

# ***MUNICIPALITY OF BETHEL PARK***

## **MINUTES OF REGULAR COUNCIL MEETING**

**Date:** January 10, 2011

**Time:** 7:30 P.M.

**Location:** Municipal Building

1. Roll Call

**Present:** Council Members Allen, Dixon, Gibbons, Hannan, Harrison, McLean and Moury

**Absent:** Council Members O'Brien and Pape

**Also Present:** Mayor Morton; William Spagnol, Manager; Robert McTiernan, Solicitor; Judith Miller, Assistant Manager; Robert Cygrymus, Director of Community Services; Chief John Mackey; Gerard Duke, Municipal Planner; Mark Romito, Finance Director; Mike Smith, Environmental Engineer; Jean Statler, Municipal Engineer

2. Pledge of Allegiance

3. Chair Announcement

An Executive Session of Council was conducted on January 10, 2011 to discuss litigation and a police personnel issues.

**Reports of Officials**

4. Librarian's Report

None

5. Police Chief's Report

Chief Mackey wished all a Happy New Year. He stated that the Police Pals Food Drive was very successful once again. One hundred and seventy one boxes of food were distributed to families in need. Two large bulk donations of food were made to South Hills Interfaith Ministries and Saint Winfred's Food Pantry. The Adopt a Family program helped fourteen needy families in Bethel Park. These gifts included food, gift cards and Christmas presents. One family had a furnace but had no one to install it for them and Beverly Heating graciously provided that service. He thanked everyone who was involved in the program. He thanked

Mr. Allen and Mrs. Gibbons for their help in packaging the food and getting it ready for distribution. He invited them back next year. He reminded residents to sign up for the SwiftReach Notification System. Last year we had several bad snow storms and used the system quite a lot. Only those with published telephone numbers are in the system. Those with unpublished telephone numbers can sign-up by going to the Bethel Park webpage [www.bethelpark.net](http://www.bethelpark.net). Click on the police link then the SwiftReach link where you can enter your information. Once the police department verifies it you will be included in the system. The Citizens' Police Academy is no longer accepting applications for this year's class consisting of twenty nine students but they are accepting applications for next year's classes. The police department is currently updating the emergency contact list for local businesses. It is important that this information be provided to the police department in case of an emergency after business hours. There is a form on the website for this. He has had complaints about handicapped parking. He requested that those without handicapped plates or placards not park in handicapped stalls. The fines are rather severe. Once a citation is issued it must go through the Magistrate. There is a new "Crime in America" booklet available in the police department, Community Center, library, the Bethel Park Senior Center, Beinhauer-Connel Funeral Home and Pasta too. These booklets are sponsored by local businesses.

6. Fire Chief's Report

Bethel Park Volunteer Fire Department Deputy Fire Chief Bob Brown gave the Fire Chief's Report for the month of December and the year 2010. He reminded residents and business owners to make an effort to clear snow away from fire hydrants in the vicinity of their homes or businesses. This makes fire hydrants readily available to those responding to a fire. He thanked the residents and business owners for their efforts last winter. He reminded residents to check the batteries in their smoke detector and carbon monoxide detectors and to have their log-burning fire places cleaned on a yearly basis. He thanked Municipal Council, Chief Mackey and the police department, Mr. Cygrymus and the Public Works Department, Nora Helfrich and Tri-Community South for their assistance to the fire company.

7. Mayor's Report

Mayor Morton announced the ninety-plus birthdays for January. The Mayor announced that the Municipality will be celebrating its 125<sup>th</sup> anniversary this year. Something will be done beginning this month and culminating on Community Day in September. He invited residents interested in joining the committee to contact him or Cathy Lordi in the Administration Office. The Mayor announced the Christmas Lighting Contest winners and presented those in attendance with certificates.

## 8. Approval of Minutes

Regular Council Meeting Minutes of December 13, 2010.

Motion by Mr. Allen and seconded by Mrs. Gibbons to approve the Regular Council Meeting Minutes of December 13, 2010. Motion Carried 7-0. Council Members O'Brien and Pape absent.

## 9. Bills and Payrolls

Motion by Mr. Hannan and seconded by Mrs. Gibbons to approve the Bills and Payrolls for the Municipality per Bill List #11011 in the amount of \$1,519,632.65. Motion Carried 7 - 0. Council Members O'Brien and Pape absent.

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

Richard Chongaway, 5027 Belmont Avenue, asked if the Manager ever gives a report.

Mr. Moury said not as part of our normal procedure.

Mr. Chongaway said not as part of the normal.

Mr. Moury said correct.

