

Borough of Ben Avon
7101 Church Avenue, Ben Avon, Pennsylvania, 15202
Minutes – Public Hearing and Regular Council Meeting – March 17, 2009

Public Hearing

The Ben Avon Borough Council held a public hearing on March 17, 2009 at the Borough Hall. Council Vice-President Lloyd Corder called the hearing to order at 6:30 p.m. A quorum was established with council members Dan Herchenroether, Judy Konitsney, Mark Colenbrander and Sue Weiss.

Public Participation

No public comments

Mr. Means stated that he had submitted suggestions to Carolyn Yagle and the other two solicitors to expand the definition of a halfway house. He stated that as drafted, the zoning ordinance provides for a halfway house that would cover inmates that are on some type of release program from a prison. Mr. Means stated that there are a lot of other situations where people are assigned to a halfway house and some of the situations involve people who are not necessarily inmates coming out of criminal confinement. He stated that people in various recovery programs are often assigned to a halfway house and these types of situations are not adequately covered in the current definition.

Adjournment

Motion: Mr. Herchenroether; Second: Mrs. Weiss; Motion carried by unanimous voice vote to adjourn the Public Hearing at 6:45 p.m.

Executive Session

Motion: Mr. Colenbrander; Second: Mrs. Konitsney; Motion carried by unanimous voice vote to enter into Executive Session at 6:45 p.m. to discuss legal issues.

Motion: Mr. Herchenroether; Second: Mrs. Weiss; Motion carried by unanimous voice vote to adjourn from Executive Session at 7:10 p.m.

Regular Council Meeting

Call to Order

Council President Ken Opiery called the regular council meeting to order at 7:10 p.m.

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

Public Participation

None

Approval of Minutes

Motion: Mr. Herchenroether; Second: Mr. Smith; Motion carried by unanimous voice vote to approve the minutes of the February 17, 2009 council meeting.

Engineers Report

No Report

Financial Reports

Mrs. Konitsney presented the February 2009 revenue and expense report and the March 2009 accounts payable reports.

Motion: Mrs. Konitsney; Second: Mr. Colenbrander; Motion carried by unanimous voice vote to approve the February 2009 revenue and expense report as presented.

Motion: Mrs. Konitsney; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to approve the March 2009 accounts payable reports as presented.

Public Safety Report

No Report

Public Works Report

Mr. Colenbrander stated that a sewer collapsed on upper Dickson Avenue. Mr. McGee is reviewing the collapse to determine the repair costs.

Mr. Colenbrander stated that the 1994 Ford pick-up truck is coming up for inspection and will need some repair. He stated that the clutch would have to be replaced at a cost of about \$2,000. Mr. Colenbrander stated that the borough could piggyback on a SHACOG Purchasing Alliance bid and purchase a truck through Allegheny Ford at a very good price. He stated that Allegheny Ford is willing to give the borough \$3,500 for the 1994 pick-up truck, which would bring the price down to \$21,672 for a 2009 Ford F-350 pick-up truck. Mrs. Konitsney stated that she did not know whether this was a good price and would like to get inquires out to see if there was a better price. Mr. Smith stated that \$21,672 for a Ford F-350 is a very good price. Mr. Means stated that this price is through the SHACOG, which is the council of governments for the South Hills. He stated that the SHACOG had already gone through the bidding process and the bid from Allegheny Ford was the lowest bid for this type of truck. Mrs. Weiss stated that she would rather spend \$2,000 to fix the old truck, which only has 35,000 miles on it. Mr. Smith stated that 1994 pick-up truck is in bad condition, noting that the truck bed is rusted. Mr. Herchenroether stated that regardless of the low millage, the truck has put in a lot of duty and is falling apart. Mr. Colenbrander stated that if you spend \$2,000 to fix the clutch and something else breaks then you have an unreliable vehicle, which could prove to be a problem especially in the winter. Mr. Colenbrander stated that the price did not include a plow. Mr. Regrut stated that he obtained one quote for \$5,000 for a plow, but thought he could get a better price and would continue to get other proposals. Mr. Pipery, Jr. stated that the borough has two fulltime employees who on a given snow day each drive a dump truck, but noted that the pick-up truck is used for streets that require the maneuverability of a smaller truck. He stated that the pick-up truck is also used when one of the dump trucks is out for repair. Mr. Pipery, Jr. stated that the pick-up truck guarantees that the borough has coverage, particularly during the winter season.

Motion: Mr. Colenbrander; Second: Mr. Herchenroether; Motion carried by voice vote to authorize the expenditure of \$21,672 for the purchase of a 2009 Ford F-350 pick-up truck.

Mrs. Weiss and Dr. Corder opposed the motion.

Mr. Colenbrander stated that PennDOT is updating the traffic signals on Ohio River Boulevard, which will include the signals at Monitor Avenue and Brighton Road. He stated that Mr. McGee would meet with Penn DOT representatives to discuss improvements to the intersection at Belle Riviere Court, Brighton Road and Ohio River Boulevard. He stated that PennDOT would probably install LED lights so the borough should see a savings in electricity costs.

Resident and Community Relations Report

Dr. Corder stated that Kilbuck Township had been approved for a \$35,000 Community Development Block Grant for Avon Park. He stated the money would be used for a pedestrian entrance into the park from Walnut Road. Dr. Corder stated that Jacob George and other volunteers would be doing a project at the park this coming weekend to improve safety. He stated that the volunteers would be installing a split-rail fence from the Walnut Road side of the park to the trail and from the trail to the back of the park behind the playground. Dr. Corder stated that DCED grant funds would be used to pay for the materials.

