

Borough of Ben Avon
7101 Church Avenue, Ben Avon, Pennsylvania, 15202
Regular Meeting of Council
February 15, 2011
Minutes

Council Members Present

Rob Galbraith, Michael Bett, Judy Konitsney, Lloyd Corder, Richard White, Brian Tokar, Sue Weiss

Council Members Absent

None

Others Present

Bob Jones, Mayor
Chuck Means, Solicitor
Ed McGee, Engineer
Dale Regrut, Public Works Foreman
Carmella Hallstein, Borough Secretary
Mike Dufresne, Emergency Management Coordinator
Gary Buckman, Chief; Ben Avon Volunteer Fire Department
Norbert Micklos, Chief; Ohio Township Police Department

Call to Order

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

Public Participation

Jane Angelini of 7008 Church Avenue addressed council about the Allegheny County Air Toxic Guidelines. She stated that the current guidelines are twenty years old. Mrs. Angelini stated that there was a big push in July 2009 to get the Allegheny County Board of Health to pass revised guidelines but the motion was tabled. She stated that in January 2010 a new committee was formed to propose new guidelines. Mrs. Angelini stated that Dr. Donald Burke chairs the new committee and asked council to send a letter to Dr. Burke urging him to hold a public meeting in Ben Avon or one of the neighboring communities to address this issue. Council agreed to send a letter to Dr. Burke.

Mrs. Angelini also addressed council about the free Pittsburgh Post-Gazette Sunday supplements that are being distributed throughout the borough. She stated that the newspapers are in blue plastic bags and they are littering the sidewalks and streets. Mrs. Angelini stated that the only way you can stop delivery is to call the telephone number printed on the bag and have your name taken off the distribution list, which will take two weeks. Mrs. Weiss stated that she would call the Post-Gazette and ask them to stop delivering the free supplements in Ben Avon.

Approval of Minutes

Motion: Mr. White; Second: Mr. Bett; Motion carried by unanimous voice vote to approve the minutes of the January 18, 2011 council meeting.

Engineer's Report - Report given Ed McGee, Engineer

Motion: Mr. Galbraith; Second: Mrs. Konitsney; Motion carried by unanimous voice vote to authorize Ed McGee to prepare specifications and advertise for bids for the Rostrevor Wall Construction Project.

Financial Report - Report given by Judy Konitsney, Chair

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

Motion: Mrs. Konitsney; Second: Mrs. Weiss; Motion carried by unanimous voice vote to approve the accrued December 2010 accounts payable reports as presented.

Motion: Mrs. Konitsney; Second: Mr. White; Motion carried by unanimous voice vote to approve the January 2011 financial reports as presented.

Motion: Mrs. Konitsney; Second: Mr. Galbraith; Motion carried by unanimous voice vote to approve the February 2011 accounts payable reports as presented.

Intergovernmental Cooperation Report - Report given by Lloyd Corder, Chair

Administration Report – No Report

Public Works / Building and Property Report – No Report

Public Safety Report – No Report

Motion: Mr. Bett; Second: Mrs. Weiss; Motion carried by unanimous voice vote to authorize Mr. Bett to attend a municipal officials training and skills development program at a cost of \$75.00.

Property Maintenance and Code Enforcement Report - Report given by Sue Weiss, Chair

Public Affairs Report – No Report

Mayor's Report – Report given by Bob Jones, Mayor

Mayor Jones requested reimbursement of \$59.07 for expenses he incurred for a borough business lunch. A discussion followed.

Mr. Galbraith stated that his wife would like to be reimbursed \$300.00 for the supplies used for the painting she donated to the borough, adding that the painting is worth several thousand dollars. Mayor Jones stated that he had donated \$100.00, which was to be used towards this expenditure. Mrs. Konitsney stated that the \$100.00 donation was in the general fund account, adding that a check for that amount would be issued to Katherine Galbraith and included on the March accounts payable report for approval by council.

Motion: Mrs. Weiss; Second: Mr. Tokar; Motion carried by voice vote to authorize payment of \$59.07 to Mayor Bob Jones for reimbursement of expenses he incurred for a business lunch with Dr. Corder and two Ben Avon Heights officials, with the caveat that no other expenses would be reimbursed to elected officials without prior approval by council for the expenditure.

Mrs. Konitsney and Mr. White opposed the motion.
Mr. Galbraith rescinded his request for \$300.00.

Emergency Management Report – *Report given by Mike Dufresne, EMC*

Police Chief's Report – *No Report*

Fire Chief's Report – *No Report*

Solicitor's Report – *No Report*

New Business

Resolution 2011-02

Motion: Mrs. Konitsney; Second: Mr. Tokar; Motion carried by unanimous voice vote to adopt Resolution 2011-02, which confirms the millage rate of 5.61 mills for collection of ad valorem real estate taxes for year 2011 as set by Ordinance 750

Zoning Hearing Board Appointment

Dr. Corder stated that there was a vacancy on the Zoning Hearing Board due to the resignation of Shawn Gallagher. He stated that John Ott was interested in the position.

