

Borough of Ben Avon
7101 Church Avenue, Ben Avon, Pennsylvania, 15202
Minutes – Regular Council Meeting – February 16, 2010

Council Members Present

Rob Galbraith, Dan Herchenroether, Judy Konitsney, Lloyd Corder, Rich White, Brian Tokar, Sue Weiss

Council Members Absent

None

Others Present

Bob Jones, Mayor
Chuck Means, Solicitor
Carmella Hallstein, Borough Secretary

Call to Order

Council President Lloyd Corder called the meeting to order at 7:00 p.m.

Public Participation

Hal Deily of 155 Spruce Street commended the public works department for the great job they did clearing the roads after the recent snowstorms.

Scott Keener of 7140 Belle Riviere Court addressed council. Mr. Keener is a member of the Tri-Borough Joint Planning Commission and he presented an overview of the Joint Comprehensive Plan, Joint Zoning Ordinance and Tri-Borough Joint Planning Commission. The Tri-Borough Joint Planning Commission, which is comprised of representatives from Bellevue, Avalon and Ben Avon, was officially created about one year ago. Each municipality had its own planning commission prior to the formation of the joint commission. These planning commissions came together as a steering committee to create a joint comprehensive plan to replace the existing comprehensive plans, which were at least twenty to twenty-five years old. The joint comprehensive plan was adopted in 2004 and the steering committee then began to implement the joint plan, which meant creating a joint zoning ordinance. The steering committee spent a considerable amount of time, effort and resources evaluating the three existing zoning ordinances and creating a joint zoning ordinance for all three boroughs. The joint zoning ordinance was completed and adopted by Bellevue, Avalon and Ben Avon in August 2009. Currently there is not a lot of business in front of the joint planning commission, which is allowing them time to review how the commission was organized, draft specific procedures to operate under and draft bylaws to govern the commission. Presently the joint planning commission is operating under the general guidelines of the State Municipalities Planning Code. Creating the joint zoning ordinance was the first phase of implementing the joint comprehensive plan. Mr. Keener advised council to review the executive summary and preface portions of the 2004 Joint Comprehensive Plan for further details.

John Ott of 7309 Terrace Avenue addressed council about an ordinance adopted in December that requires notification to authorities of lost or stolen firearms. Mr. Ott stated that the ordinance itself is not permissible under Pennsylvania law, adding that the state has a law that says local municipalities cannot make gun ordinances. He stated that the reason for the state law

is to prevent having different gun laws in all of the different municipalities because gun owners could be unaware of the differences in the local laws and could end up being subject to hefty criminal and civil fines. Mr. Ott stated that Ben Avon adopted the same language that Pittsburgh and Philadelphia adopted. He stated that there have been a few challenges to these ordinances, but they have all been thrown out on the basis that no one has actually been charged under the ordinance. Mr. Ott stated that if somebody were charged under Ben Avon's ordinance, the borough would become the test case. He stated that the ordinance subjects an individual to ninety days in jail and a \$1,000 fine for every day a lost or stolen gun is not reported to the local police and the borough. Mr. Ott stated that if a lost or stolen gun had not been reported since the ordinance went into effect sixty-three days ago, the penalty for the violation works out to be a fine of \$63,000 and 15 ½ years in jail. Mr. Ott asked council to consider repealing the ordinance. Mr. Herchenroether will review this issue.

Approval of Minutes

Motion: Mrs. Weiss; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to approve the minutes of the January 19, 2010 council meeting.

