



# Town of Berwyn Heights

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## Minutes Worksession December 1, 2014

The meeting was called to order at 7:00 p.m. Present were Mayor Cheye Calvo, Mayor Pro Tem (MPT) Jodie Kulpa-Eddy and Councilmembers (CMs) Patricia Dennison, and Anthony Schreiber. CM Chris Rasmussen had an excused absence. Also present was Town Administrator (TA) Jessica Cowles, Code Supervisor Kevin Simpson and Clerk Kerstin Harper.

### 1. Mayor

**Calendar:** No changes were made.

**Minutes:** No minutes were adopted.

**Department Reports:** Mayor Calvo reported that he attended the inauguration of County Executive Baker and the County Council. He had the opportunity to speak with Congressman Hoyer about the FBI, Director of DER Adam Ortiz and District 1 County Councilwoman Mary Lehman about the proposed north county animal shelter. He and MPT Kulpa-Eddy also attended a going away party for County Councilmember Eric Olson at the College Park Airport Museum. Mr. Olson was well pleased by Berwyn Heights' proposal to name the Nevada Street Trail *Olson's Way*. Park & Planning Chair Elizabeth Hewlett was present and heard of the request.

Mayor Calvo further reported that Washington Gas recently opened the street on the 8500 block of 60th Avenue. The Town Administrator remained unaware of the project until later that day. This points to the need that there should be a process for Town staff to notify the Town office when they see a contractor performing work on streets. Mayor Calvo also noted that plans for a hydraulic study of Berwyn Heights stormwater facilities are taking shape.

CM Dennison announced the upcoming Tree Lighting celebration. CM Rasmussen reported that momentum is building for using goats to curb invasive and non-native plants in Town. MPT Kulpa-Eddy informed him that goats were employed to weed Congressional Cemetery last year. She also reported that there was a water main break on Seminole Street and that the Town received the 1st quarter income tax disbursement in the amount of \$97,000. This is a good sign that income tax revenues will come in at or above the projected \$380,000. CM Schreiber reported that he met with Public Works Director Lockley to discuss the road salt supply.

**Citizen Comments:** Mayor Calvo received comments on his remarks about not turning the Town into a

home owners' association and a New York Times article on new trends for assisting senior home owners to stay in their homes.

***Clean Lot Ordinance amendments:*** Mayor Calvo welcomed Code Supervisor Simpson for a discussion of the latest changes in the ongoing revision of *Ordinance 107 - Clean Lot*. TA Cowles added a table categorizing enforcement processes for different types of violations, which will be discussed later. The other changes were reviewed in sequential order, starting with definitions.

Section 3 - Declaration of Legislative Intent: It was agreed to incorporate this provision into *Section 1 - Purpose and Authority* and eliminate duplicative language.

Section 4 A - Abandoned, junked and non-roadworthy vehicles: It was agreed that vehicles without valid Maryland tags after 60 days of residency constitute a code violation. This excludes out-of-state students (and military personnel), who are granted an exception in Maryland's motor vehicle law.

Section 4 D - Bamboo: It was proposed to differentiate between "running bamboo," which is very invasive, and "clumping bamboo," which is more easily contained. The differentiation becomes relevant in Section 5, when deciding whether to ban all bamboo or allow certain types of bamboo.

Section 4 E - Egregious Violator: It was agreed to use *multiple repeat offender* instead of *egregious violator* as the standard term for home owners who have received more than three code violations in an 18-month period.

Section 4 L - Person: TA Cowles was requested to look up a definition of natural person.

Section 4 H - Invasive Plant Species: It was clarified that environmental harm caused by invasive plants includes harm to native plants. No special mention is required. TA Cowles was asked to determine if English Ivy is classified as an invasive species.

Section 4 K - Paved Parking Areas: Moving the provision of how paved parking areas must be accessed to *Section 5 K - Parking Surfaces* was approved.

Section 4 K - Vacant Property: It was proposed to clarify the definition of vacant property 1) as one that is abandoned rather than unoccupied; and 2) as one that is not occupied on a regular basis for its intended use. It was also proposed to strike "where the owner of record or his whereabouts is unknown." This definition was flagged for further refinement.

At 8:55 pm., the Council took a 10-minute break.

The Council resumed review of the Ordinance with *Section 5 - Violations*.

