

**Borough of Ben Avon**  
**7101 Church Avenue, Ben Avon, Pennsylvania, 15202**  
**Minutes – Regular Council Meeting – December 16, 2008**

**Council Members Present**

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

**Council Members Absent**

None

**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**

Melanie Holcomb of 7318 Church Avenue presented and reviewed a proposal for the coffee shop that she would like to open in the vacant portion of the fire station building (see exhibit A). She stated that the building inspector looked at the space and provided her with a list of items that need to be done to bring the building up to code. Ms. Holcomb stated that a contractor also looked at the space and gave her some rough cost estimates. Mrs. Weiss stated that she would need to look at the space before making any decisions. Ms. Holcomb stated that she was available to meet council members at the site. Mr. Herchenroether volunteered to coordinate the meetings.

Charles George of 6505 Brighton Road addressed council about a safety issue at the Citgo station. He stated that on two different occasions, a car pointed down slope at the Citgo station apparently slipped into neutral, came down the property, went across Brighton Road and through his fence, adding that the first occurrence was in May and the second in December. Mr. George stated that he is not concerned about the damage to his fence because it is covered by the auto insurance company, but is concerned about the safety of pedestrians and children at the nearby school bus stop. He stated that in addition to his fence, a mailbox and a street sign were knocked down. Mr. George stated that he had not spoken to the owner of the Citgo station, but would like to see some type of barrier installed around the parking area. He asked council to have the borough engineer look into this matter to determine what could be done to solve this issue. Mayor Opipery stated that since this is private property, he did not know if the borough could demand the installation of a barrier. Mr. Means stated if there were an accident, the property owner undoubtedly would be named as a defendant and from that should have some incentive to do something about it. Mr. Means stated that one avenue of approach would be to meet with the property owner to discuss the issue to see if you could get him to take some action. He stated that when people do not take care of things the other avenue of approach is for the borough to pass rules, which would apply to everyone. Mr. Means stated that the borough could pass a rule requiring all parking lots to have a barrier if they have a certain amount of parking spaces, at a certain proximity to a street, with a certain amount of slope. He stated that the borough engineer

would have to determine the specifics and the borough would have to enforce the rule on every property that has parking. Mr. Means stated that taking to the property owner would be an easier and faster way to resolve the problem. Mr. Pipery, Jr. stated that the parking lot is not completely curbed, adding that there is an entrance and exit on the side in question. He stated that the property owner needs some part of the space open to allow cars to get in and out of the parking lot. Mrs. Weiss stated that the property owner should be put on notice that an accident has happened twice. Mr. Pipery, Jr. stated that the borough does not have any jurisdiction because it does not have a law governing this issue. Mr. Herchenroether stated that the borough could ask the property owner if he is willing to look at some form of remediation. Mr. Pipery, Jr. stated that he would send a letter to the owner asking if anything could be done to make that side of the parking lot safer given the two accidents that have been reported.

Kara Roggenkamp of 6891 Perrysville Avenue presented and reviewed a draft of the master plan for Avon Park. She stated that she is a landscape architect, adding that she has donated her time to work on this plan with Dr. Corder and other volunteers from the community. She stated that borough applied for a grant from the DCNR to be used for renovations to the park, the purchase of new playground equipment and repaving the entrance. Ms. Roggenkamp stated that a requirement of the grant is a master plan for the entire park that shows future developments going forward that this particular grant would not cover. She stated that the master plan must be approved by council, signed and sealed by a registered architect and submitted to the DCNR. Ms. Roggenkamp stated that after the plan is submitted, the borough could then proceed with construction documents to use the money that has been received from the DCNR. Council asked Ms. Roggenkamp several questions about the plan. Mr. Colenbrander stated that he was concerned about the plan to remove the tennis courts because they are the only public courts in the Avonworth area. Mr. Pipery, Jr. asked if approving the master plan would prevent any changes in the future, if the vision for the park changed. Ms. Roggenkamp stated that the purpose of the master plan is for the DCNR to see that the borough has a plan and to pave the way to get more grant money to continue to implement the plan. She stated that if the plan were to change, you would submit a new plan with the next grant application.

Motion: Dr. Corder; Second: Mrs. Weiss; Motion carried by voice vote to adopt the Master Plan for Avon Park and to submit the plan to the DCNR.

Mr. Herchenroether and Mr. Colenbrander opposed the motion.

Mr. Herchenroether stated that he was renewing his objection due to the lack of vehicle access via Walnut Road. He stated that the Perrysville Avenue access is unsafe and that people are not using the park because of that.

