

Borough of Ben Avon
7101 Church Avenue, Ben Avon, Pennsylvania, 15202
Minutes – Regular Council Meeting – December 15, 2009

Council Members Present

Dan Herchenroether, Judy Konitsney, Ken Opiery, Jr., Lloyd Corder, Mark Colenbrander, Sue Weiss

Council Members Absent

Todd Smith

Others Present

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

Call to Order

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

Public Participation

Jane Angelini of 7008 Church Avenue thanked the departing council members and mayor for their service over the past many years. Mrs. Angelini stated that she appreciated what they did for the community and wished them all the best.

James Karn of 6905 Merton Road stated that he wanted to read and submit to council a letter he wrote about the property he owns at 518 Dickson Avenue (see Exhibit A). Mr. Means stated that this matter is in front of Commonwealth Court, adding that it had been briefed and would be argued and decided within several months. Mr. Means advised council not to discuss the matter because it is in litigation.

Approval of Minutes

Motion: Dr. Corder; Second: Mrs. Weiss; Motion carried by unanimous voice vote to approve the minutes of the November 17, 2009 council meeting.

Engineer's Report

Mr. McGee stated that he contacted the Allegheny County Department of Economic Development to schedule a meeting to discuss the status of two grant applications that were submitted by the borough. He stated that one is for \$60,000 to repair the retaining wall and drainage problem at the bottom of Rostrevor Place at Brighton Road and the other is for \$160,000 for interior and exterior mechanical and electrical repairs for the VFD building.

Financial Reports

Mrs. Konitsney presented the November 2009 revenue and expense report and cash flow reports and the December 2009 accounts payable reports.

Motion: Mrs. Konitsney; Second: Dr. Corder; Motion carried by unanimous voice vote to approve the November 2009 financial reports as presented.

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

Public Safety Report

No Report

Public Works Report

No Report

Resident and Community Relations Report

Dr. Corder stated that he submitted the required paperwork and a request form for \$20,800 to the DCNR for the second half of the grant funds for Avon Park.

Mayor's Report

No Report

Police Chief's Report

No Report

Solicitor's Report

Mr. Means stated that he prepared a fire company appropriations agreement that provides for a long-term commitment by the borough to appropriate money to the fire company that is received from the service agreement with Kilbuck Township. He stated that approval of the agreement is by ordinance, which is required to be advertised before council can take any action.

Motion: Mr. Herchenroether; Second: Dr. Corder; Motion carried by unanimous voice vote to advertise Ordinance 743, which authorizes an agreement with the Ben Avon Volunteer Fire Company for multi year capital expenditure funding.

Fire Chief's Report

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

Mr. Pipery, Jr. stated that he wanted to thank the volunteer fire department not only for their hard work and training but also for their continued community involvement. He stated that the VFD is an integral part of many Ben Avon events, such as the Halloween Parade, the Christmas Tree Lighting and the visit by Santa Claus to every borough street. Mr. Pipery, Jr. stated that without their help these events could not take place.

New Business

2010 Council Meeting Schedule

Council will meet on the third Tuesday of each month at 7:00 p.m. at the borough municipal building during the calendar year 2010, with the exception of the month of December. The December meeting will be held the second Tuesday of December.

Reorganization Meeting

The reorganization meeting will be held Monday, January 4, 2010 at 7:00 p.m. at the borough municipal building.

Avonworth Municipal Authority Appointments

Motion: Mr. Corder; Second: Mrs. Weiss; Motion carried by unanimous voice vote to reappoint Rachel Wisniewski, Sandra Collins, Claire Wilwohl and Bob Whalen to the Advisory Council of the Avonworth Municipal Authority for one year terms beginning January 31, 2010 and ending January 30, 2011.

Resolution 2009-17

Motion: Dr. Corder; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to adopt Resolution 2009-17, which requires and designates two borough officials to sign borough checks.

Resolution 2009-18

Motion: Mrs. Weiss; Second: Mrs. Konitsney; Motion carried by unanimous voice vote to adopt Resolution 2009-18, which authorizes execution of the Condition for Donation of Services and Space Agreement 2010 Census.

Old Business

2010 Budget

Motion: Mr. Herchenroether; Second: Dr. Corder; Motion carried by unanimous voice vote to adopt the 2010 Budget as presented.

Ordinance 741

Motion: Mrs. Konitsney; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to adopt Ordinance 741, which levies an ad valorem real estate tax and fixes the tax rate for the fiscal year 2010.

Ordinance 742

Motion: Mrs. Weiss; Second: Dr. Corder; Motion carried by unanimous voice vote to adopt Ordinance 742, which requires prompt notification to authorities of lost or stolen firearms.

