



# Town of Berwyn Heights

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## Minutes Worksession August 5, 2013

The meeting was called to order at 7:00 p.m. Present were Mayor Calvo, Mayor Pro Tem (MPT) Wilkinson, Councilmembers (CM) Almoguera, Dennison and Kulpa-Eddy. Also present were Town Administrator (TA) Murphy, Clerk Harper, and Brian Davila of CP Johnson & Associates.

### 1. Mayor

**Announcements:** There were none.

**Calendar:** No corrections were made.

**Minutes:** On a motion by CM Dennison and second by MPT Wilkinson, the July 15 worksession minutes were approved 5 to 0. The July 10 Town meeting minutes were distributed.

**Department reports:** Mayor Calvo reported that he recently had a conversation with Adam Ortiz, the former Mayor of Edmonston, who heads the Prince George's County Department of Environmental Resources (DER). Ortiz will attend the next Four Cities Coalition meeting to discuss the County's animal control program. Ortiz acknowledged problems at the County shelter in the past but said that the data shows significant recent improvements. He expressed interest in a partnership with municipalities in northern Prince George's County to open a joint shelter because the new County shelter was built in a location not convenient for residents most likely to adopt a shelter animal.

Mayor Calvo also spoke with Mr. Ortiz about Berwyn Heights' plans to offset the increase in storm water runoff from newly constructed sidewalks with a storm water mitigation project for the industrial area on Ballew Avenue. Mr. Ortiz was supportive of the idea of making the streets more pedestrian friendly while offsetting runoff elsewhere in Town and promised to help moving the project forward.

Mayor Calvo said that Delegate Gaines spoke with the chief district engineer from the State Highway Administration (SHA) about repairing a section of Pontiac Street at Kenilworth Avenue that is SHA property. Mayor Calvo followed up with SHA District Engineer Brian Young. Mayor Calvo said he is trying to meet with Principal Singer and PGCPs facilities staff about an arrangement for the grounds around the tennis and basketball courts as well as about leaving the mowing of BHES fields to the Town. Lastly, Mayor Calvo noted the recent passing of Rich Myers and Peggy Smith, both of whom

volunteered actively for the community and will be missed. MPT Wilkinson added that he became friendly with the Myers family when he and his wife first moved into Berwyn Heights and rented a house from them.

CM Kulpa-Eddy reported that she received an invitation from Greenbelt Councilmember Konrad Herling to put together a promotional video to support the relocation of the FBI headquarters to Greenbelt Metro Station. She asked if the Town has someone on staff who could help with that. Mayor Calvo said that there is no one who could do that. However, he has an interest in participating in this effort. CM Kulpa-Eddy offered to include him in the conversation.

CM Almoguera reported that the installation of the new playground equipment has been pushed back to August 12 because of rain delays. The installation will likely take between 5 -10 days. The ribbon cutting ceremony remains scheduled for September 7 and is open to the entire community. Invitations have gone out to the Boys & Girls Club, PTA and other organizations. CM Dennison announced upcoming events.

***Citizen comments:*** There were none.

***Pop's Park sidewalk options:*** Mayor Calvo welcomed Brian Davila, Public Sector Division Manager for CP Johnson Associates. TA Murphy explained that he has met with Mr. Davila to discuss different options for sidewalks along the east side of Cunningham Drive at Pop's Park. The initial plan to build a 5' sidewalk with a 6' green way between the curb and the sidewalk was dropped because of grading issues and the adverse impact on tree roots systems. Other options have since been identified, including building the sidewalk:

- adjacent to the existing curb without any green way;
- with a 3' green way between curb and sidewalk from the corner of Quebec Street to the future entrance in the middle of park and then with a wider 6' green way to Quebec Place;
- with a 3' green way the length of the park; and
- with curbs bumped out 4' into the existing roadway, a 3' green way half of the length of the park, and a 10' green way for the remaining half of the park.

Mr. Davila said that the last option would be least intrusive on the roots of the existing maple trees and leave room in the 10'-foot green way to build a storm water management demonstration project. This option would reduce the width of Cunningham Drive along the park from 30' to 26'.

In response to Councilmembers' questions, Mr. Davila said that mandatory 5' sidewalks can be pinched where certain obstacles are present, such as utility poles or large 'specimen' trees, but not usually for trees of this size. The cost of option 4 is approximately \$60,000, which breaks down into \$20,000 for construction of sidewalks and bumping out of the curb, and \$40,000 for the storm water demonstration project. The sidewalk construction cost is based on the use of regular concrete. The cost is lessened because the sidewalks would be built on the existing sub-base of Cunningham Drive. However, this also makes adding under drains impractical. Moving the curbs into the street should not impact the existing water mains, but WSSC will have to review the plans.

