



Town of Berwyn Heights

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Minutes Worksession December 4, 2017

The meeting was called to order at 7:00 p.m. Present were Mayor Cheryl Jewitt, Mayor Pro-Tem (MPT) Jodie Kulpa-Eddy, Councilmembers (CMs) Patricia Dennison, Christopher Rasmussen, and Gerald Shields. Also present were Town Administrator (TA) Jessica Cowles, Clerk Kerstin Harper, Code Supervisor Freddie Glass, Public Works Foreman Luis Cardenas, Public Works Administrative Assistant Aneyka Benjamin, and residents Nathan Kight, Jy-Tai Chang, Cindy Hernandez and Phil Ventura.

1. Action Items

Code appeal – 8512 58th Avenue: CM Rasmussen gave an explanation of the code appeals process. First, the Code supervisor will give the background on code violations and fines imposed, after which the appellant will have an opportunity to state his case. The Council will then sit in a judicial capacity and render a decision whether to uphold, reduce or waive the fines.

Code Supervisor Glass said Nathan Kight, the property owner of 8512 58th Avenue, has incurred accumulated fines of \$800 for a violation of a Clean Lot Ordinance provision that prohibits parking a vehicle on an unpaved surface. The initial violation CE18-169 was issued on October 3, 2017, followed by a fine of \$100 on October 9, and subsequent fines for non-compliance throughout the month of October. Mr. Kight was notified of the violations and fines by certified and regular mail, as well as by posting a letter on the front door of the house. Mr. Kight's property has been fined for a number of other clean lot and building permit violations in connection with a construction project he has undertaken. His unpaid fines total \$3,000 for 2017, and have been filed with Prince George's County as liens to be collected in the same manner as unpaid taxes. The Code Department recommends reducing the fines and giving Mr. Kight another 90 days to comply.

Mr. Kight said he co-owns the property with his sister, whom he is representing tonight. He said he has been engaged in renovating his property for a couple of years, and is now focused largely on a back-yard pool. Meanwhile vehicles and construction materials have been stored in the front. The property comprises 1.2 acres and its maintenance and improvement are a big job. He feels his treatment by the Code Department has been unprofessional and that Code staff should not enter his property to check on his back yard.

CM Rasmussen said he has sympathy for Mr. Kight, who has taken on such a big project to beautify his property. However, it is the property owner's responsibility to know the regulations he must follow to carry out the project, and to maintain his property in accordance with Town code. It is the Code Department's job to remind him what the regulations are when he violates them, but he would like to find

a better way to bring Mr. Kight's property into compliance going forward. Mr. Kight agreed, saying he will try to maintain his property in such a manner that it is not an eyesore while working to improve it.

After deliberating on whether to uphold or reduce the \$800 fine, CM Rasmussen moved to reduce the fine to \$400, provided that the violation is corrected and the fine paid within 48 hours. MPT Kulpa-Eddy seconded. The motion passed 4 to 1, with Mayor Jewitt opposed.

Code appeal – 6003 Berwyn Road: Supervisor Glass explained that Jy-Tai Chang, the owner of the rental property at 6003 Berwyn Road, was fined \$200 on November 15, 2017 for ongoing violations of the Clean Lot Ordinance, Section 4 (G). The tenants are employed in the construction trade, and frequently stored building materials and equipment in the front, side and rear yard, which is prohibited. The first violation notice was sent on May 31, 2017, followed by periodic reminders to come into compliance. Mr. Chang twice visited the Code office to discuss the violations and request extensions. He stated that the tenants were a problem and that he intended to evict them. He shared the eviction papers with the Code office. However, the property remained non-compliant. A \$200 lien was filed with Prince George's County on October 31, and a fine notice mailed to his home on October 27. The Code Department is open to reducing the fine, if the owner agrees to comply with Town ordinances.

Mr. Chang explained that he had difficulties getting his tenants to remove the construction materials they had stored on the exterior areas of the property. In August, he filed for eviction with Prince George's County and the tenants moved out in mid-October. New tenants, who also work in construction, moved in early in November. He worked to clean the property up before the new tenants moved in. Mr. Chang suggested the Town should hold the tenants responsible for remedying the code violations they commit, with the owner to be copied on the correspondence.