Engineer's Report - report by Ed McGee

After meeting with Dr. Corder and Mr. Galbraith, Mr. McGee was directed to move forward with the Perrysville Avenue project that council authorized in December. Requests were sent out to four firms for bids to do closed circuit television inspections of the sanitary and storm sewers on Perrysville Avenue and associated streets in the area. The project is under \$10,000 so it will not be advertised. The bids are due on March 9, which will allow council to take action at the March 16 meeting. A letter was sent to Kilbuck Township suggesting that they may want to piggyback on Ben Avon's contract for the CCTV inspections because a number of their sewers in the Kingsford Road area tie into the Ben Avon sewers along Perrysville. Mr. McGee recommended that council take action at the March meeting to authorize advertising the Perrysville Avenue reconstruction project. This would allow for the project to be advertised in April and a bid opening and contract award in May. If everything goes according to schedule the project should start in mid to late June and be completed in August.

Additional information and a revised grant application were submitted to Allegheny County for a CITF grant for improvements to the fire station building.

The semi-annual status report for ALCOSAN and 3Rivers Wet Weather that identifies work completed by Ben Avon and ensures that the borough is in compliance with the Consent Agreement has been completed and submitted.

A unisex ADA compliant restroom will be installed at the fire station building. Mr. McGee recommended asking for a proposal from the architect who designed the restrooms that are already in the building. The same specifications that were used for the previously installed restrooms will be used for the new restroom. The CDBG year 36 application for grant funds for this project should be approved in April or May.

Financial Report – report by Judy Konitsney

Mrs. Konitsney presented the December 2009 and January 2010 revenue and expense reports and cash flow reports and the February 2010 accounts payable reports.

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

Motion: Mrs. Konitsney; Second: Mr. White; Motion carried by unanimous voice vote to approve the January 2010 financial reports as presented.

Motion: Mrs. Konitsney; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to approve the February 2010 accounts payable reports as presented.

Mrs. Konitsney stated that an authorized member of council must sign all pension documents.

Motion: Mr. White; Second: Mr. Tokar; Motion carried by unanimous voice vote to authorize the Finance Chair to sign all pension documents.

Mockenhaupt Benefits Group, the administrator for the street department pension plan, sent a letter asking if Ben Avon wanted to continue to have them calculate the borough's minimum municipal obligation (MMO) based on the fair market value or average it over a four-year period, which is called smoothing. Smoothing is recommended for municipalities that are financial distressed. Due to large investments losses in 2008, if the four-year smoothing method is used, required contributions would be lower in the short term but higher in the long term due to the delayed recognition of the losses. Council agreed to continue to calculate the MMO based on the fair market value of assets.

Intergovernmental Cooperation Report – report by Lloyd Corder

The February 6 North Boroughs Joint Cooperation Planning Summit was cancelled because of the snowstorm and will be rescheduled.

Administration Report – report by Brian Tokar

The new computer has been installed in the borough office. The needs assessment and review of telephone and internet services has been completed.

Public Works / Building and Property Report – report by Rob Galbraith

Mr. Galbraith commended the public works department for their efforts to clear the roads during the recent snowstorms, adding that they did an excellent job. The public works department has been working on maintaining the vehicles and equipment when there is a break in snow removal. Dale Regrut's son has been working on a temporary basis to help with the snow removal. For the past two days the public works department has been focusing on getting rid of the mounds of snow on the roads and will continue these efforts weather permitting. Documentation has been submitted to the Allegheny County Department of Emergency Services so that the borough can be reimbursed for expenses related to the snowstorm if it is declared a federal disaster. Some communities, at their own financial risk since there is no guarantee for reimbursement, made the decision to hire contractors to get rid of all of the snow on every street. These communities are spending \$100 per vehicle per hour. Council discussed its options and decided to authorize funds for snow removal to be used at the discretion of Rob Galbraith and Dale Regrut.

Motion: Mrs. Konitsney; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to authorized an expenditure not to exceed \$15,000 to be used at the discretion of Rob Galbraith and Dale Regrut for snow removal.

Public Safety Report – report by *Dan Herchenroether*

Citations for failure to clear sidewalks of snow and ice will not be issued at this time because of the recent snow emergency; however, a notice of violation will be issued to residents who have not cleared their sidewalks within the next couple of weeks.

