



# TOWN OF BERWYN HEIGHTS

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**MAYOR**  
Stephen Isler  
**COUNCIL MEMBERS**  
Jason Papanikolas (Mayor Pro Tem)  
Amanda Dewey  
Ethan Sweep  
VACANT

## Town Meeting Minutes December 12, 2018

The meeting was called to order at 7:00 p.m. Present were Mayor Stephen Isler, Mayor Pro Tem (MPT) Jason Papanikolas, Councilmembers (CMs) Amanda Dewey, and Ethan Sweep. Also Present were Town Manager (TM) Maria Broadbent, Clerk Kerstin Harper, Chief Kenneth Antolik, Detective Daniel Unger, Representatives of the Prince George's County Clerk of the Circuit Court Kimberly Lyles and her Assistant and citizens.

### **1. Approval of Agenda**

CM Dewey moved and CM Papanikolas seconded to approve the agenda. The motion passed 4 to 0.

### **2. Swearing-in of Mayor Stephen Isler and Mayor Pro Tem Jason Papanikolas**

MPT Isler explained that Mayor White informed the Council of her resignation on December 6, making it necessary to appoint a new Mayor and Mayor Pro Tem. Pursuant to Section 306.2 of the Town Charter, the Mayor Pro Tem becomes Mayor when a Mayor resigns. Mayor Pro Tem Papanikolas was selected by the remaining Councilmembers during a December 8 executive session. The vacant Council seat has been advertised and interested residents are requested to apply by January 9, 2019

Clerk of the Circuit Court Representative Kimberly Lyles swore in Mayor Isler and then Mayor Pro Tem Papanikolas.

Mayor Isler thanked the residents for their support during the ongoing transition of the Town Council, as well as Clerk Harper and TM Broadbent for their assistance in managing the transition and keeping the government on track. The Council is looking forward to filling the vacant Council seat and moving forward with the business of governing the Town.

### **3. Appointment of BHHC Members Jim McGinnis and Mary-Lou Milstead**

Clerk Harper said both Jim McGinnis and Mary-Lou Milstead are residents who grew up in Berwyn Heights and will bring with them a lot of firsthand knowledge of Town history. BHHC Chair Richard Ahrens said the BHHC changed its meeting times to make it possible for Ms. Milstead and Mr. McGinnis to attend. At its last meeting, the BHHC voted to nominate them for membership and recommends their appointment. He noted Ms. Milstead's father Fred Frost served on the first Town Council of Berwyn Heights.

MPT Papanikolas moved to make the appointments. CM Dewey seconded. The motion passed 4 to 0.

#### **4. Approval of Minutes**

On a motion by MPT Papanikolas and second by CM Dewey, the minutes of the November 14 Town meeting minutes were approved 3-0-1, with CM Sweep abstaining.

#### **5. Mayor's Report**

Mayor Isler reported that the Council hosted the annual legislative dinner with its representatives on November 28 attended by Delegates Gaines and Healey, Councilwoman Glaros and School Board Representative Thomas, and on December 5, attended the Prince George's County Municipal Association (PGCMA) legislative dinner where it had the opportunity to mingle with other local elected officials. Councilmembers also enjoyed participating in the Town's tree lighting party, which at times had standing room only. During the coming week, the Council will drive around the Town to evaluate Christmas decorations to award prizes for the best decorated houses and yards.

#### **6. Department Reports**

**Treasurer's Report:** Treasurer Rodriguez gave the report for November. The Town received State Income Tax and Prince George's County real estate tax disbursements. On the expenditure side, a bill for \$12,320 has been paid for the street renovation project. The audit was completed, and a report submitted to the State, as were a number of other annual reports due at year's end.

**Town Manager's Report:** TM Broadbent reported she has been working with M-NCPPC on the renewal of the Men's League agreement for the use of the gymnasium and with Chief Antolik and the Neighborhood Watch/Emergency Preparedness Committee (NW/EP) on an MOU to clarify its relationship with the Town. The electric vehicle charging station has been installed and the new electric vehicle delivered.

Mayor Isler said that two sample recycling bins on wheels of a 64 and a 96-gallon size have been stationed in the Council chamber for residents to try out. These bins are much larger than the ones currently in use and will require mechanical tippers to empty. Trash trucks will have to be equipped with the tippers before the Town can switch to the new bins.

**Code Compliance:** Code Compliance Supervisor Glass reported that the Code Department focused on clean lot and refuse violations during the previous month. He reminded residents to cover inoperable vehicles with a properly fitted car cover and to park vehicles only on paved surfaces. If residents wish to dispose of appliances and tires they must schedule the pickup through the Town office and pay special pickup fees of \$25 and \$5, respectively. All regular household trash should be placed at the curb in a container with a tight-fitting lid by 7:30 a.m.