Mayor Jewitt informed him the rental license application Mr. Chang signed clearly states that he, the owner, is responsible for code violations and any resulting fines. CM Rasmussen added that Mr. Chang has the option of passing the fine on to the tenants by putting such a provision into the lease, or withholding the security deposit.

In response to questions, Mr. Chang said any construction materials the Code officers saw in November were placed there by his new tenants. He removed all the materials left behind by the evicted tenants. Supervisor Glass said the materials stored there after the new tenants moved in were both old and new.

Cindy Hernandez, tenant at 6003 Berwyn Road, said she and her husband insisted the property was cleaned up before they moved in because they did not want to be held responsible for any cleanup. The materials the Code Department spotted in the back yard in November were theirs. She and her husband did not know they were not allowed to store materials there and removed them as soon as they received a notice. Mr. Chang has provided them with the Town ordinances they must follow.

In deliberations, Mayor Jewitt said she would uphold the fine since the Code Department showed much patience and forbearance in its efforts to achieve compliance. Mr. Chang needs to understand that he is responsible for Code violations at his property. CM Rasmussen agreed, saying 6 months is a long period to work with a property owner to achieve compliance. CM Shields said he would waive the fine to allow the new tenants to start with a clean slate, as they had nothing to do with the earlier violations.

MPT Kulpa Eddy said it would have been better if the fine had been issued when the previous tenants lived there. She also noted the Town may want to review how it ensures that tenants are aware of property maintenance regulations. The recently revised Rental License Ordinance dropped the requirement that

tenants must sign a housing disclosure form confirming that they have received copies of the relevant ordinances. Some new way of ensuring tenants have this information needs to be found, perhaps by inclusion in a welcome packet. However, she supports upholding the fine to hold property owners accountable for providing property maintenance regulations to their tenants.

MPT Kulpa-Eddy moved, and CM Rasmussen seconded to uphold the \$200 fine. The motion passed 4 to 1, with CM Shields opposed. Mr. Chang was informed that he can appeal the decision in the District Court, for which the Town will issue a municipal infraction, or pay the fine within 48 hours. MPT Kulpa Eddy moved, and CM Rasmussen seconded that the fine must be paid within 48 hours. The motion passed 5 to 0.

Security improvements: Mayor Jewitt welcomed Public Works Foreman Luis Cardenas and Administrative Assistant Aneyka Benjamin. TA Cowles explained that the Council's strategic plan identified security improvements at Town facilities as a priority, including a new security fence and automatic gate at the Public Works yard, access control to the Town offices, and security cameras at the Public Works yard and around the Town Hall complex. A total of \$25,000 was appropriated in FY 2018 for these improvements.

Ms. Benjamin presented the security improvement proposals. To improve security at the Town Hall complex it is proposed to have 7 security cameras installed to monitor the entire perimeter of the 2 buildings, plus 2 video recorders to store the footage. One camera would be focused on the Town office front door and allow staff to view on a monitor who is coming and going.

In addition, an access control system is proposed that would allow staff to buzz-in visitors. The system is composed of a camera and a two-way communication device, as well as a remote unlock button. It would allow Administrative staff to talk and see a visitor before permitting entry. Councilmembers would have their own key fob to enter the Town offices.

At the Public Works yard, it is proposed to upgrade old security cameras and install a new 8' fence and automatic sliding gate at the front entrance. This would allow Public Works vehicles to come and go, and protect vehicles, equipment and tools stored there as well as keep unauthorized visitors from safe from hazards.

In discussion, the following concerns were raised:

- Number and location of security cameras at the Town Hall complex;
- Effectiveness and monitoring of security cameras;
- Balancing better security with welcoming atmosphere at the Town office (Bowie City Hall as example);
- Cost of a temporary security solutions, in light of planned renovations of Town Hall complex;
- Potential for discrimination with access control system;
- Adding downward directed lighting around Town Hall complex as security measure;
- New fencing and gate at front of Public Works negated by inadequate 6' fencing along sides.

