



# Town of Berwyn Heights

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**MAYOR**  
Lynn White

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

## Minutes Worksession September 5, 2018

The meeting was called to order at 7:00 p.m. Present were Mayor Lynn White, Mayor Pro Tem Stephen Isler, Councilmembers (CMs) Jason Papanikolas, Ethan Sweep and appointed Councilmember Amanda Dewey. Also present were Interim Town Administrator (TA) Mike McLaughlin, Town Manager (TM) Maria Broadbent, Clerk Kerstin Harper, and citizens.

### 1. Announcements

Amanda Dewey, who was appointed on August 20 to fill the Council seat left vacant by the resignation of Mayor Rasmussen, introduced herself. She said she loves Berwyn Heights and is excited about serving on the Council. Residents are encouraged to contact her using the information on the back of the Bulletin.

Maria Broadbent, newly-appointed Town Manager, also introduced herself. During her first week, she has been learning about the things that are important to the Mayor and Council and the workings of the Town government.

Mayor White thanked Interim Town Administrator Mike McLaughlin for helping Berwyn Heights with the transition and wished him well in his retirement.

### 2. Discussion Items

**Bond issue discussion with residents:** Mayor White welcomed the many residents in attendance for the discussion of Berwyn Heights' removal from a \$1.1 million bond issue authorized by the previous Council to finance Phase II of the Town's road repair program. Councilmembers expressed their views on how this came to pass.

MPT Isler and CM Papanikolas stated that Berwyn Heights was excluded from the bond issue because Mayor White refused to sign the bond agreement. In mid-August, she requested additional information from Town staff about the scope and cost of the street repair project that could not be provided by the signing deadline. However, the previous Council had approved the bond issue and this Council had affirmed its support knowing that the scope and cost of the project could change because of a planned WSSC water main replacement project affecting some of the streets designated for repairs. They did not think additional information was needed and that Mayor White's refusal to sign the bond agreement was a violation of her 'ministerial duty' to sign documents on behalf of the Council.

In an effort to move forward with bond funding, the Council met in executive session to authorize the Mayor Pro Tem to sign the bond agreement. At the same meeting, it was also agreed to ask Mayor White

to resign from her position as Mayor because her unilateral decision not to sign the bond agreement amounts to exercising a veto power the Town's Charter and Ordinances do not provide.

Mayor White responded the bond documents she was asked to sign required her to attest that the description of the street repair project and its cost are true and correct. Without the information about the scope and cost of the revised project she could not in good conscience sign the bond agreement. She believes the Council could have joined her in asking for the information or asked for a legal opinion that the information is not needed for signing the bond agreement. She would have accepted either of those options. Instead, the Council decided to give signing authority to the Mayor Pro Tem and ask for her resignation, a legally questionable course of action, which she believes led to Berwyn Heights being dropped from the bond.

John Wolfrum, 15-year resident of Quebec Street, commented that he voted for this Council in the expectation they would continue to lead Berwyn Heights in the cooperative manner previous Councils have. He expects them to work their disagreement out internally and not ask for someone to resign.

Judy Kampia, 58<sup>th</sup> Avenue, said she and her husband voted only for Lynn White in the last election to increase her chances of becoming Mayor. They would feel disenfranchised if she were ousted from the Council and would not vote for any Councilmember who asked for her resignation in the future.

Dick Ahrens, Seminole Place, said in his experience as a former Councilmember, the Mayor made sure he had enough support for any action or legislation he wanted the Council to approve. The Mayor is mandated by the Charter to act on behalf of the Council as a whole and does not have veto power. If Mayor White disagrees with the position of the Council she should step aside and let the Mayor Pro Tem sign documents that are critical to the welfare of the Town.

Ed Barrett, Quebec Place, a 40-year resident, former recreation director, and coach, said Berwyn Heights residents are family. Councilmembers are part of the family. They should consult with the Town attorney about what they can and cannot do and then talk to each other to work things out.

