

**Agenda**  
**Work Session**  
**February 6, 2017**  
**7:00 pm**

**1. Announcements**

**2. Presentation**

- McDonald's restaurant site plan for reconstruction

**3. Minutes**

- Jan. 9 WS, Jan. 11 TM, Jan. 23 WS

**4. Department Reports/ Citizen Comments**

**5. Action Items**

**6. Discussion Items**

- Ordinance 120 – Rental Housing: public comments
- Charter Amendment Resolution
- Follow-up from January Town Meeting on citizen comments
- Earlier Worksession and Town meeting times

**7. Upcoming Town Council Schedule**

- February: Feb. 6 Worksession, Feb. 8 Town Meeting, Feb. 13 Worksession
- CERT Training Class: Feb. 4 & 5, 8:00 am, Town Center
- Energy Efficiency Workshop: Feb. 11, 10:00 am, Town Center
- Valentine's Party: Feb. 11, 2:00 pm, Town Center
- Architectural Design Competition: Feb. 25, 12:00 pm, Town Center



# Town of Berwyn Heights

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## Draft Minutes Worksession January 9, 2017

### **Executive Session (6:16 p.m. – 6:56 p.m.)**

On a motion by CM Dennison and second by CM Rasmussen the Council went into executive session to discuss the Town Administrator's performance evaluation. With the matter discussed, CM Dennison moved and CM Rasmussen seconded to end the executive session.

### **Regular Meeting**

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. CM Shields arrived at 8:35 p.m., having attended a presentation on mitigating the Purple Line's impact in the Indian Creek valley. Also present were Town Administrator (TA) Jessica Cowles, Clerk Kerstin Harper and Representatives of the Branchville Road Shell station David Lynch, Jonathan Jollis and Arman Gurbian.

#### **1. Announcements**

This year's ATHA/ Maryland Milestone calendar contains a photo by Town resident and former Councilmember James Wilkinson. The free calendars are available in the Town office.

#### **2. Minutes**

On a motion by CM Dennison, seconded by CM Rasmussen, the December 19 worksession minutes were approved 4 to 0. The December 14 Town meeting minutes were distributed.

#### **3. Presentation**

**Branchville Road Shell facility improvements:** Mayor Jewitt welcomed Shell representatives Dan Lynch, (Attorney), Arman Gurbian, (Petroleum Marketing Group (PMG)), and Jonathan Jollis, (Engineer), for a discussion of the plans to raze and rebuild the Branchville Road Shell gas station. Mr. Lynch explained that this gas station was last upgraded some 30 years ago and needs a complete overhaul. Shell plans to replace the gas station and add a 24-hour convenience store and car wash. The owners would like to get Berwyn Heights' input on the layout of the redeveloped site before a detailed site plan is drafted. The new Shell station would maintain access from both Greenbelt Road and Branchville Road, and come into compliance with the latest requirements for stormwater management, tree canopy and landscaping.

In response to questions, the Shell representatives said that a modern and inviting gas station would



attract more customers and compete better with other gas stations in the vicinity. Any landscape plan will call for new trees to be planted so as to comply with the Prince George's County tree coverage ordinance. The operators of the new, larger convenience store will implement their own safety protocols for employees, including security cameras and panic buttons, to deal with possible robberies. The new car wash will recycle up to 95% of the water used, and not dispense any water into nearby Indian Creek. New landscaping will absorb more stormwater runoff from the site than it currently does. The developers were not planning to build a sidewalk on the Branchville Road frontage of their property; however, they will take into account the safety of pedestrians and bicyclists that will be using the East Coast Greenway, when the trail to Greenbelt Station opens.

In terms of a timeline for the renovation, the developers will seek to obtain approval for a stormwater management plan first, and then produce a detailed site plan, which they hope to be able to present to the Town in late spring. Depending upon approval of the site plan by the County, construction of the new buildings is expected to take around 4 months. In response to Mike Attick, Mr. Gurbian said the existing gas tanks were installed 4-5 years ago and have a shelf-product life of around 40 years. The Shell station sits on 2 lots owned by Ali Murtaza. The lots in question currently do not have trees, but trees will be planted as part of the redevelopment of the site. Mayor Jewitt thanked the developers for their presentation.

#### 4. Department Reports

Mayor Jewitt thanked the Berwyn Heights officers for patrolling over the New Year's holiday. During that week there were no incidents to report. MPT Kulpa-Eddy announced that State legislators will hold their annual legislative reception, which is open to the public, on January 16, 6:00 to 8:00 p.m., at the Senate Office Building. She also requested and the Council agreed to add scheduling the all-day Budget meeting and Four Cities agenda items to the agenda. CM Rasmussen said he is sorry to have missed Santa riding through Town on the fire truck on Christmas Eve. Later this week, he will accompany Code Supervisor Glass on a ride-along.

CM Shields announced the winners of the holiday decorating contest: best yard – 8711 58<sup>th</sup> Avenue; best house – 8627 Cunningham Drive; best overall – 5723 Nevada Street. He then reported on the Purple Line meeting, attended by some 25 guests, including Delegate Gaines. He said that the impacts from construction of the Purple Line on the Paint Branch creek will be offset with improvements on a 1: 5.6 ratio, including stream bed restoration and stabilization near the College Park airport. Tree removals to access the mitigation area will be limited to the minimum necessary and replanting of trees will take place after construction.

#### 5. Citizen comments

Mike Attick, 62<sup>nd</sup> Avenue, said that CM Rasmussen could not be understood on TV-the cable television broadcast when he participated in the last meeting-worksession via telephone. Mr. Attick further requested that the Neighborhood Watch/ Emergency Preparedness Committee (NW/EP), which he co-chairs, be included in the budget process.

#### 6. Action Items

There were none.