#### **Approval of Minutes**

Motion: Dr. Corder; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to approve the minutes of the November 18, 2008 council meeting.

#### **Engineer's Report**

No Report

#### **Financial Reports**

Mrs. Konitsney presented the November 2008 revenue and expense report and the December 2008 accounts payable reports.

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

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

**Public Safety Report**

No Report

**Public Works Report**

No Report

**Resident and Community Relations Report**

No Report

**Mayor's Report**

No Report

**Police Chief's Report**

No Report

**Solicitor's Report**

Mr. Means requested an executive session to discuss the Karn lawsuit and property located at 319 Forest Avenue.

**Fire Chief's Report**

No Report

**New Business**

**2009 Council Meetings**

Council will meet on the third Tuesday of each month at 7 p.m. at the borough municipal building during the calendar year 2009.

**Avonworth Municipal Authority Appointments**

Mr. Opipery, Jr. stated that the borough is required to appoint members to the Advisory Council of the Avonworth Municipal Authority every year for one-year terms. Dr. Corder stated that the terms of the borough's four representatives, Sandra Collins, Laurie Berie, Beth Tomer and Claire Wilwohl, would expire January 30, 2009. He stated that Beth Tomer would no longer be able to serve on the Advisory Council. Council will look for someone to fill the vacancy.

Motion: Mr. Corder; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to reappoint Laurie Berie, Sandra Collins and Claire Wilwohl to the Advisory Council of the Avonworth Municipal Authority for one year terms beginning January 31, 2009 and ending January 30, 2010.

**Rental Property Inspection Agreement**

Mr. Opipery, Jr. stated that Ordinance 694 requires all rental properties to have an occupancy permit. He stated that in order to get an occupancy permit, the building must be inspected by the borough's building inspector / code enforcement officer to ensure that the rental property

complies with all building and property maintenance codes. Mr. Opiery, Jr. stated that the program went by the wayside after the borough's in house code enforcement officer passed away. He stated that the new group, Building Inspection Underwriters (BIU), had a change in management and can now administer this program. He stated that BIU has asked for a change in the fee structure. Mr. Opiery, Jr. stated that the property owner is contacted by the code enforcement agency to schedule an inspection, which currently cost \$45 for the first inspection and \$35 for each subsequent inspection. He stated that BIU has proposed charging a \$50 fee for the first inspection, no fee for the second inspection and a \$35 fee for each subsequent inspection. Mr. Opiery, Jr. stated that for the most part a second inspection is needed, so instead of paying \$80 for two inspections, the property owner would pay \$50 under the proposed fee schedule. He stated that BIU also submitted an agreement that includes three options. He stated that Option 2 and 3 involve the borough to quite an extreme. Mr. Opiery, Jr. stated that Option 1 is strictly between the property owner and the building inspector, noting that the borough does not get involved. He stated that the borough would get monthly reports and could make sure that BIU is doing their job. Mr. Opiery, Jr. recommended accepting Option 1, so that the borough does not get in the business of collecting money and being a middleman. Dr. Corder stated that in the past the borough billed and collected fees for trash service, which was a nightmare, adding that the trash company now bills the residents directly, which is more efficient. Mrs. Konitsney stated that there was also a problem when Ordinance 694 was first adopted and the borough collected the fees in-house. Mr. Opiery, Jr. stated that if the borough bills for the service you would have to have two sets of books, adding the borough would have to maintain a set of books on the collection of fees and BIU would have to maintain a set of books on the inspections. Mr. Opiery, Jr. stated that the function of the program is to make sure properties are maintained and renters are kept safe. He stated that the fees cover the cost of the inspections, noting that the borough does not make any money.

Motion: Mr. Herchenroether; Second: Mrs. Konitsney; Motion carried by unanimous voice vote to accept Option #1 of the proposal from Building Inspection Underwriters for rental property inspections and authorize Council President to sign the agreement.

#### **Resolution 2008-05**

Motion: Dr. Corder; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to adopt Resolution 2008-05, which amends the inspection fee schedule for inspections pursuant to Ordinance 694 and repeals prior inconsistent resolutions.

#### **Right-to-Know Policy**

Mr. Means stated that the new law goes into effect January 1, 2009. He stated that his office prepared a Right-to-Know Policy for Public Records and forms for the borough to use to document requests. Mr. Means stated that the policy and forms are based on the recommendations of the new State Office of Open Records. He stated that the borough is required to post the policy, all of the forms and the Open Records Officer's contact information on its website. Mr. Means stated that the State Office of Open Records dictates the fees that can be charged for copying records, which range from \$0.10 to \$0.25 per page. He stated that the borough's policy includes a charge of \$0.25 per page for copying. Mr. Means stated that he has written the borough's policy to say that a request may be submitted by email, fax, and letter or in person, but not by telephone.

