



Town of Berwyn Heights

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Minutes Worksession December 5, 2016

The meeting was called to order at 7:00 p.m. Present were Mayor Cheryl Jewitt, Mayor Pro Tem (MPT) Jodie Kulpa-Eddy and Councilmembers (CMs) Patricia Dennison, Christopher Rasmussen and Gerald Shields. Also present were Town Administrator (TA) Jessica Cowles, Clerk Kerstin Harper, and Green Team Outreach Coordinator Therese Forbes.

1. **Announcements**

The Tree Lighting celebration was a big success. Many residents came out to sing Christmas carols, greet Santa and enjoy hot chocolate together. Musical entertainment was provided by Phil Ventura. Santa Hank Becker was assisted by Chris Brittan Powell as his helper.

The Town was informed that it will have to return excess income tax revenues totaling \$159,000 that it had received between 2010-2014, due to an accounting error by the State Comptroller's Office. This problem was discovered during a recent audit of the Comptroller's Office and affects municipalities throughout Maryland. The Maryland Municipal League has taken up the matter and is exploring whether the State may forgive these debts. The Council will discuss the issue at the next worksession.

The Federal Railway Administration and Maryland Department of Transportation are preparing an environmental impact statement for constructing a high-speed Maglev train between Baltimore and D.C. A public hearing on the scope of the project is scheduled for December 15 at the West Lanham Hills fire hall.

2. **Minutes**

On a motion by CM Dennison, seconded by CM Shields, the November 7 worksession minutes were approved 5 to 0. The November 9 Town meeting minutes were distributed.

3. **Department Reports & Citizen Comments**

Mayor Jewitt reported that there continue to be many thefts from unlocked cars, and urged residents to lock their vehicles. MPT Kulpa-Eddy reported that she attended Senator Pinsky's Town Hall meeting on December 3. PGCPs CEO Kevin Maxwell and DPIE Director Adam Ortiz were present. Maxwell gave a presentation on the FY 2018 budget, which will request increases to fund a full day pre-k program and re-integrate arts and music into the curriculum. Ortiz reported on the County's "Zero Waste Initiative." Pinsky briefed attendees on legislative priorities he will support in the session starting in January 2017, including clean energy, reduction of antibiotics in farm animal feed, and

mandating sick leave eligibility at 6 months of employment. Among possible County legislative priorities discussed was municipal authority to regulate fences.

CM Rasmussen reported that the Code Department is following up on a complaint about a construction trailer parked at a Ruatan Street residence, improperly stored construction waste, and improperly covered unregistered cars. He raised the issue of parking on driveways that cross a sidewalk, and completion of Pepco's vegetation management cycle. CM Dennison reported that Public Works is busy vacuuming leaves.

CM Shields reported that the Green Team is seeking recertification of the Town's Sustainable Maryland status, and is planning workshops on rain gardens and weatherization, as well as a dog "meet and greet" on how to handle pet waste. The PTA had a successful walk-a-thon fundraiser, will hold a membership drive on December 5 and 12, and is developing plans bringing arts into the classroom. The judging of the best decorated house, best yard, and best overall property will take place December 20 through 31. CM Shields also reported he received a number of kudos for the volunteers who organized the Tree Lighting event.

4. Action Items

Vision and Mission statement resolution: MPT Kulpa-Eddy proposed to formally adopt the vision and the mission statements the Council developed during their strategic planning workshop, and asked if the Council had any changes to the prepared draft resolution. CM Rasmussen suggested revising the sub-header of the resolution to add the Town Council as the author of the resolution. After some discussion, the Council agreed to adopt the amended resolution at the December Town meeting.

Video streaming vendor selection: TA Cowles said she has followed up with Granicus, the low bidder for video streaming the Town's cable TV broadcasts, to clarify the long term costs of the service. Granicus offered to reduce the price of the encoder to \$2,800 and to provide the first 3 months of the service for free. This reduces the initial investment in the first year to \$6,200 and the operating cost in subsequent years to \$4,500 for the life of the contract. Granicus also has add-on applications that may be of interest to the Council, such as *ilegislate* and *speakup*.