Mr. Chongaway asked if there is a policy and procedure in responding to a letter that was sent to the Borough Manager by a resident. He sent a letter to the Manager regarding his comments about signage and asked him for a written response. Forty days later he received a letter with a generic response, weak and of little substance. He believes that at the last meeting here in this chamber there was some discussion about his comments about signage. Basically he believes it referred to the First Amendment which gives the political want-to-bes and anyone the privilege of putting signage on public property. This sign "I Support the Relay for Life" that was posted in the front of the building that he brought to the attention of the Borough Manager but it was not removed. This was part of the freedom of speech, the First Amendment. Perhaps he can also post similar signs out there. He said he had asked for a written response to his initial inquiry of signage. He believes the Borough Solicitor had done some research. He asked for a copy of that research for a second opinion if that is at all possible. Apparently the ACLU has been very adamant in protecting individuals on private property. He has found no substance in his research that protects public property from being used for political signage or any signage. He asked the Solicitor if he could have a copy of his research.

Mr. Moury suggested that since his comments appeared in last month's meeting they will be available on the municipal website.

Mr. Chongaway said the comments are there, he is asking for the Solicitor's research on the subject.

The Solicitor said his advice is given to the Borough Council which is his client. They asked that he make a public report that was transcribed in writing. It is very clear and he feels confident of his opinion and unless he receives further direction it is not customary for him to provide his research file to the public. His opinion was made public to Council as they directed him. He thinks that Mr. Congaway's comments are not an accurate reflection of what he said at the last meeting. Maybe if you look at the minutes you will have a clearer idea.

Mr. Chongaway said that when the minutes come out and they are posted on the website he shall. He asked if someone could read the ordinance of Bethel Park for clarification so everyone in this room understands what it says.

Solicitor McTiernan said that it was read during his report to Council and he presumes that it will be seen reflected in the minutes.

Mr. Chongaway said he doesn't remember hearing the Solicitor read it during the last meeting.

Solicitor McTiernan said he thinks he quoted directly from it or summarized it.

Mr. Chongaway asked if the Solicitor read the whole thing about no signs temporary or permanent may be erected or displayed on public property or the rights-of-way including upon utility poles and trees upon such properties except for signs erected and maintained by governmental or utility agencies. That is 69.53.5. He believes there is also a 69.53.8 that refers to the triangular section at intersections. He believes there is something about the First Amendment and also Freedom of Religion. Some of the signs that he saw last summer were supporting some church events. He asked if that was part of the Solicitor's comment and approval. He believes that Mr. Moury has a basement full of signs that are ready to go.

Solicitor McTiernan said and he'll leave it up to Council as he is not sure that they want him to comment. He stated that if Mr. Chongaway would look at his comments he would understand what his opinion was. He referred to the ordinance and Bethel Park's Public Works Department's program in keeping rights-of-way clear and how that program is carried out in a way that he feels as Solicitor is consistent with the First Amendment. That is his opinion and his advice to his client. That is his legal opinion. He thinks that the municipality is dealing with it and enforcing that ordinance in a way that is effective and is even handed and does not open it to claims of discrimination against people because of their political or religious views. He has nothing else to say about it. There are a million legal opinions that they could see. That's his and that is what he has given to Council and the Public Works Department. It's up to them whether they are going to follow it. He feels very comfortable that the Public Works Department is enforcing that in a way that does not put the Municipality in a

situation of litigation where the taxpayers would pay attorney fees or damages. That is his opinion.

Mr. Moury asked Mr. Chongaway to please conclude his comments.

Mr. Chongaway said perhaps when Mr. Moury places his signs for the first time he could have a sign placing ceremony. You could invite the media and the Mayor could officiate.

## **GENERAL POLICY AND FINANCE**

### 11. General Policy and Finance Items

None

Mr. Harrison wished everybody a Happy New Year and suggested that this year may be happier than many in the recent past. He's quoted his mother from this dais on occasion. Her concern was that the country is going to Hades in a hand basket. He thinks she had good reason for expressing that type of concern. He thinks we got the attention of officials in all levels at the November election. If the chatter that we hear is based on fact and not rhetoric, then he thinks that the future may look a lot more promising for the country than it did in the past. He said he primarily wanted to talk about issues in the state but he wanted to make a point that is bothersome and that is that our Congressman Murphy voted for card check, which if it becomes a law would force employees into unions without having the opportunity to vote. He thinks that is inconsistent with the basis of our county. One other concern that he has about Congressman Murphy is that he is supporting a bailout of the financially strapped pension funds. There are always complaints that the unions caused all of this. His comment is that there has never been a union contract signed that management didn't sign. So it's a shared responsibility. He doesn't think that you should put the noose around the unions. He believes that if management and unions get themselves into a financial situation that they cannot sustain he doesn't think that they should be looking to us as citizens to use our taxpayer money to bail them out. He thinks they should have to solve their own problems. For approximately six years he's been speaking to state legislation on the so-called prevailing wage which is a piece of legislation signed by Governor Lawrence in 1962 that said if you are going to have a contract that's over \$25,000 you have to request a prevailing wage determination. Using cost of living escalation that number today would be around \$200,000. He thinks that updating that legislation is a no brainer and Representative Maher in two legislative sessions in a row introduced legislation to change that and as all legislation goes to committee it went to the Labor and Industry in the State House of Representatives and that committee refused to put it on the floor primarily because the unions objected to it. Senator Pippy and Representative Maher have been supportive of changing that. Unfortunately Representative Smith will not support it. He said he sent the information to every elected official in Pennsylvania and he got several responses from both Democrats and Republicans that said if you can get it on the floor I will vote for