#### 7. Discussion Items

**Ordinance 120 proposed amendments:** CM Rasmussen explained that TA Cowles provided a memorandum summarizing the changes the Council made to the Rental Housing Ordinance during the

last worksession, and recommendations for further changes made by the Town attorney, including: 1) to clarify the purpose of the Ordinance; 2) to make definitions in the Ordinance consistent with those found in the International Property Maintenance Code and the Prince George's County Housing Code; and 3) to delete Section 13 B, which authorizes the Council to waive provisions of the Ordinance at its discretion. It was thought that this conflicts with the goal of the Ordinance to protect the health, safety and wellbeing of tenants and the public.

The Council reviewed the Town Attorney's recommendations, MPT Kulpa-Eddy disagreed with the proposal to eliminate the Council's waiver authority in Section 13 B. She said there are non-health and safety related provisions in the Ordinance in regard to which the Council may want to retain flexibility, such as the requirement for a landlord to have a local agent if he lives more than 50 miles from the rental home. It was agreed to ask the Town attorney suggest language that allows the Council to retain such flexibility.

The Council reviewed the new *Property Owner and Tenant Rights and Responsibilities Form*. It was agreed to remove the term "Rights" from the title, as well as the list of tenant rights in the document itself. Instead, reference will be made to the State's Attorney and Prince George's County websites for detailed explanations of landlord-tenant issues.

The Council reviewed the *Rental Housing Fee & Fine Schedule*. It was agreed to add the rental license fee of \$300 to the schedule and to clarify what are "remedial violations" as opposed to "other violations" by giving examples. Mr. Attick suggested to raise the rental license fee since renting is a business activity.

The Council reviewed the new *Application for a Rental Housing License*. It was agreed to add "Number of Bedrooms" and "Number of Levels" to the rental property; description field; and to strike the term "prevent" in connection with requiring 10-days' notice for an inspection to resolve an emergency.

At 8:53 p.m., the Council took a 10-minute break.

The Council reviewed the revised Rental Housing Ordinance. The following changes were made:  
Section 2 BB: siblings were added to the definition of "immediate family."

Section 2 YY: "payment" was clarified as a monetary payment in a business transaction.

Section 4 I: the word "correct" was replaced by "remediate" in connection with violations uncovered during a rental inspection to correspond with language in the Fee & Fine Schedule.

Section 4 N: the period for renewing a rental license in the event of a sale of a rental property was extended from 5 to 10 days.

Section 5 A, BC: taking photos was added to the actions a code officer may perform when inspecting the interior and exterior of a rental property.

Section 6 – Adoption of Selected Prince George's County Codes: this section should state the purpose for which the codes are adopted as is done in *Section 7 - Standards*.

Section 7 C: a provision stating that "documentation of compliance with State law pertaining to lead paint" is required, was added.

Section 7 K (c), (d) – Fire Protection Services: specifics about smoke and carbon monoxide detectors were replaced with language stating that rental units "shall comply with all required fire detection systems."

Section 8 E: title of sub-section was changed to "Condemnation Service on Occupant."



Section 9 B – Waiving Application of Ordinance: deleted.

Section 14 – Validity: section renamed “Severability.”

Revised and Effective dates are to be added to the end of the Ordinance.

***State of the Town agenda format:*** It was agreed that the Mayor will give a State of the Town address, Councilmembers a State of their Department report, and directors their monthly reports. Committee chairs will be invited to report on their accomplishments from the past year.

***Town committee members:*** Mayor Jewitt said she received a question whether Town Councilmembers can serve on Town committees and requested input from the Council. There are no formal rules prohibiting Councilmembers from serving on Town committees, but they generally do not serve in leadership positions or participate in voting because of a potential for conflicts of interest.

In discussion, MPT Kulpa-Eddy said she resigned as ~~vice~~-chair of Neighborhood Watch/ Emergency Preparedness (NW/EP) committee when elected to the Council, and abstained from voting because she did not want to influence the outcome of a vote. In the event of an emergency, a Councilmember who serves on the NW/EP committee would likely focus on Council duties, although he or she may engage in CERT activities before arriving at the Town office, which would serve as the command center. CERT members usually do not deploy on their own, but are called upon to deploy. In the field, they are subject to the incident command system.

The Council further discussed what constitutes membership on a Town committee. In some committees, members are formally appointed by the Town Council and in others they simply join. Where they exist, committee bylaws may define membership and the privileges associated with it. Most Town committees were at some point established by the Town Council for a particular reason, and may receive Town funds or administer Town property, such as the emergency trailer and the museum. CM Shields was asked to look into these issues in an attempt to develop a policy for Town committees.

***Ordinance 122 – Urban Forest:*** CM Rasmussen asked if the Town Council is inclined to open up the Urban Forest Ordinance for revision this fiscal year, as initially planned. The Ordinance sets forth the establishment of a 5-member Shade Tree Board appointed by the Council to study and inventory Town trees and develop a plan for their care, including removals and replanting. He had approached the Green Team about serving as the Shade Tree Board, but they declined to take on any regulatory responsibilities, such as issuing permits for tree removals. On the other hand, many residents were interested in preserving trees when Pepco carried out its tree removals along Edmonston Road. The Council agreed to advertise the formation of a new Shade Trade Board, and call for volunteers to join.

***Charter amendment on Town boundaries:*** MPT Kulpa-Eddy said that unfortunately the Charter amendment updating the Town's boundaries will not be ready for introduction at the January 11 Town meeting, as planned. The engineers will not have completed the metes and bounds until January 13, which will delay introduction to February.

***Four Cities agenda items:*** The following agenda items were proposed for the January 25 Four Cities meeting in College Park: discussion of Pepco's tree removals along Edmonston Road, and presentation by M-NCPPC Planner Chad Williams on Module 3 of the Prince George's zoning rewrite.