CM Shields moved, and CM Rasmussen seconded to table any decision on security cameras and access control system until an architectural study for the renovation of the Town Hall complex has been completed, and on Public Works yard security improvements until a plan for improving the fencing along the side yard is available. The motion passed 5 to 0. A field trip to the new Bowie City Hall might be arranged to learn what security measures were implemented there.

Town Attorney appointment: TA Cowles explained that, with the passing of former Town Attorney Shay and the departure of his replacement, that firm no longer has an attorney specializing in municipal law. Therefore, the Town needs to find new legal counsel. She has solicited 3 bids from firms that have experience with municipal law:

1. Suellen Ferguson with Council Baradel at cost of \$150 per hour;
2. Jason DeLoach and Todd Pounds with Alexander & Cleaver at \$200 per hour;
3. Elissa Levan with Funk & Bolton at \$225 per hour.

TA Cowles added that Ms. Ferguson is the attorney for several neighboring municipalities, including College Park, and is acting as the I-Net attorney. Funk & Bolton has extensive expertise in public financing and would be able to assist the Town with bond issues. She recommended hiring Ms. Ferguson as the low bid.

MPT Kulpa-Eddy expressed concern about a possible conflict of interest in case a legal issue arises with College Park, if Ms. Ferguson is chosen as legal counsel. TA Cowles said, in that case the firm would assign another attorney to represent Berwyn Heights. MPT Kulpa-Eddy said she is leaning toward Funk & Bolton because they may be able to help the Town with bonding when the street renovation project is taken up.

CM Shields moved and CM Dennison seconded to employ Ms. Ferguson of Council Baradel as Town attorney. The motion passed 4 to 1, with MPT Kulpa-Eddy opposed.

PGC zoning rewrite letter of comment: MPT Kulpa Eddy provided a letter she drafted relating the Town's concerns with the comprehensive draft of the PGC zoning and subdivision rewrite of regulations. She highlighted the main concerns including:

- Clarification regarding noticing municipalities about minor subdivisions and variances;
- Permissions by right of performing arts center and recreation facilities in a residential (RSF-65) zone; medical cannabis grower and slaughterhouse in a light industrial (I/E) zone; and medical cannabis dispensary in commercial (CGO) zone; bike share station in an open space (ROS) zone;
- Clarification regarding beekeeping as permitted activity in a residential zone.
- Footnote regarding possible municipal permit requirement for portable storage units;
- Clarification about the height of fencing for community gardens.
- Clarification about new zoning land use categories will affect properties along Branchville Road;
- Absence of County-wide Map Amendment and test cases for the new development standards.

The Council agreed to remove comments regarding by right permissions for the CGO and ROS zones. It was noted that a date needs to be changed on page 2. After some discussion, the Council agreed to submit the letter as amended. MPT Kulpa-Eddy so moved. CM Shields seconded. The motion passed 5 to 0.

Four Cities letter – Highway widening: Mayor Jewitt explained that the City of Greenbelt requested the Four Cities to sign onto a letter to the Maryland Department of Transportation (MDOT) opposing the proposed widening of I-270, I-495, and BW Parkway to add toll lanes. Greenbelt has now provided the draft letter, Berwyn Heights had requested. She is opposed to the widening of the BW Parkway, but not the others.

MPT Kulpa-Eddy said the widening of the BW Parkway had been proposed in 2011, and a feasibility study was done. It showed that a widening would not alleviate congestion, but may lead to increased traffic on Route 193. The project was dropped. She believes nothing changed to warrant the widening now. She also believes that congestion of the Beltway should not be addressed by adding lanes. Instead, states should aim to improve public transportation options.

MPT Kulpa-Eddy moved and CM Dennison seconded to the sign the letter, which would remove I-270 from consideration. CM Rasmussen said he does not want Berwyn Heights to be seen as anti-development, and is against signing a letter opposed to all highway widening. CM Shields agreed. He believes the highway widening and expansion of public transportation options would help Berwyn Heights residents. The motion failed 2 – 2 – 1, with Mayor Jewitt and CM Rasmussen opposed, and CM Shields abstaining.

