

MUNICIPALITY OF BETHEL PARK

**MINUTES
OF
REGULAR COUNCIL MEETING**

Date: September 8, 2014

Time: 7:33 P.M.

Location: Municipal Building

1. Roll Call

Present: Council Members Colella, Dixon, Gibbons, Harrison, McLean, O'Brien and Pape.

Absent: Council Members Hannan and Moury

Also Present: William J. Spagnol, Manager, Mayor Jack Allen; Judith L. Miller, Assistant Manager; Robert L. McTiernan, Solicitor; Gerard Duke, Director of Community Services, Police Chief John Mackey; Michael Smith, Municipal Planner/Assistant Director of Community Services; Joseph Villella, Finance Director; Jean Statler, Municipal/Environmental Engineer

2. Pledge of Allegiance

3. Chair Announcement

Council President Pro Tem McLean announced that an Executive Session of Council was conducted on Monday, August 25, 2014 to discuss contractual issues and a Police personnel issue.

Reports of Officials

4. Library Director's Report

Library Director Christine McIntosh was not present. Therefore, no Library Director's report was available.

5. Police Chief's Report

Chief Mackey began by announcing that the next Crime Watch meeting will be held on Monday, September 29, 2014 at 6:30 at the Bethel Park Community Center. You do not need to be a member of Crime Watch to attend.

The next DEA Drug Take Back Program will be held on Saturday, September 27, 2014 from 10:00 a.m. until 2:00 p.m. at the Bethel Park Community Center as well as the Highmark Direct Building, 1775 North Highland Road. In addition, the new drug drop box is located in the lobby of the Police Department and is available for drop-off all day for unwanted and expired medications in pill form only.

Chief Mackey then said that on Friday, October 3, 2014, All State Insurance will present a program called Reality Rides, a driving simulator event in which you can test your driving skills, at the Bethel Park High School Football Stadium. He said that All State Insurance has been a good partner to the police departments of both Bethel Park and Mt. Lebanon. He also said that a speed timing monitor, which was donated by All State Insurance, has been stationed at various locations throughout the community. This speed monitor not only indicates the rate of speed, but it can have messages displayed on its message board.

He then reminded residents that school is back in session. He asked that motorists be cautious of students on the roadways, as well as obeying school bus safety.

6. Fire Chief's Report

Chief David Gerber gave the fire report for the month of August. Chief Gerber said that with fall approaching and leaves falling, he is reminding residents that the open burning of leaves and branches is not permitted in Allegheny County.

Chief Gerber announced two upcoming fundraising events. An Oktoberfest and Monte Carlo Night will be held at the Community Center on Saturday, October 18, 2014 beginning at noon and will continue through the evening. Tickets are \$25 per person. He thanked the sponsors for this event. They are Pasta Too, Lowes, Bethel Park Printing, Virgili's Beer Distributor, Pepsi and CoGo's. In addition, the Fire Company is selling a year-long calendar based on the Pennsylvania Daily Number. The calendars can be purchased from any fireman, as well as at Evey's or Bethel Park Printing. They are \$25 each.

More information can obtain at the Fire Department's website, www.bethelparkvfc.com

7. Mayor's Report

Mayor Allen announced that Bethel Park Community Day is Saturday, September 20, 2014 at the High School Parking Lot from 10:00 a.m. to 4:00 p.m. The parade begins at 9:00 a.m. A rain date has been set for Sunday, September 21st from 12:00 p.m. to 4:00 p.m.

Mayor then introduced District Magistrate Ronald Arnoni. Judge Arnoni announced that a Darker Side of Technology, a Cyber Bullying, Sexting and Sextortion presentation, will be held on Wednesday, September 24, 2014 at 7:30 p.m. at the Bethel Park High School Auditorium. In addition, this presentation will be held in the middle schools at the neighboring school districts. He asked

that residents attend this free and important event and get the facts to help protect your kids from online predators and bullies. Judge Arnoni announced that a Senior Seminar and Drug Taskforce events will also be scheduled. Judge Arnoni thanked Municipal Council for having these presentations as part of the Bethel Park Speaker Series through Bethel Park Recreation Department. He also thanked the School District, Bethel Park staff, and BPTV.