***Budget worksession date:*** March 25, 9:00 am to 3:00 pm was set as the date for a budget retreat, at

which all Councilmembers and department directors will discuss the proposed FY 2018 budget. This replaces 4 - 5 budget worksessions that were usually held in March and April to review the budget.

**8. Town Council Schedule**

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

The meeting was adjourned at 10:28 p.m.

Signed: *Kerstin Harper, Town Clerk*



# Town of Berwyn Heights

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## **Draft Minutes Town Meeting January 11, 2017**

The meeting was called to order at 8:00 p.m. Present were Mayor Cheryl Jewitt, Mayor Pro Tem (MPT) Jodie Kulpa-Eddy, Councilmembers (CMs) Patricia Dennison, and Chris Rasmussen. CM Gerald Shields had an excused absence. Also present were Town Administrator (TA) Jessica Cowles, Chief of Police Kenneth Antolik, Public Works Director Stevie Cox, Code Compliance Supervisor Freddie Glass, Treasurer Michelle Rodriguez, Clerk Kerstin Harper and citizens.

Mayor Jewitt led the Pledge of Allegiance.

### **1. Public Hearing, Ordinance 120 – Rental Housing**

CM Rasmussen gave an overview of the key changes made to Ordinance 120 and thanked TA Cowles and Code Supervisor Glass for their work in researching and preparing the proposed changes. The amended Ordinance includes the following changes:

- Adopts selected divisions of the Prince George's County Housing Code, the International Property Maintenance Code and the NFPA Fire Code to ensure that its provisions comply with the latest laws and regulations.
- Requires that all rental properties have a rental license, including short-term rentals;
- Discontinues the exemption from a license requirement for owner-occupied homes that have only 1 rental unit;
- Ends exemption from a license requirement for immediate family members living with a relative who owns a home in Berwyn Heights;
- Replaces the right of at least 3 home owners within 500' of a rental property to petition the Council about code violations at the property with the right of residents and Town businesses to file such complaints with the Code Compliance Department;
- Requires an agent if the rental home owner lives more than 50 miles from the rental property;
- Clarifies that a code official is authorized to inspect the entire rental property, both interior and exterior areas.

CM Rasmussen further noted that the Council had extensive discussion about the immediate family and "owner-plus-one renter" exemptions and about what constitutes renting. Citizen



feedback on these issues is particularly welcome. The Council also raised a number of fines associated with the licensing process in areas where the Code Department regularly experiences a high number of violations and non-compliance with regulations. A revised Fee & Fine Resolution has been made available for comment.

At 8:10 p.m., Mayor Jewitt opened the public hearing. Connie Cunningham, 63<sup>rd</sup> Avenue, spoke in opposition of instituting a license requirement for owner-occupied homes in which just one room is rented. She said she is a member of a church that occasionally refers people who need a place to stay for a few weeks or months. She has offered a room in her home as an accommodation on several occasions. She has not charged rent but has accepted payments to help cover utility expenses. In addition, she feels having another person live in her home has a safety benefit and discourage break-ins and thefts when she is away from home. Ms. Cunningham submitted proposed written text for insertion in the Ordinance.

Theresa Beck, Cunningham Drive, spoke in opposition to instituting a rental license requirement for renting to family members, and for renting to just one tenant in an owner-occupied home. She said offering a family member a place to stay is often motivated by wanting to help and not by profit. This can also be the case when allowing a friend to stay at one's home. These types of arrangements should not be subject to a licensing requirement. Similarly, the case of renting to just one tenant is not necessarily a business proposition. Any earnings are often not worth the trouble of obtaining a rental license and the inconvenience of sharing one's home. Lastly, she believes that State law does not require a lead paint inspection in an owner-occupied rental. Therefore, the amended Ordinance need not require it either.

CM Rasmussen responded that the Council changed the language regarding lead paint in the Ordinance to be more generic and to require only proof of compliance with the Maryland Department of the Environment lead paint regulations. He is not aware, however, that owner-occupied rentals are exempt from lead paint certification. He will ask the Code Supervisor to look into it. At 8:25 p.m., Mayor Jewitt closed the hearing.

## **2. Minutes**

Clerk Harper read a summary of the December 14 Town meeting minutes. On a motion by MPT Kulpa-Eddy and second by CM Dennison, the minutes were approved 4 to 0.

## **3. Mayor's Report – State of the Town**

Mayor Jewitt noted that the Council held an executive session on January 9, from 6:15 to 7:00 p.m. regarding a personnel matter. She then gave the state of the Town address. She said that, while some concerns that came before the 47<sup>th</sup> Council last year could not be resolved to everyone's satisfaction, this Council is committed to place the interests of the Town and its residents first in the context of a recently adopted mission and vision for the Town. The vision and mission statements were developed at a strategic planning workshop the Council and senior staff held last fall to identify long range goals to focus the activities of the Town government.

Mayor Jewitt highlighted the major accomplishments of the past year which include: a new position classification and pay plan that brings staff salaries up to the areas prevailing market rate in the D.C. area, and a new employee handbook replacing an outdated personnel manual. She also noted that the Town continues to manage its finances responsibly and remains debt free. As a result, it can afford to make investments in upgrading its communication systems – a new

telephone system and video streaming are coming soon – and to deliver essential services through the Town’s own Police, Public Works, Code Compliance and Administration Department.

Mayor Jewitt noted some of the challenges the Town faces. Despite communicating with residents in a number of ways through the Town Bulletin, cable TV, website, and Twitter, residents say they still do not receive the information they need. A survey is being planned to find out how to best reach everyone. Other problems the Council plans to address is the relocation of the sub-par police station, which will require a big investment and long term planning; repairing Town streets, for which TA Cowles and Public Works Director Cox have begun to develop a plan; and strengthening community engagement. Town organizations host a full lineup of events throughout the year, but many are in need of new volunteers to help plan and hold these events.

