



# Town of Berwyn Heights

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## Minutes Worksession October 21, 2013

The meeting was called to order at 7:05 p.m. Present were Mayor Calvo, Mayor Pro Tem (MPT) Wilkinson, Councilmembers (CM) Almoguera, Dennison and Kulpa-Eddy. Also present were Town Administrator (TA) Murphy, Clerk Harper, C. P. Johnson engineer, Gary Dyson and citizens.

### 1. Mayor

**Announcements:** Mayor Calvo may arrive late for the October 23 Four Cities meeting.

**Calendar:** The Council reviewed the calendar. The PGCMA legislative dinner will be rescheduled to an as yet unknown date.

**Minutes:** On a motion by MPT Wilkinson and second by CM Dennison, the October 7 worksession minutes were approved 5 to 0.

**Department reports:** MPT Wilkinson reported that Public Works has rented a crack-sealing machine and is set to begin repairing streets. TA Murphy said that crack-sealing is in progress. CM Kulpa-Eddy noted that the State Highway Administration (SHA) has begun to scrape Kenilworth Avenue for resurfacing. However, the scraping does not yet include the Pontiac Street intersection between Kenilworth Avenue and Edmonston Road. SHA said it would resurface. Mayor Calvo said that Delegate Gaines obtained SHA's commitment to renovate that section of Pontiac Street. It is part of the Kenilworth Avenue right of way. He believes that will happen. It is possible that the renovation will extend past Edmonston Road to a white line drawn on the pavement.

CM Dennison reported that the Trunk or Treat event had great decorations and was very well attended. The owners of the top 3 best decorated trunks won car washes. The first prize went to the Higgins family; the Wolfinger family won second place and the Stevens family won third place. CM Almoguera announced that the Playgroup added a Wednesday play date at 10:30 a.m., which will follow the same rotation as the Thursday play date. Mayor Calvo commended Officer Krouse and Police Aide Rodriguez for decorating the police SUV for Trunk or Treat. On Halloween the police will be out in full force patrolling, assisted by the Neighborhood Watch.

**Citizen comments:** CM Almoguera received several comments on the severe tree trimming at the disc

golf course on Old Calvert Road. MPT Wilkinson added that a number of trees were felled on the recommendation of the Park & Planning arborist, who said that they were diseased. MPT Wilkinson received a comment on the newly designated 63rd Avenue school zones. Mayor Calvo received another complaint from a resident on the 6300 block of Seminole Street about getting noisy parties shut down. He said that part of the problem is that the property where the parties occur abut the resident's back yard and is located on another street. Chief Antolik is looking into it. Mayor Calvo also received a request to put code officer Snyder on camera when he attends a worksession.

Mike Attick of 62nd Avenue recommended for the next Trunk or Treat that the Town put up signs telling people where to park. He also suggested that the Town make an effort to have two officers on duty on Friday and Saturday nights. This would have helped his family with a problem he had last Friday night, when he had to wait for Prince George's County police instead of having a Berwyn Heights officer respond. Further, he asked when the Acting Public Works director will be made a full director.

**Sidewalks 60%design:** Mayor Calvo welcomed Gary Dyson of C.P. Johnson Engineers. TA Murphy explained that the 60% percent design is intended to reflect the findings and recommendations obtained during the Council's September 3 sidewalks field trip. The design also incorporates C.P. Johnson's recently completed topographical survey. The surveys were important to the design because they help to determine how grading issues are to be addressed and how driveways and walkways may need to be changed to interface with the new sidewalks. The Council is requested to indicate whether this design accurately reflects their preferences.

Mr. Dyson said, generally, the design calls for adding a green strip where possible, avoiding utility poles and trees where necessary, and narrowing the roadway to accommodate the sidewalks on certain blocks. On 57th Avenue, it is proposed to reduce the road width by 5', on Cunningham Drive between Pontiac Street and Quebec Place by 3', and on the 8900 block of 60th Avenue by 2'.

