



Town of Berwyn Heights

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Minutes Worksession December 19, 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 and Gerald Shields. CM Christopher Rasmussen called in for the discussion of Ordinance 120. Also present were Town Administrator (TA) Jessica Cowles, Code Supervisor Freddie Glass, and Clerk Kerstin Harper.

1. Announcements

An executive session scheduled for 6:00 p.m. was cancelled because it lacked a quorum. It will be rescheduled for the January 9, 2017 worksession. The Town held its employee appreciation lunch on December 16. Chief Antolik was appreciated for 25 years of service with the Town, Daniel Woodard and Yvonne Odoi for 10 years of service, and Detective Unger and Officer Duck for 5 years of service.

2. Minutes

On a motion by MPT Kulpa-Eddy, seconded by CM Shields, the November 21 worksession minutes were approved 4 to 0. On a motion by CM Dennison and second by CM Shields, the December 5 worksession minutes were approved 4 to 0.

3. Department Reports

Mayor Jewitt thanked the Berwyn Heights officers for keeping the Town safe over the holidays. MPT Kulpa-Eddy suggested that the Council and department directors discuss how to handle a "State of the Town" address, traditionally given at the January Town meeting. CM Shields announced that holiday decorations will be judged between December 20 and 31.

4. Citizen comments

Mayor Jewitt received complaints about trash scattered on Natasha Street and a parked car blocking a driveway, both of which were quickly addressed by Town staff. MPT Kulpa-Eddy received a couple of comments about cars having trouble driving up hills during a recent ice event despite DPW having spread salt. Director Cox will hold a debriefing to discuss lessons learned.

5. Action Items

Call-a-bus MOU: TA Cowles explained that *Joe's Movement Emporium* in Mount Rainier approached the Town about the use of the call-a-bus to transport children to its after school activities. Joe's would pay the Town \$40 for using the bus 2 hours a day, or around \$800 month, and would be responsible for providing a properly licensed and insured driver. Apart from the revenue, the Town would benefit from

regular usage of the bus by identifying maintenance issues and adding miles that serve as the basis for eligibility of a new call-a-bus. The Town is also exploring the possibility of Berwyn Heights Elementary School students participating in Joe's after school activities.

In response to questions, TA Cowles said that the Town would be responsible for gas expenses, and insurance coverage for the bus, and would monitor fuel usage and mileage. The bus could not be operated beyond a 4-mile radius of *Joe's Movement Emporium*. Speed camera and red light camera tickets would be received by the Town but should be paid by Joe's. The bus has seat belts that can be adjusted for children. The wheel chair lift is functioning but rarely used. In case of a conflict between Joe's scheduled use of the bus and a request for use by a Town organization, the Town organization would have priority. Joe's would be notified of such a conflict a week prior.

The Council agreed to postpone approval of the MOU to the next worksession so that the Town Attorney can add provisions on red light and speed camera tickets to the MOU.

6. Discussion Items

Budget calendar (discussed out of order): TA Cowles presented a proposed budget calendar for the upcoming budget season. She said she has already had a number of discussions with department directors about any unmet needs and potential capital purchases in the next fiscal year, and about implementing the goals and objectives identified in the Council's strategic plan. Interaction with directors about their budget requests will continue through mid-February, at which time income tax and personal property tax revenue projections should also be available. This collaborative process between the Town Administrator and department directors in developing next year's budget obviates the need for directors to make individual budget requests to the Town Council in February.

As before, the Town Administrator's proposed budget will be presented to the Town Council on the first worksession in March, then introduced at the April Town meeting, and adopted at the May Town meeting. Unlike in previous years, however, it is proposed to do away with special budget worksessions held in addition to regular worksessions through March and April. Instead, the budget might be discussed either at regular worksessions, or during a designated all-day budget conference attended by all Councilmembers and senior staff.

The Council agreed to hold an all-day special budget session in March, with date to be determined. Department directors will present their budgets at the special budget session.

Ordinance 120 proposed amendments: CM Rasmussen joined the meeting via telephone and led the discussion on amendments to Ordinance 120 – Rental Housing. Code Supervisor Glass was present to answer any questions. TA Cowles provided a memorandum to guide the discussion, outlining already approved changes to the Ordinance and issues yet to be addressed.

The Council resumed its line-by-line review of the Rental Housing Ordinance.

Section 7 K (4)(c) – Fire Protection Systems: Clarify that smoke detectors and carbon monoxide detectors are required to be installed on every floor of a rental home, and in each sleeping area.