Town Attorney Ferguson made recommendations on how to overcome the current impasse. She said that the Town Charter provides for a system of government in which the Mayor is an equal member of the Council and does not have veto power. If the majority of the Council approves a law or ordinance, the Mayor is obliged to sign it, even if she disagrees with it. To be able to work together in the future, the Council needs to get a commitment from the Mayor that she will sign documents the majority of the Council approves or turn her signing authority over to the Mayor Pro Tem. Alternatively, the majority of the Council could vote to empower the Mayor Pro Tem to sign a document the Mayor does not want to sign or change the Charter to institutionalize the practice. Whatever path is taken, Councilmembers need to have a frank conversation to get an understanding what the Mayor will and will not do, so that they can work with that. Otherwise this Council is likely to spin in a circle and won't get much done.

CM Papanikolas asked if the Council and Mayor White are willing to have a conversation about signing authority. Mayor White said she already indicated that she would participate in a private mediation session. In response to Attorney Ferguson, she said the Town Attorney might have issued a written opinion during the bond discussion, which could have avoided the situation the Council now finds itself in. Attorney Ferguson said that she was on vacation in Italy when she first heard about the refusal to sign the bond documents. Mayor White said she had sent out an email a week prior to the signing deadline, copying all affected parties requesting information about the scope and cost of the project. Attorney Ferguson replied she saw nothing unusual in Mayor White's request for information. Any Councilmember

can ask for such information. However, she did not know that Mayor White would not sign the bond documents, nor was she asked to issue an opinion about the matter. There ensued some discussion among the audience.

Lorraine Ryan, Quebec Place, said she has lived in Berwyn Heights for 40 years and raised four daughters here. She knows Mayor White well and thinks she is a quality person who can be trusted. Mayor White holds a law degree and understands legal issues. On National Night Out she was greeting people who seemed happy to talk with her. Nobody wants to see Mayor White ousted. The Council just needs to work this out and move on.

Meg Miller Shane, 57<sup>th</sup> Avenue, said she requested the bond discussion to be on the agenda because she thought it was important for residents to understand what had occurred. She said the Mayor and Council represent the Town and the fractiousness reflects negatively on the Town. If the Mayor cannot represent the Council as a whole she may want to consider stepping down. If she feels uncomfortable signing documents she might turn over signing rights to the Mayor Pro Tem. The Charter provides the option for residents to initiate a recall of a Councilmember who fails to perform his or her duty. She would prefer the Council to work out their differences and work together well.

Paul McNulty, Swarthmore Drive, said he ran for Council in 2004 when that Council had fallen on hard times and made the local news on a weekly basis. He ended up as the Mayor Pro Tem under Cheye Calvo and was honored to serve in that position. Mayor Calvo understood that he served as the representative of the Council and the Town, even in the rare instance when he opposed a decision the Council had made. As suggested, this Council might meet in private and determine how to proceed when the Mayor disagrees with the Council as a whole. He urged Councilmembers to listen to what has been said tonight and find a way forward without precipitating more turnover.

Mike Attick, 62<sup>nd</sup> Avenue, said after the State informed the Town it was excluded from this bond issue the Council should have made a new start and not let the matter drag on. He would not have signed the documents either without the requested information about the street project, which he believes could have been provided by the staff. He hopes this Council can get back to functioning as a Council.

Joy Newhart, 57<sup>th</sup> Avenue, recommended that the Council seek professional help to mediate the current conflict and to do so quickly. As a professional mediator herself, she agrees with MML's suggestion to use the Key Bridge Foundation. Having viewed Council meetings on TV, she saw Councilmembers talking over and around each other and make assumptions about what other people were thinking. Mediation can help Councilmembers listen to and communicate with one another in an effective way. Resolving the impasse in a non-competitive way would be preferable to ousting the Mayor or holding a recall election.

