



Town of Berwyn Heights

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Minutes Worksession April 21, 2014

The meeting was called to order at 7:04 p.m. Present were Mayor Cheye Calvo, Mayor Pro Tem (MPT) James Wilkinson and Councilmembers (CM) Patricia Dennison and Jodie Kulpa-Eddy. CM Almoguera had an excused absence. Also present were Town Administrator (TA) Edward Murphy and Clerk Kerstin Harper.

1. Mayor

Announcements: None.

Calendar: Berwyn Heights will host the Prince George's County Municipal Association (PGCMA) meeting on April 24. A budget worksession may be added for April 28 or May 5, if needed. The May 19 worksession was canceled.

Minutes: On a motion by MPT Wilkinson and second by CM Dennison, the March 17 worksession was approved 4 to 0.

Department Reports: CM Dennison announced that the Recreation Council will finalize Berwyn Heights Day at its May 1 meeting. Volunteers are still needed. MPT Wilkinson reported that April 12 Town-wide cleanup went well. No trash totals are available yet. Mayor Calvo said that Chief Antolik announced at the last Town meeting that this Friday will be a no tolerance day. Any traffic violation will be cited, and no warnings given.

Citizen comments: Mayor Calvo said that he received many comments when campaigning, including the bad condition of roads, rental properties, the budget and the FBI headquarters. CM Dennison received a comment on a rental property. CM Kulpa-Eddy received comments on potholes, non-emergency calls and a tree on 58th Avenue at Greenbelt Road.

MPT Wilkinson said that Delegate Washington at the last Town meeting expressed concern that Prince George's County's elected officials appear not to be united in their support for Greenbelt Station as the best site for the FBI headquarters. He asked whether the Town should follow up and urge them to take a stand for Greenbelt Station. CM Kulpa-Eddy said that this impression was largely based on a biased report in the Washington Business Journal.

Ordinance 121 - Executive Powers & Duties: The Council reviewed draft 2 of the Ordinance, which incorporates changes made at the previous worksession. Mayor Calvo suggested focusing on *Section 10 - Duties of the Town Administrator* (TA), which contains an itemized list of the TA's core responsibilities. This section does not currently include one of the main functions of the TA, which is to be the agent of the Town Council in ensuring that the Council's goals, objectives, policies and priorities are carried out. CM Kulpa-Eddy said that this role is covered in Section 7.

The following changes were made to draft 2 of the Ordinance:

Section 10 (A), charging the TA with the duty to "provide for the enforcement of all Town ordinances, appropriate County ordinances and state law" was deemed to be too sweeping. It was revised to read that the TA is responsible for "ensuring execution of all Town ordinances, and compliance with state and federal laws." As an instrumentality of the State of Maryland, the Town does not enforce County ordinances, although it can opt into them. It should be clarified that the Police Department has responsibility for enforcing criminal statutes.

Section 10 (B) was changed to make attendance of all committee meetings optional. Language stating that the "TA shall notice all meetings of the Town Council was" was changed to "ensure compliance with the Open Meetings Law and Public Information Act."

Section 10 (F) was changed to read that the TA is responsible for ensuring that the Town's IT infrastructure is properly managed. It was clarified that the TA is not to act as an IT manager.

Section 10 (G) charging the TA with maintaining the Town's records including minutes of all public meetings and executive sessions was revised to state that the TA is responsible for ensuring records are kept and Maryland's Open Meetings Law and Public Information Act is complied with. The Section was integrated with 10 (B).

Section 10 (H) was revised to read "advise the Town Council regarding such measures and actions deemed to be in the best interest of the Town."

Section 10 (I) charging the TA with the responsibility to "employ, promote, set compensation, reprimand, suspend or terminate..." was considered too sweeping. The hiring and firing of directors and core function supervisors remains the prerogative of the Town Council in its capacity as CEO. A distinction needs to be made between directors and supervisors, on the one hand, and other Town staff, on the other, over whose employment the TA has greater authority. Compensation decisions are made within the context of the budget process, and is not at the discretion of the TA.

At 8:25 p.m., the Council took a 5-minute break.

The Council continued reviewing the Ordinance and made further changes.

Section 3 The definition of "policy" was revised to read "a course of action, strategy, goals, objectives and priorities established by the Council, Council Member/ Department Head, TA or Department Director that governs a specific execution of operations."

Section 5 It was clarified that a surety bond is a promise to pay one party (the *obligee*), in this case the Town, a certain amount if a second party (the *principal*), in this case, the TA, fails to meet some obligation, such as fulfilling the terms of a contract, and protects the obligee against losses. A blanket bond would cover the entire Town, not just one person.

Section 8 was changed to read "The TA shall designate a member of the Town staff as acting TA who will carry out the duties in his absence, and inform the Town Council in writing."

Section 11 was revised to read "Departments shall submit all operational and budgetary matters requiring Town Council action to the TA, who shall submit them to the Town Council..." Boards and Committees were excluded from this requirement, as some are under direct Council supervision.

TA Murphy was asked to make the above corrections as soon as possible and send the revised document to the Council. If needed, Mayor Calvo may schedule an additional meeting to discuss the Ordinance before adoption at the May 14 Town meeting.

Benches: Mayor Calvo said that the Council wanted to get benches for Pops Park and bus stops around Town. For budgeting purposes, he would like the Council to decide on the number and type of bench to be installed. The Council agreed to purchase twelve 4' park benches made of plastic coated mesh. At bus stops, the benches will be anchored in a concrete pad to be installed in conjunction with the construction of sidewalks to keep cost down. MPT Wilkinson moved to appropriate \$5,000 for park benches and concrete pads. CM Dennison seconded. The motion passed 4 to 0.