In response to questions, it was explained that the streamed video would be accessible on the Town's website, thereby available to people who do not subscribe to cable TV. The Town's revenues in cable TV Public, Educational & Government (PEG) fees of \$30,000 per year could be used to pay for the service. The PEG fees could also be used to cover staff costs associated with PEG channel programming. The Town Clerk is estimated to be spending up to 8 hours per week to support the traditional cable TV broadcasting and the additional video streaming capabilities.

CM Rasmussen moved to enter into a 2-year video streaming contract with Granicus at the above quoted price. CM Dennison seconded. The motion passed 5 to 0.

5. Discussion Items

Charter amendment update: MPT Kulpa Eddy said she requested an update on the Charter amendment regarding the Town's boundaries to ensure it is adopted before the development of the Greenbelt Station north core, which may bring the new FBI headquarters to the location. TA Cowles explained the Charter amendment has been drafted and the Town Attorney has reviewed it for legal sufficiency. It is recommended to wait until the Town engineer has completed new metes and bounds for a disputed section of the Town's boundary with Greenbelt along the 6300 block of Greenbelt Road. The Town

engineer hopes to have the metes and bounds completed in December. The Town Council may be able to review it at the December 19 or January 9 worksession.

In response to further questions, TA Cowles said that she will check the Town's records to ensure that deletion of Section 202 of the Town Charter does not result in reference problems within any Town Ordinances. It is increasingly common for municipalities to reference maps and boundary descriptions on file in the Department of Legislative Services and the County's District Court because it ensures continuously updated boundary information.

Legislative dinner debriefing: Mayor Jewitt said that she, CM Dennison, State, County and school district delegates were in attendance at the dinner. However, many delegates had other commitments and came in late, making for a low-key and relatively short meeting. She suggested that the Town might want to rethink holding one big dinner for the delegates in favor of more frequent one-on-one meetings. The delegates highlighted items for the upcoming legislative session, including a mandated increase in the share of clean energy from 20% to 25% in the State's overall energy production, continued prohibition of fracking, and a revised format for the Uniform Crime Report (UCR).

Mayor Jewitt continued that the Town's priority items were discussed and some answers provided. On Greenbelt Road improvement plans, the Town was advised to check with Greenbelt and College Park to see what their plans look like. On short-term rental regulations, the Town may want to consult with cities that have already adopted such legislation. County Councilwoman Glaros will follow up with the Department of Public Works & Transportation (DPW&T) about the timeline for a feasibility study to upgrade the Town's stormwater system. On financing Town facility upgrades, it was learned that not many grants are available, although the State's Department of Housing & Community Development (DHCD) offers help with low-cost bonds issued through a Local Government Infrastructure Financing program.

CM Rasmussen asked whether the impact of the proposed new regulations on the business climate were discussed. They were not. MPT Kulpa-Eddy suggested that the Town follow up with State delegates about the income tax over-payment issue.

Green Team inquiry (added item): Therese Forbes, Green Team Outreach Coordinator, was present to seek clarification on how the Green Team should interact with the Town regarding renewal of the *Sustainable Maryland* certification. Mayor Jewitt advised the Green Team contact CM Shields as liaison for Town organizations, or TA Cowles to request being placed on a worksession agenda for a more in-depth discussion. A memo explaining what is to be discussed should also be submitted beforehand.

Ms. Forbes said that recertification is based on activities that require coordination with the Town. One such activity would be to establish a website, or a web page on the Town's website, to make Green Team information more widely available to residents. CM Rasmussen suggested the Green Team provide the Council with a list of activities that qualify for recertification. Further, he suggested that a public education campaign about tree preservation, an initiative to amend RM 43 establishing vegetation management standards for utilities, or creation of a "pollinator mile" might be considered as qualifying activities.

Ms. Forbes said the Green Team, in coordination with the BHES Garden Team, already has a pollinator program. Other planned activities include a dog "meet and greet", a watershed improvement

discussion, and a green purchasing plan for the Town. In February they will hold a raingarden workshop.