Mr. Davila further explained that this storm water mitigation project is sized to offset approximately 10,000 of the 20,000 square feet of impervious surface area new sidewalks would add to the Town. Therefore, this project would not in itself be sufficient to satisfy the new storm water management

regulations. If the Town were to construct sidewalks in 5,000 square foot increments, the offset requirement would not apply. Mayor Calvo replied this would mean building sidewalks one block at a time, which he does not consider to be a viable option. The Council proposed a few other locations that could accommodate storm water management structures to reach the required offset, including the swale that runs on the back side of Pop's Park, the right-of-way of the 8700 block of 60<sup>th</sup> Avenue, and the corner of 60<sup>th</sup> Avenue and Seminole Street.

***Storm water mitigation project – Ballew Avenue:*** Mr. Davila informed Town Council that he has tried to schedule a meeting with County officials who have the authority to approve storm water management projects. As these agencies were in the process of being restructured, it took time to identify the right persons. Ray Guzman, with whom the Town had started to talk about its storm water mitigation plans, was transferred to a new Department of Permitting, Inspections and Enforcement (DPIE) on July 1, but he is still in charge of approving storm water management projects. Steve Snyder, District 3 engineer at the Department of Public Works and Transportation (DPWT), also reviews the plans. Mr. Snyder expressed support for a storm water mitigation project on Ballew Avenue and thought that Mr. Guzman would approve it. Mayor Calvo added that he spoke with Adam Ortiz, the new Director of the Department of Environmental Resources (DER), who thought that his Department has jurisdiction evaluating the environmental impacts of these types of projects. He was supportive of the proposed project, too.

Mr. Davila explained that he has come up with a couple of preliminary designs for storm water mitigation projects on Ballew Avenue. Two of them focus on filtering the runoff from the Public Works yard before it flows into Indian Creek. As space is at a premium inside the yard, the structures would be built just outside the gate.

- Option 1 calls for installation of a manufactured vault containing filtration media and plants that would capture the first flush of rainwater from the yard and clean it before it enters the ditch that runs along the front of the industrial properties. This type of structure is frequently used in urban settings because it does not take up much room. The proposed vault measures 12' x 6' and costs approximately \$40,000.
- Option 2 calls for installation of aqua filters in the existing ditch on both sides of the yard entrance and would clean the water that collects in the ditch. The filtration is provided by layers of rocks, gravel and mulch in the ditch and would cost around \$60,000.

Neither option provides 100% of the required 20,000 square feet offset, as the Public Works yard only has a surface area of 18,500 square feet. Another, smaller storm water mitigation project may be required somewhere else in the Town as a supplement. Councilmembers proposed storm water mitigation structures at Pop's Park, Sir Walter Raleigh's parking lot, the roof of Public Works yard's neighboring property and the Lake Artemesia access road as possible add-on projects.

Mr. Davila said that a storm water structure filtering the runoff from all the industrial properties at the corner of Ballew Avenue and Berwyn Road could probably meet the County's offset requirements. Mayor Calvo replied that the engineers should have started with a design for that project if it meets the requirements. He expressed disappointment that the engineers wasted time and money on project designs that are inadequate. Mr. Davila replied that he assumed the Town wanted to mitigate runoff from Town property and therefore did not include private properties in their plans. Furthermore, the County might well be open to negotiating the amount of the required offset if it is especially

meaningful. A project at the Public Works yard is meaningful because it is a 'hot spot' where runoff carries more pollutants than on Town streets. The preliminary designs he produced are intended to get a conversation with the County started. Once a meeting has occurred, his engineers will be better able to design a project that meets the County requirements.

TA Murphy advised that the Council needs to decide tonight where the fence for Pop's Park should be placed so the playground can be used again once the equipment has been installed. Mayor Calvo said that the fence should probably be located consistent with option 4, which places sidewalks as far away from the trees and equipment as possible. MPT Wilkinson said he prefers a location consistent with option 2, which has 5' sidewalks with a 3' green way. This would be the least expensive option and would leave money to build more sidewalks. Mayor Calvo said this option would have a greater impact on the trees than option 4. The additional \$20,000 option 4 would cost is marginal in the context of the entire project. Mayor Calvo asked for a motion to place the fence consistent for option 4. CM Dennison so moved and CM Almoguera seconded. The motion passed 5 to 0.

At 8:48 p.m., the Council took a 10 minute break.

***Emergency generators engineering proposal:*** TA Murphy said that he has solicited a second proposal to design and engineer emergency generators at the Town Center and Town Administration Building. Timothy Smidt, electrical engineer for Telegent Engineering Inc. has been to Berwyn Heights for a site visit and discussion of the project. Telegent has submitted a proposal of \$5,000 to prepare bid plans and specifications, and an additional \$3,000 for detailed site plans Prince George's County may require as part of the permit process. The first engineering proposal the Town received was \$16,000.