Dr. Corder stated that all of the paperwork for the new playground equipment had been submitted for the DCNR grant. He presented a proposal from Jeffrey Associates for \$42,765 for the new equipment. Dr. Corder stated that the borough had already received \$20,800 from the DCNR and if the borough pays \$20,000 to Jeffrey Associates now, the borough would receive a 4% discount, which is a cost savings of about \$800. Mr. Colenbrander stated he has not seen one child using the playground equipment when he has been in the park and would rather spend \$42,000 to redo the tennis courts. Mr. Herchenroether stated that he wanted to renew his dissent, adding that there should not be a dime spent on the park.

Motion: Dr. Corder; Second: Mrs. Weiss; Motion failed by roll call vote: three-aye; four-nay to authorize a payment from the DCNR grant fund for \$20,000 to Jeffrey Associates.

Todd Smith-nay; Dan Herchenroether-nay; Judy Konitsney- aye; Ken Pipery, Jr.-nay; Lloyd Corder-aye; Mark Colenbrander-nay; Sue Weiss-aye

Mr. Smith stated that he agreed with Mr. Colenbrander and thought the money should be put towards something that is used, like the tennis courts. Mrs. Weiss stated that she did not think the grant could be used for the tennis courts because the borough applied for grant money for playground equipment.

Mr. Herchenroether made a motion to dissolve the lease agreement and give Avon Park back to Kilbuck Township. Mr. Colenbrander seconded the motion.

Mrs. Weiss stated that she did not know if we could legally do this, adding that we would also have a legal conflict of interest because Mr. Means is the solicitor for both Ben Avon Borough and Kilbuck Township. Mr. Herchenroether stated that the park is unusable as it is so give it back to Kilbuck. He stated that he did not care if grant money is being used, adding that it is still taxpayer money. Mr. Colenbrander stated that the park would have been a lot better and more usable if Kilbuck would have allowed access from Walnut Road. He stated people do not use the park because the Perrysville Avenue access is unsafe. Mrs. Weiss stated that she agreed

getting out of the lease was a valid discussion, but had concerns about terminating the agreement without a clear reading of the lease. She stated that she would prefer to table the issue and get legal advice before making any decision. Dr. Corder stated that he also thought the discussion should be tabled because he was concerned about creating a credibility problem for the borough on not only this grant, but on any future grants. Mr. Means stated that he had not anticipated the question of dissolving the lease or the consequences of it since he is also the solicitor for Kilbuck Township. He stated that if there were a different perspective on either side he would have a conflict. Mr. Means stated that even if he did not have a conflict, the lease is a lengthy document and he could not possibly tell council off the top of his head what the legal consequences of this action would be.

Mr. Herchenroether stated that he would concede to table the motion to dissolve the lease agreement until next month.

Motion: Mr. Herchenroether; Second: Mr. Colenbrander; Motion carried by roll call vote: five-aye; two-nay to direct the solicitor to review the lease agreement to determine if he has a conflict and to advise council of its options in terms of dissolving the lease if he determines that he does not have a conflict.

Todd Smith-aye; Dan Herchenroether-aye; Judy Konitsney- aye; Ken Pipery, Jr.-aye; Lloyd Corder-nay; Mark Colenbrander-aye; Sue Weiss-nay

Mrs. Weiss stated that she voted against the motion because too many issues had been brought up at one time. She stated that we have a conflict with the solicitor, we have the issue of the grant and now we are discussing pulling out of the park lease. She stated that she did not think the issues had been thought through and felt the decision-making had been rushed. Mr. Herchenroether stated that he had been consistent, adding that he had made comments on numerous occasions about his opposition to spending any more money on the park.

Mayor's Report

Mayor Pipery thanked the police department for directing traffic at the Community Presbyterian Church during a recent memorial service.

Police Chief's Report

No Report

Solicitor's Report

Mr. Means stated that he completed a revised lease agreement for the proposed coffee shop.

Fire Chief's Report

Chief Buckman presented the Fire Company's activity report for February 2009.

New Business

Spring Leaf Pick-up

Mrs. Weiss stated that a few residents had asked her if the borough could provide leaf pick up service for a few weeks in the spring. Mr. Pipery, Jr. stated that the borough hires two extra people to work during leaf collection in the fall, adding that at this time of year we only have two employees. He stated that the leaf box would have to be put back on the truck and maintained.

Mr. Colenbrander stated that March and April weather in Pittsburgh is unpredictable and the trucks need to be available to plow snow and salt the roads.

Resolution 2009-03

Mr. Opiery, Jr. stated that Resolution 2009-03 would raise the fee for zoning hearing board appeals from \$250 to \$450. He stated that the increase is necessary to cover expenses such as advertising, building inspector fees, stenographer fees and solicitor fees.

Motion: Mr. Herchenroether; second: Mr. Colenbrander; Motion carried by unanimous voice vote to adopt Resolution 2009-03, which adjusts the fee for zoning hearing board appeals from \$250 to \$450 effective March 18, 2009.

Old Business

Train Whistles

Mr. Herchenroether stated that Mike Clark finally got some communication back from Norfolk Southern about the train whistle issue. The communication stated that if they discontinue use of the train whistles, quad gates, concrete barriers and possibly wayside horns would have to be installed to ensure safety at the crossing, which would cost between \$400,000 and \$500,000.

Adjournment

Motion: Mrs. Weiss; Second: Mr. Colenbrander; Motion carried by unanimous voice vote to adjourn the meeting at 8:05 p.m.

Respectfully submitted,

Carmella Hallstein
Borough Secretary