Mayor Jewitt continued that the 47<sup>th</sup> Council held 24 meetings since May 2016 and in two instances drew enough interest to fill the chamber with guests: the promotion ceremonies of 3 police officers, and a meeting to discuss tree removals on Edmonston Road with Pepco and SHA representatives. The meeting made apparent a strong interest among residents to preserve the tree canopy. The Council will work to obtain and share better information from Pepco on their vegetation management program so that it can act more pro-actively in the future. It is hoped that residents who advocated for protecting trees will help with the re-planting program to occur this spring.

In conclusion, Mayor Jewitt thanked her fellow Councilmembers for being engaged in various Town and County initiatives and working together productively.

### **Department Reports**

**Administration:** MPT Kulpa-Eddy gave a report on the state of the Administration Department. She highlighted the main accomplishments, which include the installation of emergency generators and new air conditioning system at the Town which leverage State funds for big savings, as well as the important human resources reforms Mayor Jewitt mentioned. The FY 2016 audit was completed on time for the first time in years, a Town Council election was managed smoothly, and the department made a couple of personnel changes without disruptions.

For the coming year, the Administration Department will spearhead the implementation of the goals and objectives identified in the strategic planning exercise, and prepare the FY 2018 budget while following a new budget process. The information about upcoming insurance rates and potential merit increases will be available earlier than in previous years, making a more streamlined budget process possible. MPT Kulpa-Eddy commended the Administration Department’s staff for all they have done and continue to do.

Treasurer Rodriguez gave the treasurer’s report for December. The current general fund balance is \$2,974,000, with FY 2017 receipts totaling \$1,725,000 and expenditures totaling \$1,260,000. In response to questions, she added that the pension contribution of \$81,000 to the Maryland State Retirement Fund is regularly paid in December and has not varied much since last year. The current balance in the \$1 million Metroland reserve fund is \$440,000 after applying \$120,000 towards the sidewalks project in FY 2015.

Town Administrator Cowles gave the Administration Department report for December. She said that she has been busy meeting with senior staff preparing the FY 2018 budget. The budget process will be different this year. Multiple budget worksessions will be condensed into a one-day budget retreat on March 25, at which the Council and department directors will work through the entire proposed budget. This gives residents the opportunity to attend on a Saturday. She also worked with the Code Department on revising the Rental Housing Ordinance, and with the Town attorney on preparing a Charter amendment on the Town's boundaries.

**Code Compliance:** CM Rasmussen gave an overview of the state of affairs in the Code Department. The revision of the Rental Housing Ordinance has taken up much of the Council's and staff time and is nearing completion. The number of vacant homes in Berwyn Heights has gone down steadily, while building and remodeling activity is up. A few homes that have long been vacant are now for sale, including one of two homes that were condemned and demolished last year. Ensuring the upkeep of private properties is one of the Code Department's main responsibilities and helps to ensure public health and wellbeing and maintain property values.

CM Rasmussen said he is pleased that Code Supervisor Glass is providing some stability to the Department, after a short tenure of the previous code supervisor, and has the support of experienced employees Adrian Forbes, Zelda Bell and Keelah Allen Smith. CM Rasmussen noted that the Department is currently addressing the issues of unlicensed and inoperable cars, commercial vehicles parked in the street, and problems with accessory structures. After the removal of a large number of mature trees last year, which were dead, diseased or obstructing utility wires, CM Rasmussen is happy to announce that the Council has decided to reconstitute the Shade Tree Board to help maintain the Town's urban forest. He hopes that some of the residents, who came to protest the removal of Edmonston Road trees will decide to join.

Lastly, CM Rasmussen performed another weigh-in which showed a loss of 37 lbs. since last year. He had vowed to lose 40 lbs. as part of Green Team's "win it to lose it" campaign.

Code Supervisor Glass gave his monthly report. He said that he took CM Rasmussen on a 2-hour ride-along through the Town, who noticed a number of different things, particularly issues relating to trees. Last month the Code Department issued 12 clean lot violations and is focusing on the commercial district, where are a couple of businesses have a persistent trash problem.

**Parks and Recreation, Education and Civic Affairs:** Mayor Jewitt announced the winners of the holiday decorating contest: best house - 8627 Cunningham Drive; best yard - 8711 58th Avenue; best overall - 5723 Nevada Street.

**Public Health and Safety:** Chief Antolik gave the police activities report for December. There were only 2 Part I offenses, both larcenies, as compared to the 5-year average of 4.6. Total 2016 Part I offenses numbered 73, which is above the 5-year average of 69.4, but below the 10-year average of 90.5. The police issued 176 state and municipal citations and 183 speed camera tickets, all on Greenbelt Road. Chief Antolik commented that, of the all the serious crimes reported to the FBI as Part I offenses, the most prevalent crime in Berwyn Heights is of the least violent kind, larcenies. By comparison, there were 21 murders, 37 rapes and 317 robberies in Northern Prince George's County in 2016. His 9 experienced officers continue to be proactive in suppressing crime by being visible and encouraging residents to help protect their community.



Looking back over the last year, Chief Antolik noted that 5 officers were promoted; that \$3,000 in secret service funds was received and \$2,000 from LGIT for equipping officers with body cameras; that the Department had all-hands-on deck during the first day of school, Halloween and National Night Out; that all seniors living alone in exigent circumstances were checked upon during the holidays; and that the MOU with the Town of Edmonston was invoked to carry out a high-visibility traffic check in Berwyn Heights. Chief Antolik also briefly recapped the emergencies during which the police kept the Town safe in the last 15 years, and encouraged seniors who may need special assistance to register with BHPD for regular checks.