Mayor Allen recognized three Girl Scouts from Troop 50148 and asked that they join him where he presented each of them with an award for completing their Silver Award Projects. The project consisted of six public service announcements regarding public health issues. The announcements informed the community about women's health cancers, melanoma, mental health issues, strokes, heart attacks and falling in the home. These announcements were presented on BPTV and YouTube. The Girl Scouts are Emily Clarvit, Angela Burns and Leah Dejohn. The girls will have a booth at Community Day. They will have handouts on general information on these health issues.

Council President Pro Tem McLean noted that Allegheny County Councilwoman Sue Means was present. Mrs. Means presented Mayor Allen and Municipal Council with a proclamation congratulating Bethel Park on their recent Banner Community Award from the Allegheny League of Municipalities.

8. Approval of Minutes

Regular Council Meeting Minutes of August 11, 2014.

Motion by Mr. Dixon and seconded by Mrs. Gibbons to approve the Regular Council Meeting Minutes of August 11, 2014. Motion Carried 7 – 0. Council Members Hannan and Moury absent.

9. Bills and Payrolls

Motion by Mr. Dixon and seconded by Mrs. Gibbons to approve the Bills and Payrolls for the Municipality per Bill List #090814 in the amount of \$1,095,741.52. Motion Carried 7 – 0. Council Members Hannan and Moury absent.

10. Residents' Comments (non-agenda items only)

Cameron Cook, owner of the office building located at 110 Fort Couch Road, addressed Municipal Council about the possibility of obtaining a sewer charge exemption for his water cooling tower that services the building and acts as an HVAC system. He explained that this process has quite a bit of evaporation of the water. The evaporation precludes the water from going into the sewer system. That is the reason for his request to be considered for a deduct meter. Mr. Cook said he previously contacted Mr. Romito who suggested he speak with Municipal Council to ask for an exemption similar to the water sprinkler deduct meter. He proposed that he would have a meter set in the water cooling tower that would

meter the amount of water that goes into the tower which would be separate from the water for the building. Mr. Cook provided pictures of the cooling tower.

Mr. McLean asked if staff has a process for applying for an exemption.

Ms. Miller and Mr. McLean both requested that he contact Mr. Villella regarding this issue.

Mr. Harrison asked the question, would people who have swimming pools have that same complaint? They put water in the swimming pool and they pay for the water. He said he is not sure how much evaporation there is because he does not have a swimming pool. He said he is just laying the question on the table that if we honor this request then he can envision that people who put water in swimming pools will say they use a lot of water that they shouldn't pay for either and that he thinks this is something for consideration.

The following is verbatim text.

“Good evening, my name is Bob Swiech and I was here last month and I spoke on the house that was sold at 2844 West Munroe. The house was sold to a gentleman that lives in Maryland. He bought it for an investment property and he's rented it to Invision Human Services. They deal with mentally challenged adults and treat them in these homes. They deal with aggressive behaviors, problematic sexual behaviors and other mental behaviors in addition to those. I wanted to say, last month I did say that I spoke to Tim Murphy. I did not speak to him himself, I spoke to his staff and I want to make that clear. They told me that the Federal law says that you don't have to place these homes in residential areas. I received a call after I put this out in a flier and discussed it with you guys and ladies. I got a call from them saying, Oh no, we never said that. How could we tell you something that Bethel's doing if we haven't talk to Bethel yet. Well, I knew they hadn't talked to you yet because I was up at their office before I even talked to you about it. So, I just want to make that clear. They did call, I am going to call it political gorgonzola from their office right now. I have nothing in writing from them. I want to make that clear that Mr. Hannan last week told me they were following Federal law and I wanted to make it clear that I told you I don't want to go back and forth last month and I still don't. At the time, I have nothing from them in writing but they have told me some other details with that the day that they called me and until I get something from them in writing, I'm not going to bring it up here, I'm not going to bring it up to anyone until I have it in writing and that way there's no question. I've been dealing with the Federal Government for 35 years of am 65 years of age. Of that 35, over 25 have been in a direct dialog with the Federal Government. So I will never settle for nothing when something about the law can be done, I know better. When the Federal government forces laws on the cities of the United States, and states and local governments follow suit ignoring the welfare and the objections of the citizens, that's tyranny. When the ADA went through Congress, it was voted with some negative votes in Senate, but passed unanimously in the House of Representatives by a voice vote. Was the bill actually read, or was it politically correct to vote yes? When the Federal representatives legislate laws without the concern of the