Ordinance 120 proposed amendments: CM Rasmussen gave a recap of the proposed changes to the Ordinance, some of which were approved at the last meeting:

- Adoption of the Prince George's County Housing Code, Division 1, Subdivisions 1 and 2. This replaces the housing code provisions currently in Ordinance 120 and ensures that the ordinance has up-to-date property maintenance standards.
- References to County Building, Electrical, Mechanical and Plumbing Code and Town Ordinances were adopted in place of spelling out these standards.
- Definition of "immediate family" was added, to include a property owner's spouse, children, step-children and foster children; parents, step-parents and foster parents.
- Provision clarifying that a rental license is required for all rental properties, regardless of duration of lease period. This includes short term rentals.
- Exception to rental license requirement in the current Ordinance--when resident property owner rents to an immediate family member--was approved.
- Exception to rental license requirement in the current Ordinance--when resident property owner rents only a single room or apartment--was left open for discussion.
- Provision limiting rentals to 5 unrelated tenants needs to be moved from Housing Disclosure Form into the Ordinance.
- Provision allowing 3 or more households within 500feet of a rental property to petition the Council about code violations at the rental property was left open to further discussion.
- Changes to the rental license application forms need to be finalized.

The Council discussed the current exception to the rental license requirement if a property owner rents a room or apartment in his house to just one tenant. CM Rasmussen argued that the Town has the right to oversee and license the activity, if money is exchanged, to ensure that the dwelling unit meets health and safety standards. CM Shields argued that an owner, who lives at the property in which he rents a room(s) to only one tenant, has a vested interest in keeping it in good condition, and therefore is less likely to have code violations. He would charge a lower rental license fee of \$50, as opposed to the regular \$300 per year. Other points made in favor of imposing a license fee included 1) the difficulty of verifying that an owner lives at the rental property; 2) creation of a loophole for operating short term rentals, or Airbnbs; and 3) cost shifting of the Town's licensing and inspections program to rental owners who pay the license fees. It was the sense of the Council to discontinue the exception.

The Council began a line-by-line review of the Ordinance.

Section 2 – Definitions: proposed changes to definitions A – U were discussed and a couple minor changes made.

Section 2 H – Crashing: the proposed deletion of the "crashing" definition was tentatively approved because the practice of allowing acquaintances of registered tenants to sleep in areas not approved as sleeping areas, , is unenforceable.

Section 2 J - Domestic Partner: This definition may need to be clarified, or could be deleted if it is not mentioned in any subsequent provisions of the Ordinance.

Section 2 L and M – Dwelling, Dwelling Unit: Distinctions between dwelling, dwelling unit and habitable room should be clarified.

Section 2 R – Family: This definition might be deleted, as there is a narrower definition of "immediate family," which will be considered exempt from the rental license requirement.

Section 2 T- Gross Floor Area: Proposed for deletion, if it is not used in subsequent sections of the

Ordinance.

The Council skipped the remainder of Section 2 to review subsequent sections of the Ordinance.

Section 3 – Scope: No changes were proposed to this section, which provides that “every portion of a dwelling used or intended to be used for renting” is subject to the Ordinance.

Section 4 – Rental Property Licensing and Renewal

Section 4 A – Rental License Required: “Year,” the term of a rental license, should be clarified as meaning 12 months, regardless of starting date.

Section 4 B (1) - No Rental License Required When: The rental property tenant is an immediate family member of the property owner. Mayor Jewitt proposed to strike the exemption and make family members subject to the rental license requirement if a financial transaction takes place. MPT Kulpa-Eddy objected, saying that this would probably lead the parties involved to hide the financial transaction. She proposed to keep the exemption, unless there is a compelling reason to change it. In a straw poll, the Council voted 2 to 2, with 1 abstention to keep the provision.

Section 4 B (2) - No Rental License Required When: The property owner/occupant rents to only 1 tenant, who is not an immediate family member. In a straw poll, the Council voted 4 to 1 to strike this exemption.

Section 4 E - License Application: It is proposed to change the due date for submitting a license application and license fee from 30 days to 15 days prior to the license renewal date, or the effective date of a lease, as recommended by the Code Supervisor. It is further proposed to no longer require a floor plan, which is not used to issue a license. No changes were made.

Section 4 F - Lead Free Certification: New provision added based on state legislation enacted in 2015 to require a certification that a house built before 1977 is lead free for purposes of issuing a rental license. It was suggested to move the provision next to provisions dealing with other building code issues. The question was raised whether the Town or the State needs to enforce this provision.