**Public Works:** Public Works Director Cox reported that many changes have been made since his appointment as the new Public Works director in August 2016, and many new employees have been added, most of whom have worked for the Town less than a year. The exceptions are Dan Woodard, who had his 10<sup>th</sup> work anniversary, and Gary Stanton, who completed his 3<sup>rd</sup> year.

Director Cox summarized December's activities. Two new employees were selected from 129 applicants and are undergoing background checks. Senior staff held a hazardous weather preparedness meeting to plan how to respond to severe weather. He also noted that he attended an inter-municipal bikeways meeting in Greenbelt and advised residents to call WSSC directly if there is a water or sewer line break. The fastest way to report such a break is by using a WSSC app on a smart phone.

In response to CM Rasmussen, Director Cox said that recycling rates are usually higher than the 29% recorded for December. The trash to recycling ratio is higher during the holidays. The Town has not set a waste diversion goal.

#### **4. Committee Reports**

##### ***Education Advisory Committee:***

**Green Team:** Diana Agonoy reported that the Green Team meets every 3<sup>rd</sup> Thursday of the month. All are welcome to attend. The next meeting is on January 19. An energy efficiency workshop is scheduled for February 11, 10:00 a.m. and a dog meet and greet is planned for March. A community garden planning meeting will be held on January 18. Sign-up for garden plots usually occurs in February, but there may not be plots available this year, due to many renewals. Ms. Agonoy also reported for the Recreation Council, which will host a Re-gifting Party on January 21, a Valentines Party on February 11, and a Potluck Dinner on March 18. She thanked Boys & Girls Club Registrar Angela Wolfinger for all her help with Recreation Council events.

**Historical Committee:** Chanel Kopecky reported on the Historical Committee's (BHHC) oral history project. She said phase I of the project was completed with the production and showing of a highlights reel of oral histories that were taped more than 10 years ago. She thanked everyone who attended the showing at the BHHC fall reception. The Committee is considering installing a video player in the Town museum so that the oral histories can be viewed by visitors. In phase II, the Committee plans to interview a new set of residents about the Town's past. To do this, she and those working on the project, plan to take training in how to operate a camera and edit footage, as well as recruit long-time residents to be interviewed. Former Councilmember Richard Ahrens and wife will lead the way. Anyone interested in sharing their

memories of an earlier Berwyn Heights may contact her at (301) 841-5000 or another member of the BHHC.

Clerk Harper added that the Historical Committee this year plans to forgo production of a historic street marker and instead spend its funds on improvements in the museum, such as a video player mentioned by Ms. Kopecky. In addition, the Committee is looking into additional storage and display solutions for its growing collection documents and artifacts.

***Neighborhood Watch/Emergency Preparedness:*** Co-chair of the NW-EP Committee, Mike Attick announced a Community Emergency Response Team (CERT) 2-day training class on February 4 and 5. This is an opportunity for residents to get readiness training and develop a disaster plan for their family. A CERT kit of emergency supplies will be provided to all attendees. Mr. Attick encouraged residents to consider joining the NW/EP and to mark their calendars for the Wine-Festival fundraiser on April 29.

***Recreation Council:*** Reported under Green Team.

## **5. Unfinished Business**

There was none.

## **6. New Business**

***Ordinance 120 – Rental Housing – 1<sup>st</sup> Reading & Introduction of Amendments:*** Mayor Jewitt noted that a lengthy explanation of the purpose and scope of the amendments was given at the public hearing earlier in the meeting. CM Dennison moved to introduce the amended Ordinance 120, and CM Rasmussen seconded. Clerk Harper read the adopting language of the Ordinance. CM Rasmussen asked if the accompanying Fee & Fine Resolution will be introduced tonight. Mayor Jewitt said, since it was not posted for public viewing, it will not be introduced. With no further comments, Ordinance 120 was introduced in a 4 to 0 roll call vote.

## **7. Citizens Discussion**

Nathan Kight commented that many valuable trees were felled during Pepco's recent tree pruning and removals. The wood of white oaks, maples and cherry trees could be processed for resale as lumber or firewood. He has a small sawmill and asked the tree contractor Asplundh to leave some trunks in his yard. However, this has resulted in the Code Department issuing him clean lot violations. He asked if the Town could make special provisions to allow for processing the wood or designate a place where it could be stored. Mr. Kight further asked if there are any plans for under-grounding utilities so that trees would not have to be felled to clear around power lines in the future.

Mayor Jewitt replied that the Town has no jurisdiction over the trees cut down along Edmonston Road as they are not on Town property. Pepco did allow residents to take some of the tree trunks left by the wayside, but she does not know if they can be used in a profit making enterprise.

CM Rasmussen said that, ideally, utilities would be laid underground but it is a very expensive undertaking. In addition, it can lead to more tree removals as root systems are disturbed by the digging. He does not think undergrounding will happen in Berwyn Heights anytime soon. Further, the Town received some complaints about scavengers taking the wood left by the side

of the road. He asked TA Cowles for any clarification on what may be done with remaining tree trunks.

TA Cowles said that Pepco plans to complete the cleanup of trunks and other debris early this year. She also reported that Joan Hayden, Seminole Street, called to ask when the new phone system will be installed and what is the process for adopting Ordinance 120. She told her that residents can send in their comments to the Town at any time, and that the Ordinance will probably be adopted either at the February or March Town meeting after being posted on the website for public inspection.

Catherine Hunter, Seminole Place, brought a complaint about health code violations at the Metropolitan Family Planning Clinic, located on Greenbelt Road at 60<sup>th</sup> Avenue. She and several other people have monitored activities at the clinic for 2 years, while offering crisis pregnancy aid to people frequenting the clinic. The clinic was cited for a number of health code violations in 2013, and it is unclear if they have been addressed. The biggest concern is the public dumpster, its contents and the proper disposal of the contents, as well as a family living next to the clinic in close proximity to the dumpster. She urged the Town to monitor the clinic and ensure that it conforms with community standards.