citizens they represent, then they shouldn't be representatives any longer. That's what the elections are for. When the state and local representatives fall prey to these federal laws, without question they too should not be representatives any longer. That's what elections are for. I sent a letter to each of you and I am hoping to hear from you. I'm not assigning blame to the present Council but there is nothing to stop the Bethel Council meeting with other Councils in the other towns, townships and boroughs to form a coalition in the 18th Federal District to have the law amended. If there is enough interest in a change in the law, Mr. Murphy can use his influence on his colleagues especially if their constituents are following suit. Finally, an acquaintance of mine still working with the federal government for me said that if the local government receives any Federal funding, it would in fact fall under the Freedom of Information Act. My initial request was denied by the Bethel Park Municipality. If this serves to be true, I will be contesting the Bethel Park decision. I moved to Bethel Park over 22 years ago from the city of Pittsburgh after investigating other municipalities. My wife and I chose Bethel Park. Many good things happened here and I don't want that to change. Now, Bethel Park has a chance to be part of a change to improve the entire country. Thank you."

Mr. McLean said:

"If I could ask Mr. McTiernan, our solicitor, following the remarks that we received a month ago when the resident was present, we asked Mr. McTiernan to look again at this issue of the status of Federal Law and its applicability to us and the ways in which it affects what we can do. And Mr. McTiernan, if you could provide just a brief overview of the information that you provided to us.

Mr. McTiernan said:

"I'll keep it brief, Mr. McLean. I provided a letter to Council updating a 6-page letter I wrote in 1998 on this identical subject. It just clearly indicates that the laws haven't changed, the Fair Housing Amendments that were adopted by Congress of the United States, signed by the President and been in law for 20 years. And basically, that you cannot discriminate against handicapped individual's use of residential housing. Now, that doesn't mean you need to allow a 50 person nursing home in a single family district. You can't just make a distinction based on the fact that some people have a handicap of any kind..."

Interruption from the audience.

Mr. McLean said:

"Please, order, order in the room, please."

Mr. McTiernan said:

"That is the law. There are uses like this throughout Allegheny County and throughout the country. So again, if the Municipality were to defy that law, they would be subject to a Civil Rights suit, which would force the community to bear

the risk of liability and I think that that would be, and another thing I would note is that this use is in accordance with the zoning ordinance. It allows up to three unrelated individuals to stay in the same home. So, it is in compliance with the zoning ordinance of the Municipality, and it is in line with Federal law. That is the essence of it.”

Mr. McLean said:

“Mr. McTiernan, bottom line, do we as a local Municipality have any discretion to follow or not follow the Federal law?”

Mr. McTiernan said:

“No, you are absolutely bound by these amendments, they are a congressional action just like the Civil Rights Act, just like the Voting Rights Act, the Fair Housing Amendments. They are absolutely binding, local government has no right to or ability to defy them and my advice to Council is to continue to abide by the Federal law.”

Mr. McLean said:

“Thank you. Any other questions?”

Mr. Swiech said:

“May I..”

Mr. McLean said:

“No, sir, you had your three minutes and we responded. Maybe I will also note, we have received a letter from you and it’s raised a number of questions, and we’ve referred that to Mr. McTiernan and we will be responding. Thank you.”