Mr. Smidt said that Telegent is a full service plumbing and electrical engineering company with experience in installing backup generators. He has looked at the site and evaluated locations for the proposed natural gas-powered generators with the objective to minimize costs to the Town. The Town administration building will likely require a 40 KW generator and the Town Center an 80 KW generator. The Town Center elevator generates the largest electric load when it starts up and will determine the size of generator needed. One option is to install a transfer switch to allow for separate operation of either the 1<sup>st</sup> or the 2<sup>nd</sup> floor of the Town Center. This would reduce the size of the generator needed but may add costs for installing a transfer switch and new electric lines.

Mayor Calvo commented that the elevator is not the primary concern during a power outage and should probably be optional add-on. He wondered if it is a problem, legally, not to run the elevator during an outage. Mr. Smidt did not think it was a problem since the proposed stand-by generators would not power any lifesaving equipment. Fortunately, the Town Center already has emergency lighting that is powered by a backup battery and does not have to be factored into the generator's size. MPT Wilkinson asked if there is an internal staircase that can be used instead of the elevator. TA Murphy said there is.

CM Kulpa-Eddy asked if Mr. Smidt has thought about attenuating the noise the generators would make. Mr. Smidt said that he can come up with options for an enclosure to muffle the noise. Enclosures are recommended because the generators require a regular exercise program to ensure reliable operation. He would suggest placing both generators in the back of the buildings so as to minimize impact on people that use the buildings. Mr. Smidt further stated that his company would be able to begin next week to produce layout options for the Council to consider and complete a site plan and bid specs in 3 to 5 weeks.

Mayor Calvo asked for a motion to accept the proposal. CM Kulpa-Eddy so moved. CM Dennison seconded. The motion passed 5 to 0.

**Solar panels:** TA Murphy said that he was requested to look into the feasibility of using solar panels for emergency power. He met with a representative from Dow Solar and another contractor to discuss setup and get an analysis of how much electricity could be generated and how much money saved. He learned that the solar panels are either directly tied into the electric grid or linked to a storage battery. If they are linked to the grid, then they would also be shut down during a power outage because they are designed not to send electricity into a grid that is under repair. If the solar energy is going to a battery, it is unlikely to save the Town money because the batteries are very expensive and need to be replaced every 5 years. The State of Maryland does have a loan program to help purchase solar panels. At this time, he is waiting for an analysis of how much money solar panels may or may not save the Town before he will look into financing.

Mayor Calvo said that he remains interested in solar power, but thinks it is outside the scope of this project. CM Kulpa-Eddy suggested asking Telegent engineers what type of electric circuitry may be needed to interface with solar panels. It may be possible to cut the feed into the grid during a power outage and utilize the energy just for the Town buildings. MPT Wilkinson said that his son recently attended a science camp and did a project on solar energy. They learned that current solar technology is not cost efficient. Mayor Calvo said that University Park undertook the installation of solar panels and was able to earn money by selling energy credits to power companies that need them to meet the 5% minimum in renewable energy generation required by the State of Maryland.

**County building code violation:** Mayor Calvo explained that Mr. and Mrs. Lieuwen, the owners of the property at 8504 60<sup>th</sup> Avenue, have asked the Town Council to support their appeal of a building code violation before the County's Board of Administrative Appeals on August 21. The Lieuwens could not be here tonight but would be able attend the next worksession if needed. The violation for which they were cited in April this year relates to a 2-story shed that was erected without the proper County and Town permits by a previous owner of the property. To correct the violation, they are required to have the shed's foundation, framing, insulation and electric system inspected to obtain permits, or tear the structure down. The violation was triggered by a complaint of someone who thought that someone was living in the shed.

Mayor Calvo said that the Lieuwens assert and the Town and County confirmed that no one is living in the shed. The Lieuwens have no plans to upgrade or use the shed but want to leave it as it is. They do not want to be held to account for a violation that predates their ownership. Mayor Calvo asked the Council to support their appeal. CM Kulpa-Eddy asked why they couldn't bring the shed into compliance. Mayor Calvo said that it violates setback and height restrictions that are virtually impossible to remedy. MPT Wilkinson expressed concern about an electric service wire that goes to the shed, which may pose a fire hazard. Mayor Calvo said that this could be checked out by an electrical contractor independently. However, he would not want to include this in a letter to the County supporting the appeal.

CM Dennison moved and MPT Wilkinson seconded to support the appeal with the provision to have the owner have the wire checked out for safety purposes only. The motion passed 5 to 0. TA Murphy was asked to write a letter.

**Ordinance 118 – Roads & Public Rights of Way:** TA Murphy explained the most recent changes to the Ordinance. He said that some sections were rearranged to make the Ordinance flow better. *Section 3 - Definitions* was expanded to avoid repetitions throughout the document. *Section 18 – Right to Appeal* was added and needs the Council's input on whether the areas of appeal should include administrative provisions. The Council's direction is also needed on whether to require a permit application fee as opposed to a permit fee, a cash deposit for street openings, and bonding to guarantee the quality of workmanship. Further, the Council needs to set a number of fees and fines.