Property Maintenance and Code Enforcement – report by *Sue Weiss*

The borough currently uses the 2003 International Property Maintenance Code (IPMC). The code is updated every three years but the borough did not adopt the 2006 IPMC. Building Inspection Underwriters (BIU), the borough's code enforcement officer, has recommended that the borough adopt the 2009 IPMC, which is the industry standard. Mrs. Weiss went to the BIU office to review the 2009 code and compare it to the 2006 code. She presented and reviewed a report on her findings and recommended adoption of the 2009 IPMC.

Motion: Mrs. Weiss; Second: Mrs. Konitsney; Motion carried by unanimous voice vote to advertise Ordinance 744, which adopts the 2009 International Property Maintenance Code, establishes standards for property maintenance and provides for penalties for violation.

Public Affairs – report by *Rich White*

Mr. White has received complaints about the borough website being hard to navigate. He will work on the website to link things together in a more logical order. Mr. White is waiting until after the borough's emergency operations plan has been updated to review a service called Nixle, which is a notification system that can be used for things such as emergencies or community events. Mr. McGee stated that the Administrative Consent Order requires the borough to keep the public informed about issues such as storm water runoff and that the website may provide an opportunity to post that type of information. Mr. McGee will forward the public notification information to Mr. White.

Mayor's Report – report by *Bob Jones*

Mayor Jones presented and read his report to council. See Exhibit A.

Police Chief's Report – report by *Norbert Micklos*

Chief Micklos stated that Dale Regrut and the public works department did an excellent job clearing the streets after the recent snowstorms.

Solicitor's Report – report by *Chuck Means*

There is a proposed fundraiser at The Fire Escape coffee house for the Haitian Orphans at which alcohol will be served but not sold. Mr. Means stated that the borough is not sponsoring the fundraiser or serving any liquor, so in general it is not an obligation of the borough to do anything about this issue. He stated that either the sponsor of the event or The Fire Escape should provide the borough with a certificate of insurance that includes liquor liability coverage. Dr. Corder stated that John Graf, the owner of The Priory, said that they would sponsor the event. Dr. Corder stated that The Priory has a liquor license and that they would provide a certificate of insurance to the borough.

Fire Chief's Report – Report by *Gary Buckman*

Chief Buckman presented the Fire Company's activity report for January 2010. He stated that the February 7 meeting with the Emsworth VFD was cancelled because that was the day the BAVFD went throughout the borough to clear the fire hydrants of ice and snow.

New Business

Resolution 2010-01

Motion: Mr. Herchenroether; Second: Mr. White; Motion carried by unanimous voice vote to adopt Resolution 2010-01, which authorizes the borough to designate parking restrictions for a trial period of up to 180 days commencing February 20, 2010 on the south side of Church Avenue, within 55 feet southeast of the driveway entrance to the fire station, on Saturdays from 9:30 a.m. to 11:00 a.m., with the exception of the Allegheny County Library Association Bookmobile.

Resolution 2010-02

Motion: Mrs. Konitsney; Second: Mrs. Weiss; Motion carried by unanimous voice vote to adopt Resolution 2010-02, which confirms the millage rate of 5.69 mills for the collection of ad valorem real estate taxes for year 2010 as set by Ordinance 741.

Resolution 2010-03

Motion: Mr. Herchenroether; Second: Mr. White; Motion carried by unanimous voice vote to adopt Resolution 2010-03, which declares the borough's intent to follow the schedules and procedures for disposition of records as set forth in the Municipal Records Manual approved on December 16, 2008.

Zoning Hearing Board Appointment

Motion: Mr. Herchenroether; Second: Mr. White; Motion carried by unanimous voice vote to appoint Shawn Gallagher to the Ben Avon Borough Zoning Hearing Board.

Tri-Borough Joint Planning Commission Appointments

Motion: Mr. White; Second: Mrs. Konitsney; Motion carried by unanimous voice vote to appoint John Busse as a regular member and Catherine Houska as an alternate member to the Tri-Borough Joint Planning Commission.