In response to Mayor Calvo, Mr. Dyson gave an overview of the project cost. The projected total for the main part of the project - starting at Berwyn Road and Indian Creek Trail and ending at 60th Avenue and Greenbelt Road - is \$403,400 plus a \$100,700 contingency; for the sidewalk in front of Berwyn Heights Elementary School (BHES) \$22,000 plus a \$5,500 contingency; and for the sidewalk/bus pad at Pontiac Street and Edmonston Road \$12,800 plus a \$3,200 contingency. The grand total of \$547,000, however, is subject to change based on the Council's decisions as to which project elements to include and to the bidding process.

Mr. Dyson continued with an explanation of the itemized costs associated with the project. The construction of 5' sidewalks in all locations at \$106,000 amounts to only 1/5 of the total project cost. The greater expense is in the rebuilding of residential driveways, walkways and retaining walls, as well as site preparation and remediation, and the adjustment of utility valves and meters.

Upon reviewing the plans for each segment of the project, the Council requested further changes be made. On the 5500 block of Berwyn Road, the west end of the sidewalk should be angled so as to line up with the sidewalk on Berwyn Road bridge. On the 5600 block, the sidewalk should be located adjacent to the curb instead of behind a 3' green strip as originally planned. On the 8600 block of 57th Avenue, the Council confirmed the narrowing of the roadway from 31' to 26' to accommodate a sidewalk on the east side of the street. This means, however, that no cars could be parked there. Further,

the owner of the corner property of 57th and Pontiac Street needs to be consulted about tying his walkway into the sidewalk. On the 5700 block of Pontiac Street, the new sidewalk should be extended all the way to the corner of 58th Avenue, replacing an existing ramp, to make it ADA compliant.

On the 8600 block of Cunningham Drive, at the corner of Pontiac Street, a 3' wide sidewalk has to be built behind a utility pole that is only 2' from the curb, to meet minimum ADA requirements. A decision has to be made whether to build the sidewalk on both sides of the pole. An easement from the property owner will have to be obtained. The same property owner already agreed to move an old, unused driveway from the back yard to the Pontiac Street front yard. The new sidewalk needs to be included in the plans.

On the 8700 block of Cunningham Drive, before the intersection with Quebec Place, the curb and sidewalk should be straightened out. An existing storm drain can be bridged with a platform, and an existing swale on the east side of Pop's Park can be drained of any passing storm water by installing a pipe.

On the 8800 block of 60th Avenue, the Fire Department has asked for the installation of warning lights to indicate to pedestrians when trucks are about to leave. The private properties adjacent to the fire house will require permission from the owners to rebuild part of their driveways.

On the 8900 block of 60th Avenue, the plans call for bumping the sidewalk into the roadway by 2' to save trees and minimize impact on driveways and stairways. However, the narrower 28' roadway will require a 'no parking' zone on that side of the street and eliminate needed parking spaces at 8903 and 8905 60th Avenue. The property owners will need to be consulted about their preferences. The Town also needs to make sure that fire trucks and buses can pass through.

At 8:25 p.m., the Council took a 10-minute break.

The Council reviewed the remaining sections of street for which a sidewalk is planned. On the 6200 block of Pontiac Street in front of the school, the sidewalk ramp at the school driveway exit should be lined up with the sidewalk in front of the Community Center. A ramp will be added on the Community Center side to make the crosswalk ADA compliant. At the driveway entrance, the ramp should be pulled back a little to facilitate access for left-turning school buses and trucks.

At the south-west corner of the Pontiac Street and Edmonston Road intersection, the sidewalk should have two ramps: one for the crosswalk leading to the opposite side of Pontiac Street, and one for the crosswalk on Edmonston Road leading across Kenilworth Avenue to Westchester Park. The bus pad should be large enough to accommodate a bench.

The Council confirmed the changes discussed for each section of the sidewalks, and asked for 2 design options for the 8900 block of 60th Avenue: 1) for bumping out sidewalks 2' into roadway for the entire length of the block; and 2) bumping out sidewalks except in front of 8903 and 8905 60th Avenue to leave room for parking spaces.