Mayor Calvo said he thinks the Ordinance is now in good enough shape to distill policy issues and to be introduced at the next Town meeting. Adoption may not occur until later in the fall. He would ask TA Murphy to produce a draft that shows the original Ordinance through strike-throughs and new language through underlining. In the current version, very few things appear to have been changed if one goes by the underlining, redlining and strike-throughs. He wants a reader to be able to understand what has been added and deleted. The Council agreed.

**Ordinance 120 – Rental Housing:** Mayor Calvo said a former Councilmember raised the issue at the last candidates' forum that the Town was violating County zoning rules when issuing multiple rental licenses for a single family home. While he was aware of the practice, he had no clear concept how to deal with it. Recently, he was shown a rental home where a tenant had a complaint about mold in a basement apartment. This rental was issued one license for a regular 3-room apartment on the top level and for a couple of basement rooms. The basement rooms had a shared utility room, which functioned as a kind of kitchen, and were normally only accessible through the basement door. The door that led to the upstairs had a deadbolt on it that could not be opened from the basement side. This qualifies the dwelling as a multifamily home.

Since then Mayor Calvo has learned that, of the 212 rental licenses the Town issued, 48 licenses belong to 22 homes. One of them is legally a multifamily home because it is located in the commercial district. The other 21 rental homes are functionally in violation of the R-55 single family home zoning rule. He wants to understand better how it comes about that multiple licenses are sometimes issued to a single family rental home, which would seem to be on its face an R-55 zoning violation, and how it is enforced. Mayor Calvo does not like to see tenants being stuffed into rental homes in sub-standard conditions so the landlord can collect more rent. He considers the single-family home character of Berwyn Heights to be a value that should be preserved. Therefore, it may be useful for the Council to review the Rental Housing Ordinance with respect to multifamily issues.

CM Kulpa-Eddy agreed. She would like to examine how the Code Department applies the Ordinance. She noted that the check list for rental inspections does not appear to be comprehensive. MPT Wilkinson thought the check list should be routinely given to landlords so they can make sure that their homes are in compliance prior to an inspection.

**Indian Creek playground rental:** TA Murphy explained that he was contacted by a College Park resident, who wanted to rent the Indian Creek Playground for a children's birthday party, including use of the grill. He told her that she could use the park but that he could not guarantee exclusivity. He also asked if she was referred to the Town by Park & Planning about renting the park, as others have been. It appears that Park & Planning thinks the Town has jurisdiction over the park. As the Town has no protocol for renting playground, the Council may want to take the matter up.

Mayor Calvo said that Park & Planning, as matter of policy, only rents parks that have bathrooms. Other parks can be used on a first come, first serve basis. If TA Murphy was told by Park & Planning that the Town has the authority to rent their park, they are wrong and are violating their own rules. However, anyone may use the park and have a birthday party if they so choose.

**Variance appeal – 5801 Bucknell Terrace:** TA Murphy explained that the owners of the property, Jacobus and Margarita Schols, applied for a variance to replace an existing 6' privacy fence that separates their property from that of their neighbors. While not part of the variance request, they also want to replace the wooden deck in the rear of the house because it is worn and splintered. As part of the review, the County took note of a number of other zoning violations relating to lot coverage, as well as side and rear yard setbacks.

TA Murphy said that the owners have lived in their well-maintained home for twenty years and simply wish to replace the fence and deck without changing the footprint, size or style. He recommended the Council approve their request and all existing variances. CM Dennison so moved. MPT Wilkinson seconded. The motion passed 5 to 0.

**Bulletin cover:** The following items were approved for the September Bulletin cover: theme – Labor Day; announcements – Pop's Park re-opening, Ice Cream Social; jump – Lake Artemesia concert. It was noted that the 63<sup>rd</sup> Avenue school zone designation will not take place until the October Town meeting.

**Council chamber visitor chairs:** Clerk Harper said that the Council originally intended to get new guest chairs as part of the Council chamber upgrade. She asked if this is still the case and, if so, what types of chairs they would like. Mayor Calvo said that he would recommend nicer, more comfortable chairs than are in use now. Possibly they should have casters so that they can be pulled up easily to the table for larger meetings. For most Council meetings, only a few chairs set up in one row are needed. A set of stacked or nested chairs could be held in reserve. CM Kulpa-Eddy thought that some chairs should have arms for people who have trouble getting up. Others should come without arms for those who find them restricting. Clerk Harper was asked to put together a proposal with chair options that fit the above criteria.

The meeting was adjourned at 10:15 p.m.

Signed: *Kerstin Harper*, Town Clerk