5 A - Condition of Exterior Areas: "Debris" is to be defined as an umbrella term for a collection of things that are strewn across an area, including tree parts, auto parts, litter, etc.

Section 5 C - Bamboo and Invasive Species: Three options for dealing with bamboo and other invasive species were considered: 1) allow all invasive species; 2) allow invasive species that predate adoption of Ordinance amendments; and 3) allow invasive species up to 2 feet within property line. Option 3 was generally preferred. In addition, it was proposed to prohibit the planting of very invasive "running bamboo," to simplify enforcement and prevent unintended consequences from planting it. If allowed, it must be on condition that a barrier is installed preventing it from spreading to neighboring yards.

Section 5 E - Vehicle Condition and Storage: It was agreed to add the provision that a stored vehicle "may not cause an environmental harm," such as leakage of motor oil or other fluids, to the section.

Section 5 J - Shrubbery: It was proposed to use the term "vegetation" instead of shrubbery. TA Cowles was asked to check if the requirement that vegetation may not obstruct sight lines at intersections is already covered in Ordinance 118.

Section 5 M - Accessory Structures: It was agreed to delete examples of accessory structures, which are listed in definitions. Clarification is needed on which codes should be referenced regarding accessory

structures. The suggestion to keep the requirement for painting accessory structures to provide weather resistance and prevent decay was not adopted. The Town Administrator rather than a Code Compliance Officer was designated as the representative authorized to enforce this type of violation. TA Cowles was asked to propose a standard for erosion damage that requires remedial action.

Section 5 N - Premises Identification: It was agreed to strike specifications about the format for house numbers. The focus should be on house numbers being visible from the street.

Section 5 O - Vacant Property Registration: It was agreed to delete this section, as the Council previously agreed not require owners of vacant properties to register with the Town. The Town's authority to board up a vacant property is based on *Section 5 L - Unattended Property*, which provides that vacant properties may not become a public nuisance, safety hazard or invite trespassing.

The Council reviewed a proposed table of enforcement processes for different types of violations.

Immediate: It was clarified that currently "immediate" fine notices, which give a 24-hour period to correct a violation before a fine is issued, apply only to cars parked on grass or other unapproved surface. Such notices are issued by a police or code officer on site. If the violation is not corrected in 24 hours, a fine and another order to correct the violation within 24 hours is issued. The process repeats every 24 hours until the violation is corrected. The proposed 2-day correction period for 2nd and 3rd notices was returned to 24 hours. Parking on unapproved surfaces was added to the proposed table of enforcement. Also added under immediate correction was the keeping of domestic animals in unsanitary conditions. Ordinance 101 - Animals deals with other violations related to domestic animals. Abandoned vehicles and unattended structures were considered for immediate enforcement.

Regular order: This enforcement category with a 15 day, 10 day, 10 day compliance schedule was proposed to be applied to most clean lot violations, including condition of exterior areas, invasive species, vehicle condition and storage, building materials, wood storage, vegetation and premises identification. The time-frame was changed to a 15 day, 7 day, 7 day schedule.

Time sensitive: Currently, this enforcement schedule applies only to high grass, which gives 10 days from date of notice to correct the violation before a fine is issued. The proposed 5 day, 3 day, 3 day enforcement schedule was changed to a 7 day, 7 day, 7 day enforcement schedule. This schedule still allows for correction of a violation on a weekend if the notice is issued on a Monday. A building materials violation was considered for addition to this category.

Structural: This new enforcement category will apply to accessory structures, such as retaining walls, sheds or fences, that pose a health or safety hazard for neighbors. It requires a flexible approach whereby the Code Department informs the property owner that a problem with a structure needs to be fixed, and asks the owner to come up with a plan in a specified period yet to be determined. Then a framework for fixing the issue is negotiated. If no agreement can be reached, the matter comes to the Town Council for a decision.

Vacant: This new enforcement category applies to properties, which have been vacant for at least 15 days, and should be based on the County's vacant property abatement process. If a clean lot violation occurs on a vacant property, the Town notifies the owner of record. If the violation is not corrected within 3 days, or the time frame used by the County, the Town may abate the violation at owner's expense. This would include any administrative costs and/or fines that may apply.

TA Cowles was asked to consult Town Attorney Shay to find out if a repeat offender category can be set up to implement an accelerated enforcement process. Further, Section 7 - Enforcement should be

cleaned up once a table of enforcement schedules is adopted.