**Greenbelt Road school zone:** Mayor Calvo explained that the Town received an e-mail from SHA District 3 Team Leader Sheneka Owens responding to TA Murphy's request to extend school hours in the Greenbelt Road school zone. Ms. Owens noted that the flasher for the school zone is broken and

flashing hours cannot be adjusted. She further stated that SHA has reviewed the school zone as a result of Berwyn Heights' inquiry and concluded that it does not meet SHA's criteria of a school zone. Therefore, the school zone designation is in the process of being revoked, which will entail removing all school zone signage, the flasher and the speed camera.

Mayor Calvo found this response incredible. He recalled that the school zone was established in accordance with recommendations of a task force on improving the safety of this Greenbelt Road crossing following the death of a Greenbelt Middle School student in 1996. Upon receiving this email, he called District engineer Brian Young, who told him that SHA had quietly changed the criteria for school zones a couple of years ago. One of the new requirements is that a school must front the highway where the school zone is established. If this policy were applied consistently, many schools would lose their school zone designations, including Riverdale Elementary on East-West highway, DeMatha High School on Route 1 and even Eleanor Roosevelt High School, which has a Hanover Parkway address. Mr. Young consented to the Town going above his level to try to reverse the decision. Mayor Calvo also spoke with Delegate Gaines, who remembers the incident that led to the creation of the school zone and its attendant safety improvements. She said it would be easiest to obtain an exception from the policy but was interested to find out what other jurisdictions may be affected by this policy and are attempting to reverse it.

Mayor Calvo said, for now, he would like the Council to simply take a stand to support the school zone and get it reinstated in whichever way will be fastest. MPT Wilkinson asked to have the school zone hours addressed at the same time so that the Town does not have to approach SHA twice. School zone hours should be revised to 7:30 a.m. to 6:00 p.m. to reflect when students are coming and going. Mayor Calvo said that, as a matter of strategy, he thinks it would be best to focus on getting the school zone reinstated before asking for other issues to be addressed. In particular, he thinks it unwise to bring speed camera operations into the discussion because it is a controversial issue.

CM Almoduera said that the decision to remove the school zone is appalling. She agrees with trying to get this school zone back quickly and quietly first, but then she would like to join with others to get the entire policy overturned. School zones are important everywhere where students cross busy roads to get to school. She also considers the issue of speed cameras to be a distraction and does not want to bring it up in this context.

CM Dennison moved and MPT Wilkinson seconded to support the Greenbelt Road school zone. The motion passed 5 to 0. Mayor Calvo will call the Governor and other State officials to try to get the school zone reinstated.

***Four Cities agenda additions:*** The Greenbelt Road school zone was added.

***Ordinance 118 - Roads & Public Rights-of-Way:*** The Council discussed the latest revisions of the Ordinance submitted by CM Kulpa-Eddy. CM Kulpa-Eddy explained that this Ordinance, when it is adopted, should show the original Ordinance provisions with strikethroughs, as previously requested. She then highlighted proposed substantive changes:

- In *Section 4 - Standards*, subsection H should be rephrased to clarify that residents are not required to trim back vegetation that interferes with power lines. Instead they should be requested to notify the proper authorities to perform such trimming. The Council agreed.