**Parks & Recreation:** There was no report.

**Public Works:** CM Sweep thanked Public Works for putting up the Christmas tree and decorations at the Town Center. Public Works Director Hall reported that Public Works will finish curb-side loose leaf collection by the end of December. Thereafter residents should bag their leaves for pickup in brown paper yard waste bags or designated containers. He is working with Prince George's County to fix some drainage issues that cause icing of streets in winter. The street renovation project is almost

complete with the exception of a few touch ups. He is making a punch list of items that need to be addressed sometime in the spring.

TM Broadbent said she drove around the Town with a WSSC representative this morning to discuss any tree work they plan to undertake in conjunction with planned water and sewage repairs. It is worthwhile to give input to WSSC prior to planned work because the utility has a lot of leeway in what they may do in connection with a project. CM Dewey added that Washington Gas and WSSC should be asked to inspect a noticeable smell of gas at the corner of 63<sup>rd</sup> Avenue and Tecumseh Street.

Mike Attick, 62<sup>nd</sup> Avenue, asked why Public Works is not picking up leaves in the curbs. Director Hall replied that the crews are supposed to clean up curbs when leaf vacuuming. He will look into it.

**Public Safety:** CM Dewey reminded residents not to dispose of unused paint with household trash. Paint should be taken to the County landfill for disposal or recycled at the Greenbelt public works yard for a fee on the dates of electronics recycling. If traveling for the holidays, homeowners should stop their mail and take precautions to keep their home from being burglarized.

Volunteer Fire Department (BHVFD) Representative Matthew Huddle thanked residents for supporting the Christmas tree fundraiser. The contributions helped with the purchase of a new \$1.1 million ambulance squad. Donations will also help finance other improvements, such as the renovations planned for the firehouse in the coming year. Mayor Isler thanked the BHVFD for donating a tree for the Town's holiday party.

Detective Unger gave the police activities report. There were 6 Part I offenses, less than the 5-year average of 7.6, and 53 offenses year-to-date versus the 5-year average of 61. There were another 2 airbag thefts, plus 2 cases of wheels stolen from Honda Accords and Civics. Berwyn Heights Police is working with Cheverly Police, which has seen similar thefts, to develop leads. Berwyn Heights Police also performed 420 house checks, issued 143 State and municipal citations and 30 speed camera tickets.

In response to a question, Detective Unger said house checks can be requested by residents when they are on vacation or away from home. House check request forms are available at the Town office or online at [www.berwynheightsmd.gov/berwyn-heights-police-department](http://www.berwynheightsmd.gov/berwyn-heights-police-department). He reminded people not to drink and drive over the holidays. A zero-tolerance policy will be in effect. Partygoers are encouraged to take advantage of the 'sober ride' program offering a free ride home with Lyft up to a limit of \$15. Detective Unger concluded with a BHPD rendition of "T'was the Night before Christmas."

## **7. Committee Reports**

**Green Team:** CM Dewey announced that the Green Team will hold its monthly Town cleanup this coming Saturday. Newcomers are always welcome, including families with children or dogs. The Green Team is also making plans for the raingarden renovations in the spring.

**Historical Committee:** No report.

**Neighborhood Watch/ Emergency Preparedness:** NW/EP Co-chair Mike Attick reported that Berwyn Heights CERT, Inc. will be disbanded. However, NW/EP will continue to function. Any interested

residents are invited to attend the monthly meetings held on the first Wednesday of every month in the G. Love Room.

**Recreation Council:** No report.

## **8. Unfinished Business**

### ***Resolution 13-2018 – 2<sup>nd</sup> Reading & Adoption of Charter Amendment Clarifying Mayor Pro Tem***

**Authority:** Clerk Harper read the Resolution. Mayor Isler explained that the Town Charter currently provides for the “Mayor Pro Tem to assume all Mayoral duties and responsibilities during the absence of the Mayor.” This Amendment further defines when the Mayor is absent and enables the Council to carry on the business of governing in the event the Mayor refuses to sign legislation adopted by the Council as a whole, or those documents necessary to give effect to the legislation.

John Wolfrum, Quebec Street, said he last attended the September 3 meeting at which Mayor White was still Mayor and the Council discussed the bond issue with residents. At that time, the Council expressed the intent to have a mediation session. He asked if the mediation had occurred but did not work out. Mayor Isler said that Mayor White took a leave of absence shortly after the September 3 meeting with a return date of November 12. However, shortly before the November 14 Town meeting, Mayor White said she would not return until a mediation session had taken place. She agreed to arrange the session and contacted MML and the Center for Conflict Resolution of the Key Bridge Foundation. Key Bridge was in the process of scheduling a session when Mayor White announced her resignation on December 6.