TA Cowles, who has been looking into the health code violations, said that the adjacent rental home belongs to the owners of the clinic and is in the process of being demolished. In response to CM Rasmussen, TA Cowles said that the owners of the clinic are subject to Town business and rental licensing.

Karen Handy, a pro-life advocate, said that she filed an official complaint about health code violations with Prince George's County in October 2016 and expects to hear back by January 14. She noted that her organization can provide model legislations to municipalities to help regulate this type of clinic. Annie Boyle, pro-life advocate, said a family with children lives in rental home that is attached to the clinic, not in the home that is going to be demolished. The Mayor and Council said that they will look into the matter to verify the alleged violations.

Mike Attick, 62<sup>nd</sup> Avenue, asked what concerns the Town has about stake body dump trucks, a type of commercial vehicle. CM Rasmussen said that County code does not allow them to be parked in the street but to be in a garage. He would like the Council to further discuss the issue of commercial vehicles.

Theresa Beck, Cunningham Drive, thanked the Town for all the support they have given to the Karate Club, which started exactly 8 years ago. CM Dennison was their first student. The Club plans to offer a women's self-defense class in the near future.

MPT Kulpa-Eddy received a comment from John Biddle, Berwyn Road, expressing disagreement with the State Comptrollers Office asking municipalities to pay back excess income tax revenue they were mistakenly paid. The Town should push for a forgiveness program. Mayor Jewitt received a comment about fire trucks being parked in the Staples parking lot overnight.

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



Kerstin Harper, Town Clerk

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## MEMORANDUM

**DATE:** January 30, 2017  
**TO:** Mayor and Town Council  
**FROM:** Jessica Cowles, Town Administrator  
**SUBJECT:** Public Comments on Ordinance 120

The following is a summary of the public comments received to date on the revisions proposed to Ordinance 120, and follow-up from the Town Attorney on specific questions posed.

1. Three resident comments on the proposal to require a rental license when the owner occupies the property and rents one dwelling. The comments stated:
  - An owner may find public safety benefits to renting a dwelling to provide a presence when the owner is out of town, particularly among elderly residents.
  - An owner may not accept any payment for renting but a smaller amount to help defray utility costs.
  - An owner may not financially benefit when offering only one dwelling for rent.
  - An owner renting one dwelling is not equivalent to operating a business and the \$300 license fee is too high.
  - A resident proposed language stating, "Any owner occupied dwelling, dwelling unit, rooming unit, premises or any part thereof with one rented or leased sleeping room intended to be used by a tenant, shall not require a license."
2. A resident questioned whether the State exempts owner-occupied housing from lead paint provisions. The State provides no such exemption.
3. A resident commented the \$300 rental license application fee is too low since the property owners are operating a business.
4. A resident encouraged the Council to not require a rental license when the property owner is renting to immediate family, consistent with rental housing provisions in College Park, Greenbelt, and New Carrollton.
5. A resident raised the question as to whether the proposed changes to Ordinance 120 would be in effect immediately, or if the changes would be in effect at the time of license renewal. Staff recommends the changes be effective 30 days after adoption in order to provide rental property owners with time to come into compliance and for Code to begin enforcement of the new provisions.
6. Town Attorney follow-up  
Section 13.B. alternate language to entire deletion:

Upon written request, the ~~Mayor and~~ Town Council may waive ~~or vary~~ particular provisions of this Ordinance to the extent that the waiver is not inconsistent with THE Annotated Code if:

1. ~~Geographic differences or unique local~~ conditions OF THE PROPERTY IN QUESTION OR SITUATION PRESENTED justify the waiver; AND
2. The waiver would not threaten the health, ~~or~~ safety, OR WELFARE of a ANY tenant or THE PUBLIC occupant.
  - A. REQUEST. A REQUEST TO WAIVE THE REQUIREMENTS OF THIS ORDINANCE SHALL:
    - I. BE IN WRITING IN A FORM REQUIRED BY THE TOWN;
    - II. BE ACCOMPANIED BY SUPPORTING DOCUMENTATION THAT JUSTIFIES THE REQUEST, INCLUDING LETTERS, STATEMENTS, OR TEST RESULTS; AND
    - III. INCLUDE, WHERE APPLICABLE, TECHNICAL DOCUMENTATION TO DEMONSTRATE THAT COMPLIANCE CANNOT BE ACHIEVED.

Under Section 14 "Validity," the title name can be replaced with "Severability"

## MEMORANDUM

**DATE:** February 2, 2017  
**TO:** Mayor and Town Council  
**FROM:** Jessica Cowles, Town Administrator  
**SUBJECT:** **Charter Amendment on Corporate Boundaries**

As a follow-up to previous Council discussions, the Prince George's County Sentinel will be the newspaper of general circulation for meeting any advertising and notification requirements associated with legislation. The advertising cost is modest when compared to the Washington Post.

The map, below, depicts the subject parcels of the corporate boundaries with the existing conditions on the ground.