- In *Section 6 - Permit Application*, subsection D should be rewritten to state that the Town Administrator shall notify an applicant that a permit has been "pre-approved for issuance" contingent on payment of applicable fees and bonds, and set a tentative date for a pre-construction meeting. The Council agreed.
- *Section 13 - Bonds, Letters of Credit or Three-Party Deposit Agreements Required* should be moved in its entirety to follow *Section 6 - Permit Application* to reflect the actual sequence of the permitting process. The Council discussed but agreed to keep subsection C on the release of bonds in the bonds section, even though it will be out of chronological sequence.
- In *Section 16 - Violations*, subsection B should be rewritten to clarify that anyone in violation of the Ordinance must not only pay applicable fines but also take steps to rectify the problem so that the work site conforms with established Town standards. The Council agreed.
- *Section 16 - Violations*, subsection C describes a violation of the Ordinance as a misdemeanor punishable with a fine of up to \$1,000, whereas subsection D states that any violation of the Ordinance is a municipal infraction punishable by a fine of up to \$1,000. The Council discussed whether the subsections are in conflict but decided that a violation can be both a misdemeanor and a municipal infraction. A municipal infraction was deemed to be a subset of a misdemeanor and a civil matter that can be appealed in District Court. A misdemeanor is a criminal offense that would be adjudicated in a criminal court. It was agreed that these subsections need to be rephrased and possibly combined to properly distinguish these processes.
- In *Section 18 - Right to Appeal*, subsection A (4) provides for an appeal of a violation to the District Court if the party appealing the violation disagrees with the Town Council's verdict. However, if someone appeals a permit-related issue, it cannot be appealed to the District Court because it is not a violation. The Council decided that such an appeal should be made in a "court of competent jurisdiction." The Council further noted that any decision of the Town Administrator is appealable under this Section.
- In *Section 18 - Right to Appeal*, a subsection C might be added providing for the non-release of bonds or other securities in the event a violator, who is not a Town resident, does not pay a fine upheld in the appeals process. The Council agreed.

TA Murphy was asked to make the requested changes for the next worksession so that the Ordinance can be adopted at the November Town meeting.

## 2. Code Compliance

**Code supervisor job description:** The Council reviewed a new job description for a supervisor/director of Code Compliance provided by CM Kulpa-Eddy. Mayor Calvo noted that the Council started discussing this position in the context of the Town's governing framework. Today he would like to get the Council's feedback about the reporting structure for this position.

CM Kulpa-Eddy said she prefers that the Code Department remain independent of the Administration Department and continue to report to the Councilmember/Department Head for Code Compliance. However, she agrees that a new, inexperienced code supervisor should be under the supervision of the Town Administrator initially. Her proposed job description calls for a ladder position that allows this employee to rise to the level of director after demonstrating competency.

CM Almoguera said that, if the Council is hiring a code supervisor, the position should report to the Town Administrator. Recent experience shows that a new director is prone to make mistakes and would benefit from someone reviewing his decisions. However, she is not opposed to that employee becoming

more independent once he/she is familiar with code operations. MPT Wilkinson and CM Dennison agreed with hiring a code supervisor that reports to the Town Administrator while learning the job. CM Dennison was concerned about the workload this adds for the Town Administrator.

Mayor Calvo said that a lot depends on who the Town will hire for the position. However, the job description should have a more detailed description of the skill set needed. On the broader issue of reporting structure, he has come to the conclusion that not only the code supervisor, but all department directors should to some extent be supervised by the Town Administrator. He would like to move away from the commission form of government and have the Council focus more on its policy setting role while relinquishing day-to-day operational control. Mayor Calvo maintained that part-time councilmembers are not able to closely monitor what goes on in their departments. A full-time Town administrator is in a much better position to do that and to bring any problems to the attention of the Council. He sees the current turnover among directors as an opportunity to modernize Town government and make it more accountable.

CM Kulpa-Eddy reiterated that the Council needs to be very careful not to set up a conflict of interest when it redefines lines of authority. The Town Administrator should not be ultimately able to tell the Code Director how to write a citation and enforce the Town's ordinances. TA Murphy said that the Town Administrator's responsibilities include the enforcement of all laws. Therefore, he should probably not be excluded from reviewing enforcement of laws in one area. Mayor Calvo said that he needs to give this subject more thought. However, the Town Administrator already performs day-to-day supervision of departments, including the interpretation the Town's ordinances. But he is not given the authority to take corrective action when a problem arises.

MPT Wilkinson said that this is the heart of the issue. The Town Administrator is held responsible for running the Town but is not given the full authority to do so. He agrees that the Town Administrator should be given more control over how the departments are run. Mike Attick commented that, while it is the role of the Town Administrator to run the government, he does not need more responsibilities. The department directors are there to help him run the government. Further, it could lead to problems if the Town Administrator tells directors to what to do without knowing what directors have been instructed to do by their councilmember/department heads.