Mr. Dixon said:

“I would like to address Mr. Swiech. I just want to make a comment. Several years ago, we went through the exact same thing you are going through right now. I have a group home whose back yard is adjacent to my back yard. It is a direct neighbor of mine. This happened maybe 10 years or so ago. We went through varying levels of rage and anger as you have, I am sure. We had neighborhood meeting, we had community meetings. We took it to our Congressman, we took it to the State Senator. We took it to every level we could take it to. Not because we’re biased against people with handicaps, we were worried about property values. And, I can tell you, you can take it as far as you want to take it, but Federal law is going to prevail in the end. And that’s what we found out after months of pursuing it. We lost. I would encourage you to do whatever is in your heart, but I just wanted to share my experience with you.”

Sue Means, County Council, 3485 South Park Road, reminded the citizens that this Friday, September 12, 2014, is the second annual memorial golf outing to raise money for Rob Wyda's children, our magistrate that passed suddenly last year. It will be held at Lindenwood Golf Club. If you don't golf, you can still attend the dinner and help support Rob's kids.

GENERAL POLICY AND FINANCE

11. General Policy and Finance Items

No Items

The following is verbatim text.

Mr. McLean said:

"I just wanted to announce that we had noted in a couple past meetings that we are forming a Home Rule Study Commission in order to take a look at and review the Home Rule Charter that was adopted in 1978 and is applicable to the form of government we have in Bethel Park and it was the consensus of Council to form a study commission to take a look at that charter, review it, consider whether there should be any, if any, changes to the charter. So we have formed that commission. Mr. Moury said in a prior meeting that I had been named chairman and what I'd like to do at this evening's meeting is announce the members of the Home Rule Study Commission and indicate that we are going to begin that process. The other members of the study commission, in addition to myself, will be James Hannan, Lorrie Gibbons, Paul Dixon and Brandon Colella from Municipal Council, as well as the following members from the public, Carol Stewart, Connie Serdy, Joseph Consolmagno, Tom Klevan, Michael Dobos and Christine McIntosh. We are going to hold an organizational meeting to begin the formation of the commission on Tuesday, October 7th. The meetings will be public. We will be planning to meet every other month for the period of time it takes us to review the charter and provide any recommendations back to Council. We will encourage the public to participate in the process and we will welcome the input from anyone. We will have a number of designated public meetings where the public can come and offer their views on anything related to the charter. That's all I have."

Mr. Harrison said:

"I would like to comment on what Mr. McLean had to say. The Home Rule Charter has served us very well for several decades. It has provisions in the Home Rule Charter to make changes that, to be necessary, it has to go to the ballot to get changes made. We had, I think it's four changes, I think, I didn't bring my book tonight. I think four times there were questions put on the ballot that were passed, so there's ways to change the Home Rule Charter. This all came up because this governing body, due to their ineptness, ended up violating the Home Rule Charter, the specific section which was successfully used in efforts previously. It had to do with getting tax increases rescinded and that type

thing. I think the Home Rule Charter has served it very well. It doesn't need to be changed. Anybody has anything that they changed has the mechanism in the Home Rule Charter should bring them up and I think that the plan to have a committee is an effort by this Council to cover their hind ends due to their ineptness relative to the fire company ballot. So, I just wanted the public to know you ought to be aware that they're extending time and effort, money that's unnecessary and I would encourage people to consider whether they want to look into it and either agree with me or let these guys go wherever. It's hard to tell what will happen. Thank you very much."

Mr. Dixon said:

"For those of you that might not know what Mr. Harrison is talking about, we had a process whereby we placed a referendum on the ballot to raise the tax to build a new fire station and that had to go into the Home Rule Charter. So the referendum appeared on the ballot and the charter was amended favorably, after a favorable vote. It's Mr. Harrison's contention that we were irresponsible in the methodology we used to get that referendum on the ballot. Mr. Harrison is alone in his view. Every member of Council, our staff, the Mayor, our learned Counsel, the officials at Allegheny County including the Election Department, everybody who looked at this in the entire wide world, as far as I know, agreed that what we did was the right thing. Mr. Harrison disagrees with everybody. And so, that's the basis of his comments. I just wanted to clarify that for those of you who may not know what he was talking about there. Thank you."