Motion: Dr. Corder; Second: Mrs. Weiss; Motion carried by unanimous voice vote to adopt the Right-to-Know Policy for Public Records.

## **Old Business**

### **2009 Budget**

Motion: Mrs. Konitsney; Second: Dr. Corder; Motion carried by unanimous voice vote to adopt the 2009 budget as presented.

### **Ordinance 735**

Motion: Mr. Herchenroether; Second: Mr. Colenbrander; Motion carried by unanimous voice vote to adopt Ordinance 735, which levies an ad valorem real estate tax and fixes the tax rate for the fiscal year 2009.

### **Ordinance 736**

Motion: Mr. Colenbrander; Second: Mrs. Konitsney; Motion carried by unanimous voice vote to adopt Ordinance 736, which amends Ordinance 596 and 650, requires permits for and regulates opening of borough streets, curbs and sidewalks, imposes fees in connection therewith and imposes a duty to repair damage to borough streets caused by subsurface pipes, lines, etc.

### **Resolution 2008-04**

Motion: Mr. Colenbrander; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to adopt Resolution 2008-04, which establishes the fees for street openings granted in Ordinance Nos. 596 and 650, as amended by Ordinance 736.

### **Resolution 2008-06**

Motion: Mr. Herchenroether; Second: Mrs. Konitsney; Motion carried by unanimous voice vote to adopt Resolution 2008-06, which amends the construction specifications and standards for street opening repairs granted in Ordinance No. 596, as amended.

### **Fire Department Merger**

Mrs. Weiss stated that she and Dr. Corder attended a meeting along with representatives from Kilbuck, Emsworth, Glenfield and Ben Avon Heights regarding the proposed merger of the local fire departments. She stated that Michael Foreman from the DCED was at the meeting and that she would like to invite him to address council about his financial recommendations. Mrs. Weiss stated that she thought it would help to make sure that council understands the costs of maintaining the VFD. Mr. Pipery, Jr. stated that he had already prepared a cost analysis, which was distributed to council. Mrs. Weiss stated that she would like to see a clear line-by-line analysis of costs for the VFD. She stated that she wants a good financial picture of the VFD and Mr. Foreman can do that for the borough. Mrs. Konitsney stated that she thought Ben Avon has one of the best fire departments in the area and that she is not ready to jeopardize the safety of the residents by consolidating fire services. Mr. Herchenroether stated that he has two criteria for approving just the Kilbuck / Ben Avon merger. The first is to make sure that Kilbuck's debt is satisfied and the second is to ensure that the borough has a fire service contract with Kilbuck, adding that Ben Avon is presently covering fire calls in Kilbuck free of charge because of mutual aid agreements. Mr. Herchenroether stated that the other communities are distressed and coming to Ben Avon and he is not going to burden the borough's residents with their debts. Mrs. Weiss stated that the proposed merger is a financial decision and she wants clear financial information, which Mr. Foreman can provide. Mr. Pipery, Jr. stated that this is not a financial decision, adding that the members of the fire company are volunteers who put their life on line. He stated that the volunteer system in the North Boroughs is not broken and it serves the communities well. Mr. Pipery, Jr. stated that this is not a fiscal decision, it is a decision that has to be made with great respect for the men and women who volunteer to fight fires. He stated that it would

cost the borough a lot of money to pay for this service. Mrs. Weiss stated that she wants to know in black and white how much the borough spends on its fire department. Mr. Pipery, Jr. stated that he had already provided this information to council. Mr. Colenbrander stated that the spreadsheet he saw had all the information on it, including the expected costs to add Kilbuck. Mr. Herchenroether stated that the spreadsheet prepared by Mr. Pipery also included several models that illustrated price levels if the borough got a contract with Kilbuck. Mrs. Weiss stated that she wants to know if the borough is making a good fiscal decision and wants someone from the outside to look at this and tell us what we are spending. She stated that she just wants to know that the borough is spending its money wisely and is not turning down an opportunity that would be good for everyone concerned. Mr. Colenbrander stated that the financials are his lowest priority and that you could not treat the volunteer firefighters as a commodity. He stated that he thought the borough should bend over backwards for the volunteers because they are doing a good job, adding that some of the volunteers are not even residents. Mr. Colenbrander stated that none of the volunteer firefighters are bound to serve the borough and they could walk tomorrow. He stated that this is not a financial issue; it is about getting the best protection and keeping the volunteer firefighters happy because the borough cannot afford to lose them. Mr. Herchenroether suggested closing the discussion and inviting Mr. Foreman to address council. Mr. Pipery, Jr. stated that he would ask Mr. Foreman if he could attend the next council meeting.