Motion: Mr. White; Second: Mr. Tokar; Motion carried by unanimous voice vote to appoint John Ott to the Ben Avon Borough Zoning Hearing Board.

Borough Office

Mrs. Konitsney stated that the office staff notified her that that someone, probably with children left unattended, has come into the borough's business office on a few occasions when the office has been closed. Mrs. Konitsney stated that she has seen drawings and scribbles on check binders and has concerns about someone playing around the computers. Mrs. Weiss suggested changing the office door lock. Chief Micklos suggested installing a keypad entry system. He stated that you could monitor who comes into the office and you could change the entry code at anytime. Mr. Regrut will look into the cost of a keypad entry system.

Old Business

Ordinance Codification

Motion: Mrs. Weiss; Second: Mr. White; Motion carried by unanimous voice vote to authorize Keystone Publishers to delete the current fireworks ordinance, Ordinance 395 dated September 8, 1931 from the codification and replace it with the language as provided in Exhibit B.

Action on the Tree Ordinance, Shade Tree Commission Ordinance and Motor Vehicles and Traffic Ordinance was deferred until the March council meeting.

Adjournment

Motion: Mr. White; Second: Mr. Galbraith; Motion carried by unanimous voice vote to adjourn the meeting at 8:40 p.m.

Respectfully submitted,
Carmella Hallstein
Borough Secretary

Chapter 6, Part 2 - Fireworks

§ 1. General Provisions.

1. *Scope.* The manufacture of fireworks is prohibited within the Borough. The display or discharge of consumer or display fireworks shall comply with the requirements of the Fireworks Law, 35 P.S. § 1271 *et seq.*, and the provisions of the International Fire Code, 2003 edition, as amended, supplemented or replaced, implemented by the Uniform Construction Code [Chapter 5, Part 1].
2. *Permit Required.* A permit shall be obtained from the Borough for the display or discharge of consumer and display fireworks in compliance with the provisions of the Fireworks Law, 35 P.S. § 1271 *et seq.*, and the International Fire Code, 2003 edition, as amended, supplemented or replaced, implemented by the Uniform Construction Code [Chapter 5, Part 1].
3. *Permit Applications.* Application for permits shall be made in writing at least 15 days in advance of the date of display. Application for said permit shall be made pursuant to the procedure provided in the International Fire Prevention Code, 2003 edition, as amended, supplemented or replaced. The possession, use and distribution of fireworks for such display shall be lawful under the terms and conditions approved with the permit and for that purpose only. A permit granted hereunder shall not be transferable, nor shall any such permit be extended beyond the dates set out therein.

4. *Definitions.*

Consumer fireworks:

(1) Any combustible or explosive composition or any substance or combination of substances intended to produce visible and/or audible effects by combustion and which is suitable for use by the public that complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and which complies with the provisions for "consumer fireworks" as defined in the American Pyrotechnics Association (APA) Standard 87-1, or any successor standard.

(2) The term does not include services as "ground and hand-held sparkling devices," "novelties" and "toy caps" in APA Standard 87-1, the sale, possession and use of which shall be permitted at all times throughout this Borough.

Display Fireworks—as provided in 27 CFR § 555.11 (relating to meaning of terms).

§ 2. Display and Discharge.

1. *General.* It shall be a violation of this Part for any person to conduct a public or private display of consumer fireworks and display fireworks within the Borough except in accordance with a permit issued upon application as provided in § 7-201.3 of this Part. Every such display shall be handled by a competent operator and shall be of such a

character and so located, discharged or fired as, in the opinion of the chief of the fire department or other officer of the Borough charged with the enforcement of the International Fire Code, or such other officer of the Borough as may be designated from time to time, in writing, after proper inspection, to not be hazardous to property or endanger any person or persons. After such privilege shall have been granted, possession and use of consumer fireworks and display fireworks for such display shall be lawful for that purpose only. No permit shall be transferable.

2. *Bond for Display.* The permittee shall furnish a bond in an amount deemed adequate by the Borough Council but not less than \$500, conditioned for the payment of all damages which may be caused either to a person or persons or to property by reason of the permitted display, and arising from any acts of the permittee, the permittee's agents, employees or subcontractors.
3. *Seizure of Fireworks.* The Pennsylvania State Police, any sheriff or police officer shall take, remove or cause to be removed at the expense of the owner, all stocks of consumer fireworks or display fireworks or combustibles offered or exposed for sale, stored, or held in violation of this Part or the Fireworks Law, 35 P.S. § 1271 *et seq.* The owner shall also be responsible for the storage and, if deemed necessary, the destruction of these fireworks.

§ 3. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for in the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part constitutes or each Section of this Part which shall be found to have been violated shall constitute a separate offense.