Mayor Calvo concluded that this job description is a great improvement over the current one and could serve as a template for others. The one section that should be refined is the list of skills the code supervisor should have. On the larger issue of the reporting structure, he would like the Council to give it more thought. For his part, he will continue to press the issue to put the Town Administrator in charge of day-to-day operations.

#### **4. Public Safety**

**56th Avenue parking:** MPT Wilkinson said the parking plan for 56th Avenue at the Indian Creek park has been updated to reflect the decisions the Council made at the September 16 worksession. However, one handicapped parking space placed at the stop sign north of the playground entrance has been omitted. TA Murphy explained that Chief Antolik has advised against it because it blocks the stop sign. Instead one handicapped parking space is proposed for the parking area south of the park entrance, which will also have 2 regular parking spots.

CM Almoguera asked if the handicapped space is really needed. Parents with little kids using the park

would appreciate having more nearby parking spots because they carry a lot of accessories. MPT Wilkinson said that there should be a handicapped spot because the park is handicap accessible. However, he would prefer it be at the stop sign north of the park entrance. CM Almoguera agreed as did the other councilmembers. No further changes were made to the plan.

## **5. Public Works**

**County yard waste requirement:** TA Murphy said the Town has been informed that the County yard waste facility will no longer accept plastic bags because adjoining property owners have complained about shredded plastic ending up in their yards.

The Council decided to stop selling the plastic bags and notify residents of the coming change as soon as possible, possibly with an all-Town mailer. In addition, *Ordinance No. 117 - Refuse Collection* needs to be amended to reflect the change. It was also decided that the Town facilitate the transition by offering paper yard waste bags free of charge for an introductory period.

**Tree City application:** MPT Wilkinson requested an update on the Town's application for renewal of its Tree City USA designation. He wondered if the Council needs to adopt a resolution to complete the application. TA Murphy said all that needs to be done is to fill out the application and submit it, which he will do.

**Safe Routes to School MOU with SHA:** TA Murphy explained, in order for the Safe Routes to School grant funds to be released, the Council has to formally accept the Memorandum of Understanding (MOU). MPT Wilkinson so moved, CM Dennison seconded. The motion passed 5 to 0. TA Murphy said that the Council has to formally designate a person or company to engineer the project. He proposes to designate C. P. Johnson Engineers. Mayor Calvo so moved. MPT Wilkinson seconded. The motion passed 5 to 0.

## **1. Administration**

### ***Meeting room policy and naming (postponed):***

**COLA and merit pay:** Mayor Calvo said that the Council budgeted for both a Cost of Living Adjustment (COLA) in the amount of \$10,000 and a merit pay increase of \$15,000 in the FY 2014 budget, both with a November start date. TA Murphy has provided separate tables of options for each that include the annualized and roll up costs.

For the COLA, there are options ranging from a 0.5% to 2.0% increase. Option 4 with a 1.5% increase happens to be \$10,040 for this year - the amount budgeted - with a roll up cost of \$6,500 and an annualized cost of \$16,500. This is the option he prefers.

For the merit pay, there are 3 options. He likes Option 1 which has three rating classes: Class 1 ranges from 3.00 to 3.74 with 13 employees; Class 2 ranges from 3.75 to 4.25 with 8 employees; and Class 3 ranges from 4.25 to 5.0 with 5 employees.

Mayor Calvo said the Town could afford to double the pay rate increase in Option 1 and remain within the \$15,000 budgeted. CM Almoguera said that she also likes Option 1 but wants to use up all budgeted money. CM Kulpa-Eddy preferred to raise the COLA. Mayor Calvo said that there is enough money to give a 2% COLA and the merit increases in Option 1 with the doubled rate increase. However, this

means that roll up costs would amount to approximately \$40,000 next year.

CM Almoguera moved to adopt the proposal which has a 2% COLA and an Option 1 merit increase with doubled rates. CM Dennison seconded. The motion passed 5 to 0.

The meeting was adjourned at 10:51 p.m.

Signed: *Kerstin Harper*, Town Clerk