Helen Weinrich, Cunningham Drive, said she understands Mayor White's refusal not to sign the bond documents without the information requested and would have done the same in her situation. She wonders why the other Councilmembers did not join her in asking for the information. If the Council can't work together, other Councilmembers might be asked to step aside, not just the Mayor.

Steve Blizzard, Pontiac Street, said the new Council made mistakes and the bond issue is now in the past. The most important thing is that the Council work together to take care of the Town's business from here on out. If not, residents need to make a change.

Mayor White thanked residents for being here and expressing their opinions. She will do her part in getting past this problem and take care of Town business. She noted, as Mayor, she has already signed documents she did not agree with. However, she will not certify to facts not presented to her or give away her ability to decide what documents to put her name on.

There ensued more discussion among the audience: Mayor White was asked why she didn't recuse herself and give signing authority to the Mayor Pro Tem; whether she plans to continue to exercise a veto power by preserving a right not sign documents the majority of the Council approved; and whether the Council will seek to come up with a process for signing documents during mediation.

Appointed CM Dewey stated her position that this is a Council of 5 members, none of whom individually should be able to decide an issue. She hopes in the future this Council will make decisions based on majority rule.

At 8:30 p.m., the Council took a 15-minute break.

***Council Rules discussion:*** Tabled to a future worksession.

***Road project cost monitoring:*** Mayor White said she received and forwarded an email from resident Phil Ventura expressing concern about the necessity of curb and sidewalk work. This led her to wonder whether the Council should rethink the project's priorities to focus on road resurfacing as opposed to curb and gutter work, especially in light of the loss of the bond funds for Phase II street work. She would like to hear the Council's thoughts on how to best spend the smaller pot of money, and from staff get new cost estimates that include a breakdown of concrete versus asphalt work.

Town Manager Maria Broadbent replied she has visited the project sites with Public Works Director Hall. Some curbs and sidewalks were redone to comply with the latest ADA requirements, and others to replace sunken curbs that are no longer aligned with sidewalks and have created tripping hazards. Town staff is in the process of reviewing the project plans and dialing back the scope of work until the Council decides how to fund Phase II and gets more definitive information about the impending WSSC project. Interim TA McLaughlin explained the contractor's billing process and offered to provide Council with more detailed information about expenses incurred for the completed parts of the project in the monthly reports.

In discussion, residents raised the issues of the contractor not closing streets and posting signs where work is being done and driving construction equipment too fast with school back in session.

### **3. Action Items**

***Damage to personal vehicle:*** CM Papanikolas explained that this item was tabled at the last worksession due to the lack of a quorum. Code supervisor Glass has requested the Town reimburse him for damage to his personal vehicle that occurred while he attended a Town meeting. He believes his vehicle was targeted. Chief Antolik investigated and found that Supervisor Glass' vehicle was the only one damaged in the full parking lot. Supervisor Glass has submitted 2 repair estimates. The Town's insurance will not cover repairs to personal vehicles. The Council is requested to decide whether to pay for the repairs.

In discussion, residents said Supervisor Glass' vehicle was one of many vehicles in Town damaged that night and may have been hit by coincidence. If the Town pays for this damage, other Town employees might ask for reimbursement if their vehicles were damaged on Town property. In a similar incident years ago, the Council decided not to reimburse a then Code Director for damage to her personal vehicle that occurred in the Town parking lot.

Mayor White said she would not want to set this precedent. MPT Isler concurred, saying he believes it may invite other types of claims in the future. CM Papanikolas said there seems to be a sense of the Council that the Town should not pay for personal vehicle repairs. He asked whether the Council needed to vote on the matter at the Town meeting. TA McLaughlin said he thinks the sense of the Council is sufficient. He will inform Supervisor Glass of the decision.

MPT Isler suggested, in order to comply with Council Rules, there should be a motion to table the matter to a future worksession and so moved. CM Papanikolas seconded. The motion passed 4 – 0 – 1 with CM Dewey abstaining.