Section 4 G – Housing Disclosure Form, 4 H – Tenants’ Rights & Responsibilities Form: It is proposed to strike these provisions and no longer require this form as part of the license application. Parts of this form were incorporated into the license application form.

Section 4 I – Rental License Issuance: Requires property owner/ manager to satisfy the requirements of the Ordinance before a license is issued. Council struck a provision requiring a Code officer to state the maximum number of tenants allowed for a particular rental property.

Section 4 J – Inspections: States that all rental units are subject to periodic inspections to determine compliance with this Ordinance. It is proposed to add a requirement for a property owner/ manager to come into compliance within 15 business days of an inspection instead of the previous 30 days. The Council had no objection.

Section 4 K – Revocation or Denial of License: It is proposed to authorize the Town Administrator instead of the Town Council the ability to revoke a rental license, if the property owner/ manager fails to initiate good faith efforts to eliminate violations of the Ordinance within 5, instead of 10 business days of notice. The Town Administrator may also revoke a license if a rental property or its occupants are deemed to be a public nuisance. The Council suggested establishing criteria for what constitutes a public nuisance, e.g., number of police calls, missed inspections or other violations.

Section 4 L – License Renewal: The Council sought confirmation that applications for license renewal are due 30 days prior to expiration of the license. A license application per Section 4 E is due 15 days prior to renewal or effective date of lease.

Section 4 N – Change of Address: Mandates that property owners/ managers notify the town of changes in their address. The Council asked to add e-mail addresses.

Section 4 O – Transfer of License: Provides that, if a rental home is sold, the new property owner/manager must apply for a new rental license within 5 instead of 30 business days of closing on the property. The Council did not object.

It was suggested to arrange all sections and sub-sections of the Ordinance in chronological order.

Section 5 – Authority to Inspect Rental Units

Section 5 A: Provides that rental inspections are conducted annually to ensure compliance with the Ordinance. The Council changed the provision to require inspections *at least* once a year, and more often, if circumstances warrant. Further, for purposes of inspection, the inspector must be given access to the entire rental property, not just the rental unit, or rented space.

Section 5 B: Provides that preventing a Code officer from entering a rental property may be grounds for revocation of a rental license. The Council did not object.

Section 5 C: Authorizes Code officers to enter any rental property for purposes of inspection to ensure compliance with this and other Town Ordinances, as well as County and the State regulations, and to ensure the health, safety and welfare of the occupants. The Council replaced the terms “rental dwelling, dwelling unit, rooming unit, rental unit” with “rental property.”

Section 6 – Adoption of Selected Prince George’s County Codes

Section 6 A (1) – Adoption of PGC Housing Code: It is proposed to adopt the current PGC Housing Code, Division 1, and Sub-divisions 1 and 2, as may be amended from time to time... The Council questioned whether this is sufficient to identify the relevant sections of the PGC Housing Code if it is revised. TA Cowles will check with the Town attorney.

Section 7 – Standards

Section 7 A and 7 B: Reference relevant Town Ordinances and Prince George’s County Codes in setting applicable standards for rental units while deleting the current standards sections. The Council added Ordinance 118 – Roads & Public Right-of-Ways to the reference list.

Section 7 C (6): Retains prohibition to rent outbuildings, unless such a dwelling unit complies with the PGC zoning code. This provision may be struck if the future PGC Zoning Code permits use of outbuildings.

Section 7 C (7): Places a limit on renting to 5 or fewer unrelated tenants within the Ordinance. No changes were made.

Section 7 I (4) (c), (d), (e): Requires that rental properties have smoke and carbon monoxide detectors for each floor of the rental property, have 10-year smoke detectors and provide fire extinguishers. TA Cowles explained the provisions were added to draw attention to these new mandates. However, they could be deleted as they are covered by the NFPA Fire Code adopted in the Ordinance. No decision was made.

Review of the remainder of the Ordinance will continue at the next worksession.

6. Town Council Schedule

The Council reviewed the calendar for upcoming month. January 9 and 23 were set as worksession dates.

The meeting was adjourned at 10:07 p.m.

Signed: *Kerstin Harper, Town Clerk*