**Commercial Clean Lot Ordinance:** Mayor Calvo said that changes to this Ordinance focus on eliminating junked vehicles increasingly stored on industrial properties along Ballew Avenue and Branchville Road. Also needed is a specific violation for not having a property identification/ address number posted. Otherwise, changes from the residential Clean Lot Ordinance can be imported to the Commercial Clean Lot Ordinance. Business owners should be notified of the introduction of these Ordinance amendments at the December 10 Town meeting.

## **2. Administration**

**Pepco tree removal request:** TA Cowles explained that Pepco has identified a number of trees in Town to be removed as part of its vegetation management program around power lines. M-NCPPC and private property owners have already signed off on trees located on their properties. Removal of trees in the Town right of way is subject to the recently revised Ordinance 118. However, there is no fee and fine schedule to fully enforce its provisions as of yet. Therefore, it is recommended to negotiate with Pepco about the tree removal. Public Works Director Lockley has identified trees that may be worth saving. The Council is requested to review the list and make any changes.

Mayor Calvo noted that 37 trees in the Edmonston Road buffer are slated for removal. Pepco already cleared that area out after a destructive summer storm took down the power lines in 2012. If more trees are to be removed he would like to see Pepco replant the area with trees, such as native holly trees, that do not interfere with power lines but do provide a screen for Kenilworth Avenue. CM Rasmussen said that he finds Pepco's policy of removing trees based on the chance that they might one day fall on power lines appalling.

Mayor Calvo proposed to allow removal of only those trees that grow within the actual safety zone around the power lines, as prescribed by the Public Service Commission. At the same time, the Town should engage Pepco and SHA about clearing out vines and invasive species in the Edmonston Road buffer and replant it with native species. He asked for a motion authorize staff to negotiate with Pepco on behalf of the Town. CM Rasmussen so moved. CM Dennison seconded. The motion passed 5 to 0.

**Priority 1 sidewalks update:** TA Cowles explained that there is a new request for a change order to the sidewalks plan at 8616 57th Avenue. The property owner has requested that the new sidewalk be built closer to the existing curb line than the remainder of the bumped out 57th Avenue sidewalks to make it easier for him to get out of his driveway. She will have complete cost estimates for all red line changes when the engineers and contractors have made an assessment of the sidewalk changes at Berwyn Heights Elementary School. Mayor Calvo added that even with the change, this stretch of sidewalk will go further out into the intersection with Pontiac Street to improve visibility at the stop sign. The cost for this red line change may be balanced by a shorter sidewalk after the turn onto Pontiac Street. The cross walk will be angled to reach the north side of Pontiac Street, where the sidewalk continues.

TA Cowles said that the new driveway entrance to the Town Center is now higher than the remainder of the parking lot, creating a bump and preventing water run-off into the street. The engineers and contractor are working on proposals for fixing this problem. Another issue awaiting a Council decision is the final location for the bus stop pads and type of benches to be installed. Pads were proposed for the north side of Pontiac Street at either the 60th Avenue footpath, or the intersection with Cunningham Drive. Director Lockley also specified nicer benches made from recycled plastic, which would be slightly more expensive than the original plastic coated mesh. Mayor Calvo expressed a preference to

place a bus stop pad at the 60th Avenue footpath and to stick with the original benches. No formal decision was made.

***FY 2014 audit:*** Mayor Calvo explained that the audit is an opportunity to reflect on the Town's financial standing. Berwyn Heights' fiscal policy is defined by its use of reserves and surplus for financing large capital purchases and projects instead of taking out loans. While the Council has budgeted surplus money for operational expenses since the last reassessment, it has not actually spent it. As a result of the Town's continued financial prudence and long-range planning its net worth has increased 5 fold since he became Mayor. Councilmembers are encouraged to review the audit and become familiar with its findings. In response to CM Rasmussen, Mayor Calvo said that the Council does not usually accept the audit with a formal vote.

***Bulletin cover:*** The following items were approved for the January Bulletin cover: Happy New Year theme, announcements of Clean Lot Ordinance hearings; recycling and trash collection changes.

Nothing was discussed under **3. Code Compliance, 4. Parks and Recreation 5. Public Safety and 6. Public Works.**

The meeting was adjourned at 10:49 p.m.

Signed: *Kerstin Harper, Town Clerk*