Statement by Outgoing Council Members and Mayor

Mr. Opiery, Jr. stated that since this was his, Mr. Smith's, Mr. Colenbrander's and Mayor Opiery's last council meeting, they had prepared and signed a statement to be read and entered into the record (see Exhibit B).

Mr. Herchenroether stated that it would be appropriate for council to pass a resolution to thank the outgoing council members and mayor.

Motion: Mr. Herchenroether; Second: Mr. Corder; Motion carried by unanimous voice vote to adopt a Resolution of Council thanking Council President Opiery, Jr., Mayor Opiery, Sr., Councilman Colenbrander and Councilman Smith for their dedicated service over the years.

Richard White of 330 Breeding Avenue stated that on behalf of the residents he wanted to thank the outgoing council members and mayor.

Adjournment

Motion: Mr. Herchenroether; Second: Mr. Colenbrander; Motion carried by unanimous voice vote to adjourn the meeting at 7:55 p.m.

Respectfully submitted,

Carmella Hallstein

Borough Secretary

James L. Karn
6905 Merton Road
Ben Avon, PA 15202
phone 412 761-8132

December 15, 2009

Letter addressed to
Ben Avon Borough Council
Ben Avon Borough Hall
Church Avenue, Ben Avon, PA

Subject: Status of 518 Dickson Ave.
Council meeting
7 PM December 15, 2009
Ben Avon Borough Hall

A few years ago, 518 Dickson Ave in Ben Avon had some property code violations. James B Karn and William Karn were issued notices of the conditions. I am not certain of the exact dates. I have requested a copy of the notices, but not received them yet.

William Karn, the occupant at the time, was the only person contacted about the violations and was resolving the issues. Apparently, the violations were not corrected because the case was taken to court.

It was only after a failure to appear in court warrant was issued, that I was first notified of this matter. Thereafter, each time I got involved, I was told by William Karn and the Borough Inspector, that the problems had been resolved.

I got involved in correcting the property issues after I was informed that William Karn preferred to file a Federal court action against the Borough instead of working with them.

I put significant recourses into correcting the health and safety issues that Fred Sap, the building inspector, verbally outlined for me at the property site. I took notes at each inspection and requested that he send me a written list. He agreed to send me a detailed list after each inspection, but I never received one.

I corrected all the action items as explained to me during the inspection, prior to the court appearance. In the court, the required action items changed from resolving "Health and Safety Issues" to 100% property code compliance, without any prior notification by the Inspector.

I have been caught in an altercation that is neither of my choosing nor instigation but which has caused the borough unnecessary expense.

It should be clear that at no time have I been represented by legal counsel and at no time have I authorized a lawyer to represent me. I did have help filing the appeal from the district justice court to the court of common pleas.

I reviewed the current "Brief in Support of Appellee Borough of Ben Avon" and it has many incorrect and contradicting statements. Your lawyer has confused or manipulated some of the facts in this case to justify its continuance. I am a resident and taxpayer in this borough. It pains me to see how the borough is paying out lawyer fees and related expenses for what appears to be enthusiasm in demonstrating high quality legal performance, in an unnecessary case.

I came on the scene late. I have always been very cooperative with the building inspector and diligent and conciliatory in making requested property repairs. It would be very unfortunate if this case remains in court for many years or goes to federal court arguing constitutional issues. Such contention is not my choice.

The attached paper is a document stating terms of an out of court settlement. If the terms can be agreed to, the paper can be filed with the state court system to end the current dispute.



James L Karn,
Owner of record
518 Dickson Avenue

518 Dickson Ave. PROPERTY CITATION LIST

Organized in the following pattern:

- 1). Property area and feature addressed
- 2). Deficient feature for protecting public health, safety, and welfare.
- 3). What needs to be changed to protect public health, safety, or welfare.
- 4). Commentary by property owner
- 5). Commentary by building inspector

"Back Yard Vegetation"

The back yard exposed earth area lies between the back of the house and the garage. Unkempt growth comprised black raspberry bushes, rose bushes, wisteria vines, tulip tree sprouted growth, uncut grass. Owner removed all such vegetation and leveled the lot with bare soil. Owner covered the bare earth with a synthetic fiber cloth such that no vegetation can grow on the back lot area.

Owner's judgment: Complete

Building inspector's judgment: approved or do as follows:

"Back Yard Garage"

Metal garage soffit and fascia has rust and holes, and peeling paint.

Vinyl siding was put on the garage door. The roof was repaired, soffit and fascia were replaced. The garage exterior was painted. Plastic panel was put in window, south side.