## **CHARTER RESOLUTION 1-2017**

### **A Resolution to Amend the Charter of the Town of Berwyn Heights to strike Section 202 "Corporate Boundaries"**

**WHEREAS**, Section 202 of the Town Charter contains the corporate boundaries of the Town through a description based on geographic coordinates, land records, and historical street names; and

**WHEREAS**, Section 202 of the Town Charter is based on data that has not been updated in many decades; and

**WHEREAS**, Section 202 of the Town Charter no longer reflects the Town's current boundaries since the Town of Berwyn Heights annexed property into the Town's corporate boundaries pursuant to Annexation Resolution 08-2005 and Annexation Resolution 09-2005; and

**WHEREAS**, the Town's annexations of property pursuant to Annexation Resolution 08-2005 and Annexation Resolution 09-2005 have been duly recorded with Prince George's County and the State of Maryland; and

**WHEREAS**, the Town's corporate boundaries in Section 202 of the Town's Charter were not updated after the aforementioned annexations were adopted; and

**WHEREAS**, there exists an area of approximately 2.92 acres of overlap between the Town's corporate boundaries and those of the City of Greenbelt as depicted in Exhibit 1; and

**WHEREAS**, the official Prince George's County and State of Maryland maps depicting local government boundaries show the area of overlap on Exhibit 1 as within the corporate boundaries of the City of Greenbelt dating to at least 1992; and

**WHEREAS**, the Town does not desire to challenge the City of Greenbelt's corporate boundaries due to the cost associated with such a legal challenge and in order to maintain a collegial relationship with one of the Town's neighboring communities; and

**WHEREAS**, the Town's Engineer is concurrently preparing a revised corporate boundary for the area depicted in Exhibit 1 that will be on file pursuant to Section 201 of the Town Charter; and

**WHEREAS**, the State of Maryland does not require municipal corporations to detail corporate boundaries in a Charter to avoid the necessity of amending a Charter after each annexation or similar changes to a municipal corporation's boundary; and

**WHEREAS**, it is in the Town's best interest to amend the Town Charter to remove therefrom a recitation of the Town's corporate boundaries; and

**WHEREAS**, the Town Council desires to address the two aforementioned issues with the Town's corporate boundaries by creating a revised corporate boundary map and striking Section 202 "Corporate Boundaries" from the Town Charter.

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Berwyn Heights that the Town Charter is hereby amended to strike in its entirety Section 202 "Corporate Boundaries" and that Chapter II "Corporate Limits" of the Town Charter shall read as follows:

## CHAPTER II. CORPORATE LIMITS

### Section 201. Corporate Limits - Record Requirements

The courses and distances showing the exact corporate limits of the Town shall be filed at all times with the Secretary of State, Hall of Records, State Library, Clerk of the Circuit Court for Prince George's County, the Commissioner of the Land Office, the Department of Legislative Reference and the Town Administrator. The file or record of all such descriptions shall be in a suitable place, properly indexed and reasonably available for public inspection.

### Section 202. Corporate Boundaries

~~The boundaries of the Town of Berwyn Heights are as follows: Beginning at concrete monument number 1, Washington Suburban Sanitary Commission coordinate N 37, 024.38 E 24, 453.84 at the southwest corner of Lot 100, Block 12 Berwyn Heights, thence in a northerly direction following the eastern right-of-way line of the Baltimore and Ohio railroad to the intersection of the northern right-of-way line of the old Branchville Glendale Road, thence easterly along the northern right-of-way line of the old Branchville Glendale Road to the intersection of the northern right-of-way line of the Greenbelt Road, thence easterly along the median northern right-of-way of Greenbelt Road to the intersection of the eastern right-of-way line of Edmonston Road, thence southerly along the eastern right-of-way line of Edmonston Road to the intersection of the southern boundary of Block 12 Berwyn Heights extended, thence westerly along the southern boundary of Block 12 Berwyn Heights to the point of beginning, all of which is described and defined on a plat compiled and authenticated on 12 February 1957 by the Commissioners of Berwyn Heights, and on file with the Administrator of the Town of Berwyn Heights.~~

### Section 202.1. Public Use

The public rights-of-way, recreation and community property under the jurisdiction of the Town Council are dedicated to public use.

**BE IT FURTHER RESOLVED**, that if any provision of this Charter Amendment Resolution or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of

this Charter Amendment Resolution that can be given effect without the invalid provision or application, and for the purpose the provision of this Charter Amendment Resolution are declared severable.

**AND BE IT FURTHER RESOLVED** that this Charter Amendment Resolution is adopted this \_\_\_\_ day of \_\_\_\_\_, 2017. And that the amendments to the Charter of the Town of Berwyn Heights, hereby proposed by this enactment, shall be and become effective 50 days after its passage by the Town Council unless a petition for referendum in accordance with the Local Government Article of the Annotated Code of Maryland is received by the Town on or before the fortieth day after initial passage of the charter amendment resolution. A fair summary of this Resolution shall be posted in the Town Hall for forty (40) days following its adoption and shall be published in a newspaper having general circulation in the Town no fewer than four (4) times at weekly intervals within the forty (40) days following its passage by the Town.

**AND BE IT FURTHER RESOLVED** that upon this Resolution becoming effective, either as herein provided or following referendum the Town Administrator shall send to the Department of Legislative Services, the following information concerning the Charter Amendment Resolution: (i) the complete text of this Resolution; (ii) the date of referendum election, if any, held with respect thereto; (iii) the number of votes cast for and against this Resolution by the Council of the Town of Berwyn Heights or in a referendum; and (iv) the effective date of the Charter Amendment. The Town Administrator shall also send a copy of the Charter Amendment Resolution to the Clerk of the Circuit Court for Prince George's County.

**INTRODUCED** by the Mayor and Town Council of the Town of Berwyn Heights at a Town Meeting on \_\_\_\_\_, at which meeting copies were available to the public for inspection.

**PASSED** by the Mayor and Town Council of the Town of Berwyn Heights at a Town Meeting on \_\_\_\_\_, at which meeting copies were available to the public for inspection.