Avonworth Municipal Authority Advisory Council Appointment

Motion: Mr. White; Second: Mr. Galbraith; Motion carried by unanimous voice vote to appoint Richard L. White to the Avonworth Municipal Authority Advisory Council for term that commences immediately and ends January 30, 2011.

Emergency Management Coordinator

Mr. White stated that he asked Mike Dufresne of 325 Breeding Avenue to serve as the borough's emergency management coordinator. Mr. Dufresne stated that he was a Plans and Policy Director for the US Naval Forces in Europe and after that was directly involved with emergency planning for the southern tier of New Hampshire. Mayor Jones and Mr. Herchenroether will meet with Mr. Dufresne to discuss the position further.

Old Business

2010 Strategic Plan

Mr. Tokar took the suggestions and comments he received at the January council meeting and organized them by department on spreadsheets. He stated that the document could be used on an ongoing basis as a tool to track projects and goals. He asked council members to review the

information for their respective departments and notify him of any corrections, additions or deletions. Mr. Tokar stated that he would update the spreadsheets as needed.

Executive Session

Motion: Mr. Galbraith; Second: Mr. Herchenroether; Motion carried by unanimous voice vote to adjourn to Executive Session at 9:03 p.m. to discuss potential and pending litigation and contract negotiations.

Motion: Mr. Herchenroether; Second: Mr. White; Motion carried by unanimous voice vote to adjourn from Executive Session and reconvene to Regular Session at 10:00 p.m.

Motion: Mr. Tokar; Second: Mr. White; Motion carried by unanimous voice vote to approve an amendment to the Cable Franchise Agreement between Ben Avon Borough and Comcast, which extends the length of the agreement for an additional three and one half years in exchange for free cable modem internet access service to one municipal building.

Adjournment

Motion: Mr. Herchenroether; Second: Mr. White; Motion carried by unanimous voice vote to adjourn the meeting at 10:03 p.m.

Respectfully submitted,

Carmella Hallstein

Borough Secretary

Mayoral Report

Ben Avon Council Meeting

2-16-2010

As my report is rather lengthy I will offer this abbreviated version. For those interested in reading the full report, a copy will be available in the secretary's office following the meeting.

- A.) After the conclusion of our January 19th Council Meeting; to be proactive rather than reactive; I met briefly with our Fire Chief Gary Buckman and Councilman Dan Herchenroether to discuss any need for updating our current Emergency Management Plans. I then met with Carmella and requested copies of our current Emergency Operational plans. She supplied me with the 2003 Emergency Operations Plan; and related Emergency Management materials.
- B.) I was invited to speak at the welcome home celebration for Ali and Jamie McMutrie. I gave a brief welcome (see attached copy if you care to read it) and expressed our communal pride in their accomplishments.
- C.) On January 20th I attended the Quaker Valley Council of Governments meeting. A new law will be coming our way soon on the reflectivity of street signs. Our street signs must meet certain State standards of "Reflectivity."
- D.) A complaint was received from a resident about parking restrictions which was addressed by me in an email to the Chief and Dale Regrut. Mr. William Kortas of 257 Berringer Place complained that a "No Parking" sign was damaged and removed by our Public Works Department. Mr. Kortas also reported that construction vehicles had been illegally parking in the area.
- E.) As you know on the evening of February 5th we had a terrible snow storm. On the morning of February 6th I toured the streets assessing the damage done by the snow storm and asking residents if they needed any help. I met with Councilman RJ White at the Fire Hall which is our designated Emergency Operations Center or EOC. While there I discussed our current Emergency Operations Plans with our previous Municipal Emergency Management Coordinator. We briefly reviewed the old documents and both agreed they were all in need of updating. The Emergency Management Coordinator is an individual chosen by us but is then appointed to that position by the Governor. I think there are state funds available for the implementation of local disaster management programs; and I believe in order to qualify for these funds we simply need to conduct a meeting with the EMC and elected officials and revise all of our Emergency Management plans, if that is it; we can qualify. However we need to address the issue of choosing an EMC as soon as possible. This individual should be an effective organizer; and capable of taking command and control; a good candidate would be an ex-military individual with combat experience.
- F.) Due to the recent snow emergency, we owe a great deal of thanks and kudos to Chief Micklos and his fine police force for all their efforts to keep us safe during this and all of our emergencies! -----The Fire Company responded to call after call clearing hazards from our streets and walkways; and helping our residents 24 hours around the clock; thank you! God indeed is saving a special place for these courageous volunteers. ----- We must also commend the stellar efforts of our Public Works Department. Dale and his crew were at their posts all the way through these multiple days of repeated snowfall clearing our roads so we could all function; and our emergency vehicles could operate efficiently. My daughter-in-law from out of the Borough commented she could tell the minute she came into Ben Avon; as all the roads were clear!! Thank you Dale and pass our gratitude along to each of your crew members!!! To all of you; thank you!