Section 8 A (1): Presence of lead paint can be considered an unsafe condition when defining an unfit rental unit. Require rental property owners to document compliance with the Maryland Department of the Environment's (MDE) lead paint requirements for rental units.

Section 8 A (2): Add carbon monoxide detectors as an essential piece of equipment required to be present in a rental property.

Section 8 A (3): Add a definition for “unsanitary condition,” which might be obtained from the Prince George’s County’s Housing Code. The PGC Housing Code has a good introduction listing all minimum requirements and standards for premises, structures, equipment, and facilities that might be included in this Ordinance.

Section 8 B (4): Add the word “removed” after the word “equipment” in connection with a notice to vacate a rental property. A timeline for vacating an “unfit” rental unit may need to be added, as well.

Section 8 C (2): Add email as a means of serving a notice that a rental property is unfit.

Section 9 B (1): Replace the word “afforded” with the word “provided.”

Section 9 B (3): Add the words “or the public” after “any tenant.”

Section 9 D: Clarify that the Town is not responsible for providing alternate housing, in cases where a notice to vacate a rental property is served.

Section 10 A (4): Confirm that time frames for coming into compliance with the Ordinance after a violation has been issued are consistent throughout the amended Ordinance.

Section 10 A (5) (b): Ensure that code violation fines not exceed \$1,000 per incident. A provision might be added to define at which point a license may be revoked instead of another fine issued when a violation has not been addressed. These clarifications might be placed into a fee and fine resolution instead of the Ordinance.

Section 10 B: Cost of abatements was added as a form of fine that can be lien against the property if the owner fails to pay violation fines.

Section 10 E: Replace the provision entitling at least 3 home owners within 500’ of a rental property to obtain a hearing before the Town Council about code violations occurring at the property with language stating that “any resident is entitled to make a complaint about a code violation at a rental property to the Code Compliance Department.”

The Council reviewed the proposed fine schedule for Ordinance 120. All proposed fine increases were tentatively agreed to. It was clarified that a noise violation could be fined twice, under the Noise Ordinance by a police officer or as a “Public Nuisance” under the Rental Housing Ordinance by a code officer. An officer has discretion in when to issue a fine for a noise violation that occurs repeatedly, but consideration should be given to any history of prior warnings and violations. It was confirmed that the maximum fine per violation is \$1,000. None of the fine totals for repeated failure to address an individual violation exceeds the \$1,000 limit. The fine increases are based on comparisons with fines in other Town ordinances, particularly the Clean Lot Ordinance. Repeated instances of violating the same regulation in a given year might be fined at a higher rate than the first instance, or be penalized by suspending the rental license.

The Council discussed several issues of concern outlined in TA Cowles memorandum. It was agreed to keep the exemption from the rental license requirement for immediate family when introducing this Ordinance, and receive citizen input before making a final decision. No conclusion was reached as to whether to require rental property owners to have a local agent if they reside out of state. The provision was proposed to be added because a fair number of rental home owners live outside the United States and in different time zones, which makes it difficult for Code staff to resolve code issues.

MPT Kulpa-Eddy asked that *Section 4 – Rental Property Licensing and Renewal* be ordered chronologically to reflect the license application process. TA Cowles will make the latest changes and submit them to the Town Attorney for advisement. She will provide Council with an updated Ordinance as well as a new Landlord/ Tenant Rights & Responsibilities Form prior to the next worksession.

7. Income tax letter from State Comptroller

TA Cowles said that the Town received a notice from the State Comptroller that Berwyn Heights owes the State \$159,000 due to overpayment of income tax distributions between 2010 – 2014. The accounting error was discovered in a State-wide audit of income tax disbursements. Repayments does not have to begin until 2024 and can be done over 10-year period. There is a possibility that the Maryland Municipal League (MML) will work with the legislature on a forgiveness program for those municipalities affected by the overpayment through no fault of their own.

MPT Kulpa-Eddy suggested considering setting aside the \$160,000 in a special reserve to ensure it is available by 2024. TA Cowles said that there is more than enough money in the undesignated fund balance and the operating reserve to cover the debt. A new reserve is not recommended because it encumbers funds the Town may want to use for other expenditures. However, a notation can be made in the budget as a reminder for future Councils.

8. Town Council Schedule

The Council reviewed the calendar for upcoming month. No changes were made.

The meeting was adjourned at 9:30 p.m.

Signed: *Kerstin Harper, Town Clerk*