Owner's judgment: Complete.

Building inspector's judgment: approved or do as follows:

"Back of House"

Porch and back of house clapboard area were painted. Wood trim around windows was painted. Gutters and down spouts were replaced with aluminum. Asphalt shingles were placed over worn area of roof. Back porch door screen was replaced.

Owner's judgment: Complete.

Building inspector's judgment: approved or do as follows:

"Driveway side of House"

Worn window screens at first floor level were removed. Wood trim around windows and door was painted.

Owner's judgment: Electrical system requires updating. The current outside electrical lines were tested and found to be functional, however they will be replaced when the whole house electrical system is updated. Estimated completion Spring 2010.

Wood will be repaired and painted as practical.

Building inspector's judgment: approved , or do as follows:

"Front of House"

Down spout was reattached. Lumber and window frames that were stored on porch have been removed. Porch deck and siding have been painted. Railing at steps was reconstructed a second time in a fashion that should please the building inspector.

Owner's judgment: Complete

Building inspector's judgment: approved or do as follows:

CONCLUSION: It is tentatively agreed by borough council that when the house owner and the building inspector comes to terms of agreement on property detailed above the borough will sign off approving a termination of litigation of the property code violations now outstanding.

Signatures of property owner and borough council:
and date of signing:

December 15, 2009

Ben Avon Residents and Council Members,

It has been an honor to serve our community and to make a positive difference to our neighborhood and to the other communities in the region. We have donated our own time and energy to perform the work required to run the Borough with the only reward being the knowledge that we made a difference.

We leave the Borough of Ben Avon in the following state:

Financially Sound

- The only debt on the books is to be retired in 2010 having not incurred new debt in over 10 years
- Cash flow that allows the Borough to function without a tax anticipation note thus saving annual interest expense and administrative burden
- No municipal sewer surcharges on ALCOSAN billings to maintain sewers. (No hidden taxes.)
- Capital Reserve funds that allow for ongoing maintenance and improvements to the infrastructure and Borough equipment
- Level real estate tax revenue requirements for 10 years thus no general tax increase for 10 years.

Compliant with Sanitary Sewer Consent order and NPDES permit requirements

Roads and Sewers maintained and improved on an annual basis rather than deferred to a point of critical state where a multi road project would have to be initiated and funded through debt

Excellent employee relations and excellent performance from those employees.

- Efficient and fast clean up of snow and ice on all roads
- Efficient and fast clean up of leaves in the fall
- Efficient upkeep and maintenance of the Borough and Borough owned properties
- Orderly and efficient administrative operations in the office
- Orderly and efficient bookkeeping and payroll processing

An administrative staff comprised of 2 part time employees, a reflection of the amount of time and effort committed by council which in turn has saved the cost of a full time manager

A public works department comprised of 2 full time employees, a reflection of the work ethic and efficiency of the department. This compares to a public works department that once consisted of 4 or more full time employees

A computerized accounting system that replaced a manual system which has increased the productivity of the office staff.

Code Enforcement, Rental Property and Building Inspections, performed by certified inspectors, which allows the Borough to ensure that all existing properties are maintained and safe and all new construction complies with zoning and building codes.

New Comprehensive Plan and Joint Zoning Ordinance, a ten-year project, which until now had not been updated since the 1970's

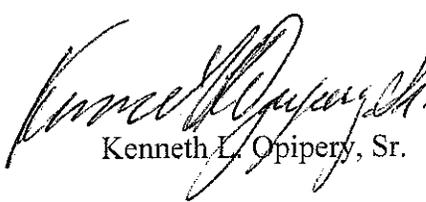
A strong volunteer fire company that stands ready and willing to put their lives on the line in order to secure the safety of our families and our property.

A police patrol car assigned to only Ben Avon 24/7 to insure that there is an officer close by to keep our families and properties secure all of the time.

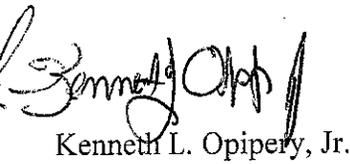
An EMS service that is housed within the boundaries of the Borough, which allows for faster than usual response to medical emergencies

Shared services and processes in the form of planning, zoning, garbage collection, winter salt purchase, emergency fire services and police services.

Sincerely,



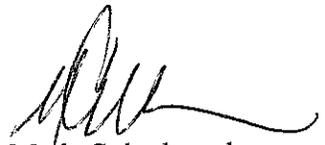
Kenneth L. Opiery, Sr.



Kenneth L. Opiery, Jr.



Todd Smith



Mark Colenbrander