G.) In lieu of the welcome home party for the two outstanding young members of our community and the absolutely outstanding performance of our volunteer fire company; police force; and public works department during the snow emergency it has crossed my mind that we should have a system of recognition awards from our borough. Whether it comes from the Mayor's office or from the Borough Council we should create a system of rewarding members of our staff, and or our community with public recognition in the form of awards; citations; ribbons; and or medals. I will defer this suggestion to council. If it is the council's perspective that this recognition should come from the office of the Mayor I will draw up a series of recognition methodologies and report them back to council for approval. But some form of recognition is indeed needed and advisable.

H.) Also with this minor emergency fresh on our minds; it directs our attention toward evaluating our methods of public mass notification. I received a notice in the mail from Phoenix Technology Group on a public alert system called "Community Crier Online." I will pass this information over to RJ for further research. This request for our resident's emails would certainly be an effective cost saving avenue for the borough to notify residents of pertinent information; such as during this most recent snow incident. Many of our residents were unaware that they are not supposed to shovel their snow into our streets {if Dale makes a pass clearing the street and someone then shovels snow into the street it will freeze and become a block of ice, a hazard which will damage our plow} we could have posted a message to everyone in a matter of seconds; reducing the need to pay postage and getting our message to the populace in a concise and rapid manner. This system RJ is investigating and council is considering ties in directly with the re-evaluation of our Emergency Management Procedures. I submit in this day of superior communications we should be prepared to connect with one another quickly and efficiently; bringing our community astride the forward looking path of our progressive government.

I.) Regarding the leak on the flat roof at the "Fire Escape" for several years I was on the "Property Committee" for the large Masonic Center Building on Cemetery Lane. We had leaks for years out there starting three years after it was built. We contracted a company and in six weeks they fixed what several other companies had not been able to do in six years. I have great confidence if we contact them that they will not only repair the leak effectively but do the job at the lowest bid. Their contact information is as follows: Allegheny Roofing 412-848-4877 Nick Rothmier.

J.) I received a complaint this morning about a suspected abandoned vehicle. The van belongs to a man from Avalon and has left it parked on our street since December of last year. As long as it is legally inspected; licensed; and parked we have no legal recourse. But today his inspection stickers are overdue; now we can have the vehicle removed if the man does nothing with it. This brings up an interesting situation for our borough; one this council may want to consider. If this issue is more widespread than this one particular incident; should we pass an ordinance that will afford our police a legal course of action to take for folks who would park and then leave their vehicles on our streets for extended periods of time? In essence we could pass a "Resident and guest parking only" ordinance. I leave it to council to weigh and balance the cost of posting our area in this manner vs. the number of offences we are encountering and the citation revenue it would produce.

Aren't you glad this is the abbreviated version??

Respectfully submitted,
Robert B. Jones
Mayor
Borough of Ben Avon