Mr. Wolfrum said he could see both sides of the controversy and is glad to hear the Council was willing to work things out. As for the Charter Amendment, the Bulletin notice of the hearing on the Amendment had the wrong date. More importantly, with the resignations of two mayors, the Council is now led by the third highest vote getter, and most Councilmembers serve in positions to which they were appointed rather than elected. He thinks this is a problem and hopes the Council will select a person to fill the vacant seat who reflects the diversity of the population.

Mr. Wolfrum also objected to sub-section C of the Amendment which seems to authorize the majority of the Council to overrule the Mayor or relieve the Mayor of his or her duty, if they don’t like something the Mayor is doing. Further, the same section is too open-ended and fails to spell out what the Mayor’s duties are. As he sees it, this might give the majority of the Council a legal instrument to force a Mayor out for reasons of their choosing.

Mayor Isler said the Charter and Council Rules do spell out the duties of the Mayor. In the ‘Strong Council/ Weak Mayor’ form of government the Town has, the Mayor is for the most part an equal member of the Council. One of the few duties reserved to the Mayor is the ministerial signing of documents and legislation the Council as a whole has approved. The Mayor must sign such documents, regardless of whether he or she agrees with it. This provision prevents the Mayor from exercising a pocket veto over the actions of the Council. CM Dewey said the Council had to take special steps to sign a grant agreement for State police aid during the Mayor’s absence, showing why a clarification of a Mayor’s absence is needed.

Blake Dewey, Quebec Place, said he understood sub-section C of the Amendment to apply narrowly to each circumstance in which the Mayor is unable or unwilling to perform a duty of the office, with the Mayor Pro Tem's authorization to perform the Mayor's duties limited to that circumstance. He asked if this is what the Council intended. MPT Papanikolas said he would agree with that interpretation. CM Dewey said it appears further discussion of the Amendment is needed. To address the concerns about sub-section C, it might be changed to require a supermajority of the Council to declare a Mayor being derelict in his duties. TM Broadbent offered to have the Town Attorney review the Amendment.

After further discussion of the circumstances that led to the drafting of the Amendment, MPT Papanikolas moved and CM Sweep seconded to table the Amendment to the January Town meeting. The motion passed 4 to 0.

***Ordinance 175-A – 2<sup>nd</sup> Reading & Adoption of FY 2019 Budget Amendment to Purchase Salt***

***Spreader:*** Clerk Harper read the adopting language of the Ordinance. TM Broadbent said the Amendment reallocates funds in the FY 2019 budget to purchase a salt spreader instead of a new dump body for a dump truck. Since the budget amendment is adopted by ordinance, there is a 20-day delay for the appropriation to become effective. However, the Public Works Department would like to have the spreader before the onset of winter weather. Therefore, she proposes to purchase the equipment, not from the capital projects, where it was budgeted, but with Public Works funds. Once the Ordinance has taken effect, the funds would be returned to Public Works budget. No changes to the Ordinance are necessary.

CM Sweep said he believes it is a good idea to purchase a salt spreader rather than a new dump body, as originally planned. The spreader is less expensive and does a better job with spreading salt. Additionally, drivers don't need a CDL license to drive a pickup truck on which the spreader would be mounted. MPT Papanikolas moved and CM Sweep seconded to approve the Budget Amendment, with the provision that the money to purchase the spreader be temporarily taken from the Public Works Department budget. The motion passed 4 to 0.

**9. New Business**

***Resolution 15-2018 – Approval of Contract to Purchase DPW Overhead Garage Doors:*** Clerk Harper read the Resolution. TM Broadbent said new garage doors were funded in the FY 2019 capital budget. Overhead Doors of Washington D.C. was the lowest responsive bidder, coming in with a bid \$8,000 lower than the budgeted amount. The company has a good reputation including for servicing its doors. Staff recommends the Council approve the contract. CM Sweep moved, and CM Dewey seconded to approve the contract with Overhead Doors. The motion passed 4 to 0.

***Resolution 16-2018 – Adoption of Revised Council Rules:*** Clerk Harper read the Resolution. Mayor Isler said that most of the Council Rules were last revised in 2001 and are due for an update to reflect the manner in which the Town Council currently conducts its business. Some Rules were substantially revised, and others had only minor stylistic changes. One Rule was deemed obsolete and was deleted and others were designated to be moved to the Charter, an ordinance or the Employee Manual. CM Dewey made a correction to Rule 1, Section B (1) (b), adding the word "her" to "...his/ her name or address." MPT Papanikolas moved to adopt the Council Rules as amended. CM Sweep seconded. The motion passed 4 to 0.

## 9. Citizen Comments

Mayor Isler noted that this Council considers citizen comments very important. However, if a citizen has a concern about an individual employee or Councilmember, he or she is requested to raise those concerns with the Council in a private meeting.