Pot holes: TA Murphy explained that Acting Director of Public Works Lockley met with a road contractor to take an inventory of pot holes on Town streets. A unit cost of repairing pot holes could not be determined because the price will vary with the size of the hole and the condition of the surrounding road surface. Therefore, it is recommended the Council appropriate a lump sum for pot hole repairs to be used judiciously on holes that have the best prospects for holding up at least 5 years.

Mayor Calvo said he thinks the repair of pot holes should be undertaken in the context of a Town-wide street renovation plan. Inexpensive, short-term fixes should be considered for pot holes on roads designated to be renovated within the next few years. Acting Director Lockley will be asked to draft a pot hole repair plan.

Fee & fines schedule changes: TA Murphy said that the Council usually considers whether fees and fines for ordinance violations should be adjusted as part of the budget process. Since he has been more closely involved in the management of the Code Department, he thinks that there is too much delay between the occurrence of a Clean Lot Ordinance violation and the first notice to home owners about a possible fine. He suggested tightening the time frames for sending out notices and imposing fines, one solution being to send out a warning notice on the same day a door hanger is left at a property.

Mayor Calvo said he thinks the problem is not so much the current notification time frames but the record keeping with respect to repeat violations. Courtesy door hangers are only given to first time violators, with 15 day intervals between door hanger, warning letter and fine letters, respectively. Repeat offenders do not receive door hangers, but are mailed a warning letter with a 7-day interval before a fine is imposed. The Code officers should focus on problem properties with repeated violations, which requires good record keeping. No changes in fees, fines or notification schedules were made.

TA Murphy suggested to impose new fines for the improper disposal of yard waste, based on the fines imposed for improper disposal of other refuse under the Refuse Collection Ordinance. Many home owners still use plastic bags which have been banned by the County landfill. CM Kulpa-Eddy said that the same fines used for improper disposal of waste could be applied to yard waste. The Council agreed.

TA Murphy said one recurring problem the Code Department has to deal with is missed appointments for inspections and re-inspections of rental homes, as mandated by the Rental Housing Ordinance. Missed appointments increase the workload for Code staff, as appointments have to be rescheduled and more visits to the premise made. Similarly, more time is wasted when a home owner does not address

all deficiencies uncovered by an inspection by the time the home is re-inspected. He recommended raising the fine for missing the first appointment of a rental inspection from \$25 to \$50; for missing the second appointment from \$50 to \$100; and for missing the third appointment from \$100 to \$150. The fines for incomplete re-inspections should be raised along the same lines. Mayor Calvo said he supports the proposed raises. The Council agreed.

TA Murphy further proposed to impose a new fine of \$100 when home owners fail to have their rental home inspected by the rental license renewal date. The Code Department sends out rental renewal application packets 60 days prior to the renewal date, which must be returned to the office with payment 30 days prior to the renewal date. Additional \$100 fines are proposed if the initial inspection has not been completed within 15 and 30 days, respectively, after the license renewal date.

Mayor Calvo said that such a violation is not referenced in the Rental Housing Ordinance. However, renting without a license, which carries a \$400 fine, is referenced. Therefore, if a rental home owner fails to complete all requirements for a license renewal, including the home inspection, by the renewal date, his license expires and he is subject to a \$400 fine. But this penalty must be announced when the application materials are sent out, so landlords have time to comply. The Code Director would have discretion in waiving the fine if the home owner is trying to complete the application requirements in good faith. The Council agreed.

Nothing was discussed under **2. Public Safety** and **3. Public Works**.

4. Administration

Subdivision request - 5811 Pontiac Street: TA Murphy explained that the property owner of the double lot at 5811 Pontiac Street, Scott Chismar, has filed for a minor subdivision request, which would change the lot lines from their current east-west orientation to a north-south orientation. This would create a new legal building site with access from Pontiac Street. The request does not require the Town's approval. However, if the Council wants give input on parking options it should do so before the plans are submitted to Park & Planning.

TA Murphy said the plan he was shown by Mr. Chismar's surveyor made no provision for a driveway for the existing house. After discussing the driveway options with the surveyor, he believes the best option would be to place a driveway immediately to the left of the home in the eastern side yard with a 20' setback from Cunningham Drive. The driveway can run the length of the home and provide up to 3 off-street parking spaces.

Mayor Calvo said it is not the Town's responsibility to come up with a plan for his driveway. The owner should be informed that he needs to devise a plan for off-street parking for the rental property, which is a condition for obtaining a rental license. Mayor Calvo further noted that Mr. Chismar contacted him about his plans. He wants to build a house for himself on one of the lots, so he can move back to Berwyn Heights and take care of his dad. No action was taken.

Four Cities agenda: Mayor Calvo proposed to add a discussion of the speed camera legislation passed during this legislative session. The Route 1 animal shelter and the Volunteer Fire Department tax rebate are already on the agenda.

6. Parks and Recreation

Volunteer appreciation dinner date: TA Murphy was asked to come back with a proposed date for the next meeting. Likewise, for the employee appreciation lunch date.

7. Executive Session (10:00 p.m. - 10:16 p.m.)

On a motion by CM Dennison and second by CM Kulpa-Eddy, the Council went into executive session to discuss a personnel matter. With the matter discussed, CM Dennison moved and CM Kulpa-Eddy seconded to end the executive session.

The meeting was adjourned at 10:16 p.m.

Signed: *Kerstin Harper, Town Clerk*