it. He thinks it is optimistic that we can get something done now. He's sent an e-mail to both Senator Pippy and Representative Maher reminding them that they get the legislation ready to go and put in the hopper. We'll see what happens. He also wrote a letter to the Tribune Review that was published December 28th which addressed the items he is talking about. The Tribune Review has been very supportive of changing the Prevailing Wage Legislation so he thought he would let them know that he is still active in this arena. He's asked Senator Pippy and Representative John Maher to inform him when legislation has been put in the hopper so he could follow it and urge action on it. He told them that there are no excuses now as both the House and Senate are under the control of one party. They either get it done or don't get it done and he will keep the public informed on that. He thinks our Legislature ought to take action on controlling teacher strikes. The police can't strike and he thinks those types of vital services should not be able to put the public at a disadvantage by striking. He also hopes they address the reducing of the size of the Legislature. He thinks we are spending too much money and don't need all of that. The purpose tonight is, whether the public agrees with him or not, that he thinks we have the attention of the elected officials and the public should take the opportunity to communicate their views to them. Hopefully we'll get some of things that the public would like to see get done.

## **PLANNING AND ZONING ITEMS**

### 12. Planning and Zoning Items

None

Mr. Dixon said that he thinks everybody in the community knows that the Bethel Park School District is engaged in a very large project on the school campus constructing a new high school building. Part of the approval process of that project was that if any changes were made to the scope of production or project approval itself they would have to come back in to the Municipality for a new approval with a new application. They did bring an application in to the Municipality and the Planning Commission looked into that last week. He wanted to make the community aware that it is not a new application but related to the original project. When they come in for the additional approval any changes have to be reviewed by the Planning Commission and approved by Council on the floor. If they need any variances they have to go to the Zoning Hearing Board and apply for the variances they need. Everything goes just as if it is a new application even though it's related to the current project. He asked Mr. Duke to make some comments and let the community know what the details of this application involves.

Mr. Duke said that Mr. Dixon is correct. The plan was originally approved by the Municipality on March 9, 2009 and it was a conditional approval. One of the major conditions was if they were changing any of the modifications to the timing of the schedule of how they were going to construct they would have to come back to the Municipality to get the approval. This past fall the Construction Manager indicated that they were not able to make that construction schedule. At

that point we informed them that they would have to apply for a new application. On December 14<sup>th</sup> they did file for the modification and the plan went last Wednesday for the first public review before the Planning Commission at their Workshop meeting. The major changes to it is primarily how they are going to be tearing down the buildings and constructing the parking lot. The school, they have told us, is on schedule and they plan to have that constructed but all of the facilities including the parking lot are not going to be in place. They wanted to get the revised schedule before the Municipality for approval. They also needed to get the approval for the lack of parking. They will be applying for a variance through the Zoning Hearing Board. The schedule that is coming up is on February 9<sup>th</sup> there possibly could be a recommendation made by the Planning Commission. On February 2<sup>nd</sup> they will be looking at those changes at their Workshop meeting. Council will get their application provided the Planning Commission makes a recommendation on February 28<sup>th</sup> at a committee meeting. The first that Council could possibly approve the change to the schedule is on March 14<sup>th</sup>. We cannot issue an Occupancy Permit for the school until they have all the improvements together. They'll have to go for the variance on that. They have indicated that they will probably be submitting their appeal in March. If that's the case there will be an April 4<sup>th</sup> hearing.

Mr. Dixon said he just wanted to bring the public up to speed on what's happening over there.

#### **HEALTH, SAFETY AND WELFARE ITEMS**

13. Health Safety and Welfare Items

None

#### **PUBLIC WORKS AND MAINTENANCE ITEMS**

None

14. Adjournment

Motion and second to adjourn at 8:19 P.M.

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Manager