**Legislative dinner date:** Clerk Harper asked the Council to set a date for the annual legislative dinner with its State delegates, County Council and School Board representatives. November 28 was set as the preferred date, November 29 and 27 as alternative dates.

**Chesapeake Small watershed grant - letter of support:** TM Broadbent said that Andrew Fellows, UMD Community & Outreach Coordinator, has asked the Town to support a Chesapeake Bay Small Watershed Grant application. The purpose of the grant is to have the Low Impact Development Center, a non-profit national research organization focused on implementing sustainable storm water management solutions, provide planning and technical assistance for a collaborative watershed restoration program between UMD and surrounding communities. Berwyn Heights would benefit from this coordinated effort to restore the Anacostia watershed by receiving assistance for protecting Indian Creek. No monetary contribution is required, only up to 40 hours in staff time. TM Broadbent has a letter ready for signature.

CM Dewey said that Mr. Fellows heads the UMD campus community connection, a program Berwyn Heights joined last year with a \$6,000 contribution. Interim TA McLaughlin said, although the grant application was due yesterday, a letter of support will still be useful. A sense of the Council on whether it approves the letter being sent would suffice. An official vote could be taken at the next Town meeting.

In discussion, the purpose of the grant, how the grant money would be spent, and how the campus community connection works was further clarified. The Councilmembers expressed their support for the grant but asked for a meeting with Mr. Fellows to get a better understanding of the program he heads. In a straw poll, the Council voted 4 to 0 to approve the letter of support.

## **5. Minutes**

On a motion by CM Papanikolas and second by CM Sweep, the August 6 worksession minutes were approved 4 to 0. CM Papanikolas moved and MPT Isler seconded to approve the notes of the August 18 executive session. The motion passed 3-0-1, with Mayor White abstaining. The August 8 Town meeting minutes were distributed.

## **6. Department Reports**

**Canopy update:** CM Papanikolas said he has made personal inquiries with the Department of Permitting, Inspections & Enforcement (DPIE) on whether canopies are considered temporary or permanent structures and require a permit. He has received conflicting responses. DPIE's Deputy Director said a permit is needed, while the Senior Engineer in DPIE's Building Plan Review Division said no permit is required because canopies are not permanent structures. M-NCPPC's Permit Review Section said, as temporary structures, canopies do not require a permit if they are located in the rear yard. If located in the front or side yard, canopies must meet zoning regulations on setbacks, lot coverage and attachment to homes. However, M-NCPPC does not issue permits and refers customers to DPIE to get them.

CM Papanikolas said he understands the frustration of residents who are sent from one office to another and receive different answers about permits for canopies. He therefore proposes the Council adopt a rule or resolution to adopt a Town policy on canopies until it receives clear instructions from the County.

**Departmental assignments:** Mayor White announced that she has assigned CM Dewey to head the Public Health & Safety Department, while she will become the PRECA liaison. Having spoken with Ms. Dewey and Chief Antolik on separate occasions, she found they both share a very similar vision of and commitment to public safety. She feels a calling to interact with Town volunteers and plans to take up the unfinished Town organizations policy.

The Council thanked Interim TA McLaughlin for managing the Town until a new Town Manager was hired and helping the new Council get oriented. Interim TA McLaughlin said he was happy to help and commended the Councilmembers for stepping up to serve.

### **7. Citizen Comments**

Joan Hayden, Seminole Street, suggested the Town should update residents who were cited for canopy violations on the status of issue and possible next steps. CM Papanikolas replied he has informed those residents he has been in correspondence with. When the Town has received clarification from the County, or the Council has issued guidelines on canopies, the Town will publish that in the Bulletin or the weekly electronic newsletter.

### **8. Town Council Schedule**

The September Town meeting was moved to Thursday, September 13. The October Town meeting may have to be moved due to conflict with the MML fall conference.

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

Signed: *Kerstin Harper*

Kerstin Harper, Town Clerk