Mr. Harrison said:

"I just want to say that I'm not claiming that there was, let me tell you what my claim is. My claim is they violated a section of the Home Rule Charter and if they deny that then they're just not telling it like it is. The way it got on the ballot is for Mr. McTiernan to write an opinion, what a call I Philadelphia lawyer type of thing, to say well, you know that's what the Home Rule Charter says, but in this case, some sort of special case, we can override that. But anybody that wants to check with me or check by themselves, I'll give them the specifics. And anybody that can read the language would find out that the Home Rule Charter had a stipulation, still has it, in fact. I've asked the Solicitor to give us an opinion as what the status is of that particular part of the Home Rule Charter today. I think that's a bother in case somebody wanted to exercise the right under that part of the Charter what would happen. But in any case, that was in fact violated by the timing of the ballot question and, you know they can argue I'm the only one that says that something is wrong with it. But it took a ruling by the solicitor to say it was ok. If it was just normally using the Home Rule Charter we wouldn't have needed a ruling by the solicitor. Thank you very much."

Mr. O'Brien said:

"Over the years, we've had discussions about looking over the Charter, about reviewing it. This issue with the fire department raised that question again. Not necessarily for that issue, but the whole Charter itself. Sometimes change is

difficult and hard to accept when you were probably the one who was on the original committee. In fact, Jim's father was the Chairman of that committee. It's healthy to take a look. It's healthy to get new ideas. It's healthy. And I applaud these people who are going to take their time, individuals volunteering their time along with Council members, to take a look at the Home Rule Charter. It's just a healthy thing to do. Thank you, Mr. Chairman."

Mr. McLean said:

"I'll just make one last comment. Other communities with Home Rule Charters have undertaken exactly this sort of study, just to take a look at it. It's been 35 years since our charter was first adopted, and it makes sense to sit down and just take a thorough look from beginning to end and see whether, in fact, there's anything that needs to be changed. What people should understand is that's the thinking behind this. And they should also understand that if any recommendations for changes are made, they have to be approved by the voters of Bethel Park. They cannot be approved solely by this body. So, the voters would have the chance to consider it and vote on whether they wanted to make the change."

PLANNING AND ZONING ITEMS

12. Planning and Zoning Items

No Items

HEALTH, SAFETY AND WELFARE ITEMS

13. Health, Safety and Welfare Items

No Items

14. Citizens' Comments – Public Works and Maintenance Items

None

PUBLIC WORKS AND MAINTENANCE ITEMS

15. Public Works and Maintenance Items

Ordinance – Floodplain Management – FEMA

Motion by Mrs. Gibbons and seconded by Mr. O'Brien to approve an ordinance amending the Municipal Code by adopting the Floodplain Management Ordinance which regulates construction, grading and land development in floodplains and flood prone areas. Motion Carried 7 - 0. Council Members Hannan and Moury absent.

16. SHACOG Purchasing Alliance – 2014 Rock Salt Bid

Motion by Mrs. Gibbons and seconded by Mr. O'Brien to award a contract to Cargill, Inc., for the supplying of rock salt for the 2014-15 winter season in the amount of \$79.29 per ton through the SHACOG Joint Purchasing Agreement. Motion Carried 7 - 0. Council Members Hannan and Moury absent.

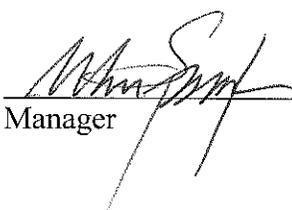
Mr. Harrison said that if the public has been reading the newspaper, there have been stories stating the cost of rock salt has increased tremendously. We've only received one bid, so we basically have no choice and we need the salt to take care of our roads. He said he thought the public ought to know that that is an aspect of our budget that has gone up tremendously and there is no way to get around it.

Mr. O'Brien announced that in honor of the Air Force, the Air Force Flags will fly at the Veterans' Memorial this month.

Mr. O'Brien asked that everyone keep Mr. Moury and the Moury family in their thoughts and prayers.

17. Adjournment

Motion and second to adjourn at 8:22 P.M.



Manager