Four Cities letter – MAGLEV train: Mayor Jewitt said that the City of Greenbelt asked the Four Cities to sign a letter, which has now been provided, opposing the proposed construction of a MAGLEV train. The proposed routes would impact the Four Cities, with two alignments following the BW Parkway and passing through the City of Greenbelt. Mayor Jewitt said she is not opposed to the project, because it would not impact Berwyn Heights.

MPT Kulpa-Eddy said that Berwyn Heights might see negative impacts in the form of noise, vibration and accessory structures. Further, Prince George's communities would not benefit because the closest stop would be Union Station. CM Shields said he fears that a MAGLEV high-speed train may not fulfill its promise because the routes would not be straight enough. However, he thinks there would be benefits for Berwyn Heights residents by providing fast transportation to the BWI airport and Baltimore. CM Rasmussen said the MAGLEV project would feature exciting new technology, and would probably bring construction jobs to Prince George's County. On the other hand, he does not want to upset the Four Cities partners by refusing to sign both letters.

CM Shields moved and MPT Kulpa-Eddy seconded to sign the Four Cities letter. The motion passed 3 – 1 – 1, with Mayor Jewitt opposed and CM Shields abstaining.

2. Discussion Items

Town organizations policy update: CM Shields said he received comments from 3 representatives of Town organization on the proposed Town organizations policy, questioning the rationale for doing the policy. He proposed to pause with further discussion until he has reached out to all organizations and received their input. Mayor Jewitt agreed. She also received several comments expressing reservations about the policy. This raised questions about how the policy defines membership in an organization, the mechanism for distributing funds to the organizations, and who is charged for the use of Town facilities. CM Rasmussen said he would not want to start over, but work on refining the proposed policy. He hopes a policy can be completed before the FY 2019 budget season.

Recycling bin purchase: TA Cowles informed the Council that the price of the current recycling bins, which do not have wheels is \$20. Mayor Jewitt said she would like to discuss the recycling bins with a new Public Works director. An executive session to discuss the status of hiring the director was added at the end of this worksession.

3. Minutes

On a motion by CM Shields and second by MPT Kulpa-Eddy, the November 6 worksession minutes were approved 5 to 0. The November 8 Town meeting minutes were distributed.

4. Announcements/ Department Reports/ Citizen Comments

Mayor Jewitt reported that the Tree Lighting went very well. She thanked Santa and all those who participated in and helped organize the event. She took part in the employee appreciation lunch held on December 1 at TGI Fridays, but did not attend the PGCMA legislative Dinner. Commenting on the code appeals process, she noted that the bottom line is communication. Anyone who has a question or wants to discuss a Code violation should contact the Code Department.

MPT Kulpa-Eddy reported that the Berwyn Heights legislative dinner was attended by the Town's State delegates, County Councilmember and School Board representative. Delegate Washington offered to follow up on the WSSC differential rate structure for residential and commercial users. School Board member Grady will ask Superintendent Maxwell to come to Berwyn Heights to speak about capital improvements planned for the elementary school. County Councilmember Glaros said construction for the Purple Line and Route 1 improvements will start soon. A hearing for the FBI headquarters relocation project was held, but an announcement was postponed for another 60 days. Senator Pinsky will hold a Town Hall meeting on December 9 at Lamont Elementary School to provide legislative updates to constituents.

CM Rasmussen reported that Code revenue has decreased because Supervisor Glass has been working with residents to achieve compliance without issuing fines. He hopes Mr. Kight's discussion with the Council tonight will lead him to comply with the Town's Code regulations going forward. The Department has been dealing with a Ruatan Street property where illegal building activity is alleged to be conducted.

CM Shields said he received citizen comments urging the Town to purchase recycling bins on wheels with money taken from the general fund, suggesting the Town focus on basic services such as trash collection and litter removal, as well as several comments on the Town organizations policy.

6. Town Council Schedule

The Council reviewed the calendar. The Council expressed a preference for holding the next Four Cities meeting on January 31.

7. Executive Session (added item, 10:40 p.m. – 11:10 p.m.)

On a motion by CM Dennison and second by CM Shields, the Council went into executive session to discuss a personnel matter. With matter discussed, CM Dennison moved and CM Rasmussen seconded to close the executive session.

The meeting was adjourned at 11:10 p.m.

Signed: *Kerstin Harper*, Town Clerk