By the Order of the Mayor and Town Council

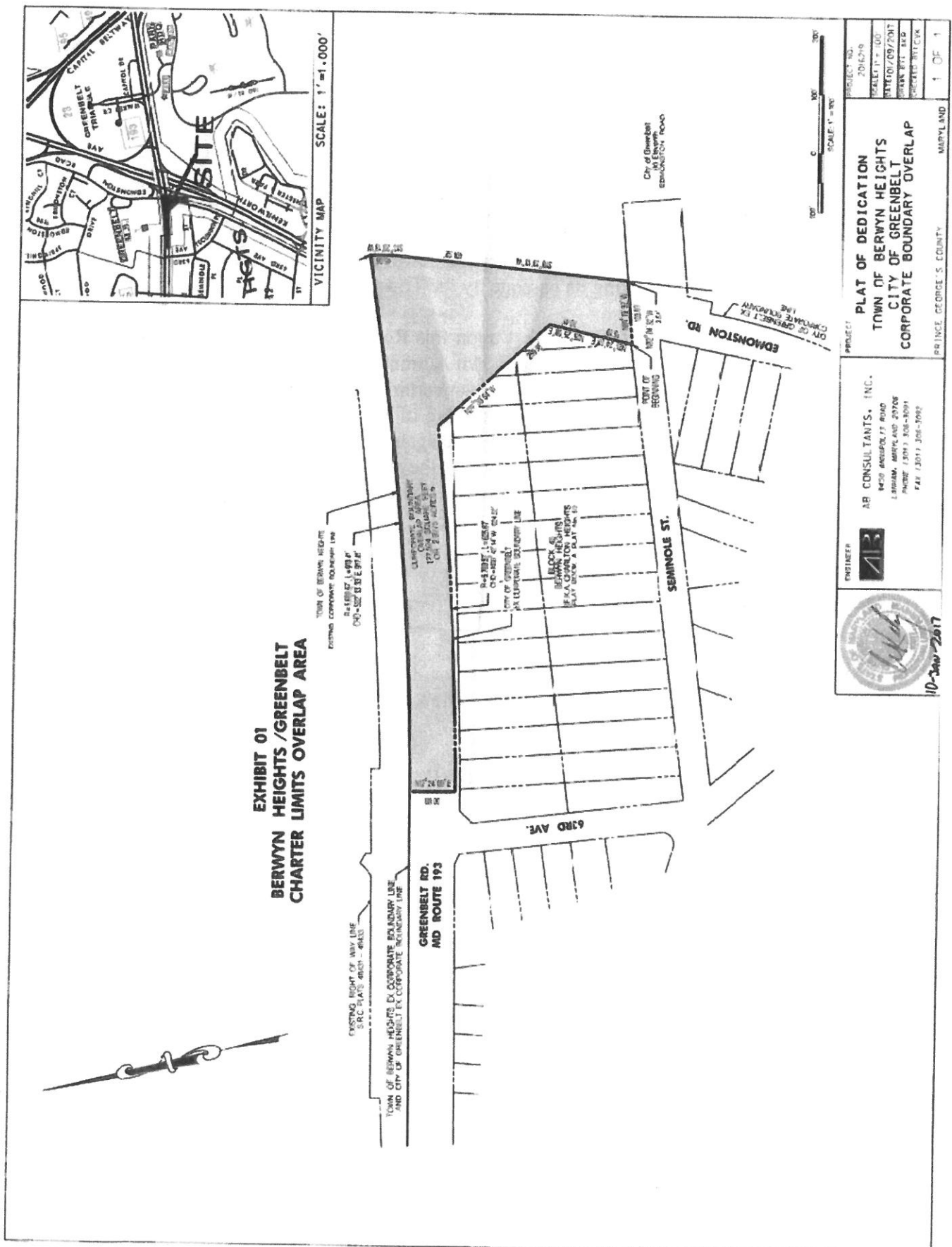
\_\_\_\_\_  
Cheryl Jewitt, Mayor of Berwyn Heights

ATTEST:

\_\_\_\_\_  
Kerstin Harper, Town Clerk



# EXHIBIT 1



# Memorandum

Town Clerk

To: Town Council, Town Administrator  
From: Kerstin Harper  
Date: February 3, 2017

Re: **Council Meeting Regulations**

The Charter provides that the Council shall meet at least once a month at a date and time of the Council's choosing. Council Rule 1 states that a Town meeting shall be held on the 2<sup>nd</sup> Wednesday of each month, and worksessions as deemed necessary to accomplish Town business. If precedent is considered, Town meetings have been held on the 2<sup>nd</sup> Wednesday of the month at 8:00 p.m. going back to the 1950s, with some exceptions.

## **BERWYN HEIGHTS CHARTER, 1978**

### **SECTION 304 - MEETINGS**

The Council shall meet prior to the first public Town Meeting following election for the purpose of organization. Thereafter the Council shall **meet at such times as determined by the Council but not less frequently than once a month**. All meetings shall be open to the public and must provide residents of the Town a reasonable opportunity to be heard in regard to any municipal matter. Special meetings shall be called at the request of the Mayor or a majority of the Council. Nothing contained herein shall be construed to prevent the Council from holding an executive session. No ordinance, resolution, rule, regulation or motion shall be adopted at such an executive session. When the Council is faced with a matter the revelation of which would invade the rights of the individual on private matters or similar situations the public would not be permitted to attend.

## **COUNCIL RULE NO. 1- MEETING RULES**

### **A. TOWN MEETINGS**

As presented in Chapter III, Section 304 of the Town Charter Meetings, Town Meeting shall occur on the **second Wednesday of each month and shall be open to the public**. All meetings shall be held in accordance with the open meeting requirements of Sections 10-505 through 10-509 of the Annotated Code of the State of Maryland.

### **B. WORKSESSIONS**

The Council shall meet in Worksession as the Mayor or three Council Members may deem necessary to discuss Town Administration and business. No formal Council action on ordinances or resolutions will be conducted at Worksessions.