#### **Executive Session**

Motion: Dr. Corder; Second: Mrs. Weiss; Motion carried by unanimous voice vote to adjourn to Executive Session at 8:40 p.m. to discuss the Karn lawsuit and property located at 319 Forest Avenue.

Motion: Mr. Herchenroether; Second: Mrs. Konitsney; Motion carried by unanimous voice vote to adjourn from Executive Session and reconvene to Regular Session at 9:05 p.m.

#### **Regular Session**

Motion: Mr. Herchenroether; Second: Mrs. Weiss; Motion carried by unanimous voice vote to accept the Karn Settlement Agreement.

Motion: Dr. Corder; Second: Mr. Herchenroether; Motion carried by voice vote to authorize the solicitor to begin sheriff sale proceedings against property located at 319 Forest Avenue.

Mrs. Weiss opposed the motion.

#### **Adjournment**

Motion: Mrs. Weiss; Second: Mr. Colenbrander; Motion carried by unanimous voice vote to adjourn the meeting at 9:10 p.m.

Respectfully submitted,

*Carmella Hallstein*

Borough Secretary

# Coffee Shop Proposal

## Outline

### ***Build-out***

Attached is a document outlining ballpark estimates for work necessary to prepare the space for business purpose. I expect to incur at least the expenses in the bottom section of this document labeled "Work to be done for Business". These figures do not include the considerable startup costs for the coffee shop business itself.

I propose that the Borough incur the costs of bringing the building up to code and those expenses for making the space "useable" to the public.

### ***Rough Ground Plan***

Attached is a basic ground plan outlining the proposed locations of;

- Handicapped access ramp to restrooms
- Storage room for coffee business
- Meeting Room
- Platform covering current car ramp

### ***Lease (rent)***

I propose \$500 per month rent and have attached a sample lease for your consideration.

### ***Timetable***

In order to know that this is a viable plan, and to be a good steward of my personal and business finances, I would ask the Borough to commit to some basic decisions by their January meeting.

The questions to be answered are these, as I see them:

- Can the Borough undertake the necessary improvements to the building?
- Can this work be done in time for the business to be open by the end of March 2009?
- Can the Lease be completed and signed in time for renovation to begin in February 2009?

F.Y.I There is a 2-3 week turnaround from the time of submitting stamped drawings of plans to the Building Inspector and being issued a permit for construction to begin.

# Coffee Shop Proposal

## Build-out estimates

Needed to bring building to Code: per Building Inspector

	Architectural Planning	
2,000	Plaster Work:	
	Repair Plaster on walls & ceiling.	
	Layover drywall on rear ceiling area	
2,400	Electrical:	
	Bring all loose wiring up to code	
	install emergency lighting & Exit signs.	
3,700	Framing:	
	Handicap accessible ramp to restrooms	
	enclose old door into Fire station (for fire separation purposes)	
	platform cover over old auto ramp.	
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8,100		

<u>Shared Expense</u> 1,800 Architect Services (5-7% of construction costs)
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Needed to make the space useable:

3,500	HVAC:	
	Tie into existing unit	
	run new ducts & deflectors into center of space. Approximately 7 total outlets.	
3,800	Prime & Paint one color.	
	Approximately 7,100 sq. feet.	
5,000	Concrete (Possible Parking area on North side of building):	
	Demo & disposal of existing sidewalk & curb. Removal of stump.	Excavate 8-
	10 inches down for preparation of concrete.	
	Install cement pad approximately 30 feet x 23 feet.	
	Possible 2nd egress for more than 49 person occupancy?	
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12,300		

Work to be done for business:

700	Polish Floor	
3,600	Drywall:	
	Replace Pegboard with Drywall on wall above auto ramp.	
	Wall for storage area between ramp & restrooms.	
	Partial wall to square off function area.	
900	Trim:	
	Finish trim work around front door.	
	Trim new wall areas & seating area over auto ramp.	
2,300	Replace lighting fixtures (10 total)	
3,500	Plumbing for coffee bar area	
2,500	Electric work for coffee bar area, storage room, and customer convenience outlets	
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13,500		

# Coffee Shop Proposal

## Rough Ground Plan

