paving job. He stated that since they are going to incur this expense anyhow, just to get someone out here, the borough should submit an estimate for the full repair to West View Water and demand that they pay and then go from there. Mr. Regrut stated that West View Water is only required to repair the section of the road they dug up to repair their water line, which is about 4' by 5' and that they do not incur any mobilization expenses because the work is all done by hand with shovels, a backhoe and a plate tamper.

Resident and Community Relations Report

No Report

Mayor's Report

Mayor Opipery suggested having a ceremony to dedicate the Military Service Memorial now that it has been completed. He asked council members with any suggestions to contact him to discuss ideas and possible dates for the dedication.

Police Chief's Report

No Report

Solicitor's Report

Mr. Means stated that he met with Mr. Perego to get up to date on the borough's pending matters. He stated that Mr. Perego provided him with the files for items that are open, such as the joint zoning ordinance. Mr. Means stated that he also met with the land use planners from Environmental Planning and Design, adding that they provided him with a copy of the latest draft of the joint zoning ordinance. He stated that there is one lawsuit where there has been a little activity, noting that the borough is being represented by defense counsel through the insurance company. Mr. Means stated that the attorney handling this lawsuit has kept him up to date on this matter.

Fire Chief's Report

Chief Buckman presented the Fire Company's activity report for May 2008.

New Business

Avon Park

Mr. Opipery, Jr. stated that he gave Mr. Means a copy of the lease agreement between Kilbuck Township and Ben Avon Borough for Avon Park so that Mr. Means could review it because he had received a list of five questions from some residents about the park. Mr. Opipery, Jr. stated that he did not know if council needed to direct the solicitor to review and answer the questions at this time. Mr. Herchenroether asked where the borough stood in regards to opening the park from Walnut Road and closing the Perrysville Avenue entrance, adding that he thought it would be up to Kilbuck to decide one way or the other. Mr. Herchenroether also asked Mr. Means if he felt any conflict about dealing with this issue given that he is the solicitor for both Ben Avon and Kilbuck. Mr. Means stated that right now he did not know of a legal issue between the two municipalities. He stated that when you get to a point where one of the two communities is asking a legal question along the lines of its rights and duties against the other community, then there will be a conflict and it will have to be dealt with in the usual way. Mr. Opipery, Jr. stated that Ben Avon leases the property from Kilbuck so the entrance to the park is in Kilbuck and because of that, he thought that Kilbuck would have to authorize this change. Mrs. Weiss stated that leases generally specify what you can and cannot do to the property while you are under the lease agreement. She stated that she did not know if opening or closing an entrance is something covered under the lease and felt that this might be a legal question. Mrs. Weiss stated that she did not know what the terms of the grant money for the park are, but did know that there has to be disability parking that complies with ADA regulations, adding that there will be questions about the grant that may or may not be related to the entrance. Mr. Opipery, Jr. stated that for safety reasons, the idea was to close the entrance on Perrysville Avenue and open an entrance on Walnut Road. He stated that this change would also open up green space in the park and allow more flexibility in terms of using the space and equipment. Mr. Opipery, Jr. stated that because of traffic and parking concerns, the proposed change is being met with some resistance by Ben Avon and Kilbuck residents who live on Walnut Road.

Old Business

Letter of Appreciation

Mayor Pipery suggested sending a letter to Mr. Perego to thank him for his twenty-four years of service to the borough.

Motion: Mr. Herchenroether; Second: Mrs. Konitsney; Motion carried by unanimous voice vote to send a letter to Charles Perego to thank him for his twenty-four years of service as solicitor to Ben Avon Borough.

Adjournment

Motion: Mr. Herchenroether; Second: Mrs. Weiss; Motion carried by unanimous voice vote to adjourn the meeting at 7:50 p.m.

Respectfully submitted,

Carmella Hallstein

Borough Secretary