

**Borough of Ben Avon**  
**7101 Church Avenue, Ben Avon, Pennsylvania, 15202**  
**Minutes – Regular Council Meeting – August 19, 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 Means, 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**

Mr. Opiery, Jr. stated that last November a contract was awarded to The Allegheny Group for replacement windows for the Community Center / VFD building, adding that the work has not been done to date. He stated that work authorized through Change Order 1 to repair or replace the lintels above the windows has been completed. Mr. Opiery, Jr. stated that Del Smith from The Allegheny Group was present to address this issue and try to convince council to maintain the contract. Mr. Smith stated that he was new to The Allegheny Group and was not the project executive at the time of these problems, adding that he started at the end of June and proceeded to work on damage control. He stated that in his opinion the project could be put back on track. Mr. Smith stated that the billing arrangement for Change Order 1 was based on time and material charges not to exceed \$8,500. He stated that receipts and time records, which should have been kept and recorded on a daily basis, were not. Mr. Smith proposed a payment of \$7,265 to The Allegheny Group for the work completed for Change Order 1 and then starting anew. He stated that the project could be completed for the original bid price and The Allegheny Group was in the position to order the windows and begin installation by the end of September. Mr. Smith thanked council for the opportunity to speak and apologized for the problems that have occurred. Council asked Mr. Smith several questions and a lengthy discussion followed.

**Approval of Minutes**

Motion: Dr. Corder; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to approve the minutes of the July 15, 2008 council meeting.

**Engineer's Report**

No Report

**Financial Reports**

Mrs. Konitsney presented the July 2008 revenue and expense report and the August 2008 accounts payable reports.

Motion: Mrs. Konitsney; Second: Dr. Corder; Motion carried by unanimous voice vote to approve the July 2008 revenue and expense report as presented.

Motion: Mrs. Konitsney; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to approve the August 2008 accounts payable reports as presented.

### **Public Safety Report**

Mr. Smith stated that the code enforcement officer issued a citation to the resident who lives at 221 Alder Drive for having a basketball hoop on the sidewalk. He stated that the resident failed to attend the hearing at the magistrate's office, was found guilty and fined \$352, adding that the resident has filed an appeal in Allegheny County Common Pleas Court. Mr. Smith stated that he did not feel it was reasonable to send the solicitor to the court hearing and volunteered to attend.

Motion: Mrs. Konitsney; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to authorize Todd Smith to represent Ben Avon Borough at the court hearing.

### **Public Works Report**

Mr. Colenbrander stated that he has been working with Mr. Johnston about getting a grading permit for his property on Merton Road.

### **Resident and Community Relations Report**

Dr. Corder stated that a survey of Avon Park is required under the terms of the DCNR grant, adding that the cost of the survey would be \$2,750 plus \$850 (10 stakes @ \$85 per staking) for boundary staking. He stated that he has been unable to find out if this cost would be considered a reimbursable expense. Dr. Corder stated that the grant will be used primarily for playground equipment and fencing since Kilbuck Township did not approve moving the park entrance to Walnut Road. He stated that the borough also received a \$10,000 DCED grant for the park. Mrs. Weiss stated that she was disappointed that Kilbuck Township made the decision not to support the change in the park. Mr. Herchenroether stated that the park was unusable in his view and did not think any more money should be put into it.

Motion: Mrs. Weis; Second: Mrs. Konitsney; Motion carried by voice vote to approve the use of DCED grant money to pay for a survey at a cost of \$2,750 and boundary staking at a cost of \$85 per stake. Mr. Herchenroether opposed the motion.

### **Mayor's Report**

Mayor Opiery stated that the borough should have a ceremony to dedicate the Military Service Memorial and suggested holding the dedication on September 11 or on Veterans Day. Council agreed to hold the ceremony on Veterans Day.

### **Police Chief's Report**

No Report

### **Solicitor's Report**

Mr. Means stated that he is continuing to research borough documents that pertain to West View Water's lines in the borough's streets. He stated that he would attend the Joint Zoning Board meeting that is scheduled later in the month.

### **Fire Chief's Report**

Chief Buckman presented the Fire Company's activity report for July 2008. He stated that there would be a 911 memorial service at the fire station on Thursday, September 11 at 9:45 a.m.

### **New Business**

#### **Resolution 08-03**

Motion: Mrs. Weiss; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to adopt Resolution 08-03, which authorizes the filing of an application for funds with the Allegheny County Department of Economic Development for a storm water catch basin project, designates an agent to process the request and signifies the timely intent to proceed if granted requested funds.

#### **Avon Club Lease Agreement**

Motion: Mr. Herchenroether; Second: Dr. Corder; 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, which extends the terms of the lease for a period of one year commencing September 1, 2008 and ending on August 31, 2009.

### **Old Business**

#### **Spruce Run Road Reconstruction**

Motion: Dr. Corder; Second: Mr. Herchenroether; Motion carried by voice vote to accept the low bid of \$46,027.94 submitted by Pro Tech Asphalt Maintenance, Inc. for the CDBG Spruce Run Road reconstruction project. Mr. Colenbrander opposed the motion.

#### **Executive Session**

Motion: Dr. Corder; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to adjourn to Executive Session at 8:20 p.m. to discuss potential litigation.

Motion: Mr. Herchenroether; Second: Mrs. Konitsney; Motion carried by unanimous voice vote to adjourn from Executive Session and reconvene to Regular Session at 8:40 p.m.

#### **Window Replacement Contract**

Motion: Mr. Herchenroether; Second: Mrs. Weiss; Motion carried by voice vote to approve a settlement with The Allegheny Group in the amount of \$7,265, contingent on The Allegheny Group agreeing to sign by August 28, 2008, a Mutual Settlement and Release Agreement. Mr. Colenbrander and Mr. Smith opposed the motion.

Motion: Mr. Herchenroether; Second: Mrs. Konitsney; Motion carried by unanimous voice vote to award the contract for the window replacement project to Carmel Construction, Inc. for \$26,850, contingent on The Allegheny Group signing the Mutual Settlement and Release Agreement.

#### **Adjournment**

Motion: Mrs. Weiss; Second: Mr. Colenbrander; Motion carried by unanimous voice vote to adjourn the meeting at 8:50 p.m.

Respectfully submitted,

*Carmella Hallstein*  
Borough Secretary