Mike Attick, 62<sup>nd</sup> Avenue, asked when the driveway in the rear of the Town Center will be reopened following the installation of an electric charging station and suggested that on-street parking at 8911 60<sup>th</sup> Avenue should be disallowed because it causes long backups at the Greenbelt Road traffic light.

John Wolfrum, Quebec Street, said he thinks it is not appropriate for the Council to censor citizens' comments at a public meeting during the period set aside for comments. TM Broadbent said no citizen is being denied due process if asked to raise some personnel or personal issue in a private setting. Freedom of speech has important limitations based on time, place and manner.

Mr. Wolfram asked whether citizens can make arrangements ahead of time to speak at a meeting about a particular matter. He was informed that he can contact any Councilmember or the Town Manager and ask that a topic be added to the agenda. Mr. Wolfrum reiterated his concern that too many Councilmembers have been appointed to their position rather than been elected. He suggested the Council consider holding a special election if a third Councilmember were to leave. Mayor Isler replied that the Council has the option to fill a vacant seat by choosing a candidate who ran in the previous election or invite applications from qualified voters of the Town. This Council has considered revising the Charter and ordinances to further clarify the succession process.

Blake Dewey, Quebec Place, congratulated the Mayor and Mayor Pro Tem on being sworn in today. He thinks this Council has done a lot of good work despite a rough start.

Phil Ventura, 57<sup>th</sup> Avenue, had several comments. He criticized the road repair work for the failure to mark the new pavement in the 60<sup>th</sup> Avenue cul-de-sac and expressed his support for further review of sub-section C of the Charter Amendment. He regretted the change in how the Town is run in that residents like himself are no longer allowed to help out at the Public Works Department. He quoted from a letter he received from TM Broadbent asking him to stop speaking to Public Works employees or their contractors.

Mr. Ventura then produced two emails by former Mayor White requesting him to oversee the road project. He believes this gives him the right to monitor the road work and speak with employees and contractors. He has spoken to the contractor on multiple occasions. The contractor agreed with him about installing curbs along the west side of 56<sup>th</sup> Avenue, redoing a driveway with runoff problems and fixing the sub-base in a couple of spots on Pontiac Street, but he was told to hold off.

CM Dewey moved and MPT Papanikolas seconded to admit Mayor White's emails into the official record. The motion passed 4 to 0. MPT Papanikolas noted that the emails were sent from a private account and that the Council was not informed of the arrangement with Mr. Ventura. Mayor Isler said the Council should have been informed of the arrangement so that it could have vetted the person tasked to watch the road work. It is an open question if another person was needed to oversee the project, next to the Public Works Director, who was properly vetted and hired to do this job.

CM Sweep asked why Mr. Ventura has waited until now to make the arrangement public. To him it looks like the kind of backroom deal Mr. Ventura has accused the Council of making. Mr. Ventura said he brought it up now because of TM Broadbent's letter forbidding him to talk to employees. TM Broadbent was asked to explain the reasons for sending the letter. She said that Mr. Ventura's manner of speaking with Director Hall was inappropriate and threatening. The letter asks that any concerns about projects or the director be brought to the attention of the Town Manager or the Town Council instead. It is not the place of a resident to tell the Public Works Director what to do or to give instructions to Public Works staff.

There ensued further discussion about whether residents can speak to and instruct employees. Mr. Wolfrum said the Council cannot forbid residents to speak with staff, but staff are not obligated to listen or respond. Mayor Isler said citizens can indeed speak with staff, but they cannot threaten, berate or confront them. At this point, whatever Mr. Ventura may say to Public Works staff is not constructive. Therefore, he is better off working through Councilmembers, who were elected to take care of the affairs of the Town, or filing a complaint with the Town Manager. Councilmembers expressed their commitment to listen to and try to resolve the concerns raised by citizens via phone calls, emails or face-to-face conversations.

Blake Dewey, Quebec Place, said this Council followed up on citizen comments in at least two important instances: lowering the building permit fee and finding out whether canopies require a permit if used for parking cars.

Joan Hayden, Seminole Street, commented via telephone about residents not being listened to by the Council and a lack of follow-up. Mayor Isler replied that this Council has made a concerted effort to improve communication with residents, inviting citizen comments on all topics during meetings, discussing items at meetings in response to citizen comments, and adding a bi-weekly newsletter. To address Ms. Hayden's particular issues, he offered to speak with her offline.

John Biddle, Berwyn Road, asked via telephone why the Council hears variance requests if it cannot rule on them. MPT Papanikolas replied that the County's Board of Zoning Appeals decides variances (exceptions to County zoning regulations) but will often request input from the municipalities relating to properties in their jurisdiction. Variances offer municipalities a measure of control over what residents can build on their property by placing conditions on their support for variances.

The meeting was adjourned at 10:08 p.m.

Signed, *Kerstin Harper*, Town Clerk