

MUNICIPALITY OF BETHEL PARK

**MINUTES
OF
REGULAR COUNCIL MEETING**

Date: April 8, 2013

Time: 7:30 P.M.

Location: Municipal Building

1. Roll Call

Present: Council Members Allen, Dixon, Gibbons, Hannan, Harrison, McLean, Moury, O'Brien and Pape

Also Present: Mayor Morton; William Spagnol, Manager; Judith Miller, Assistant Manager; Gerard Duke, Director of Community Services; Robert McTiernan, Solicitor; 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

Executive Session of Council was conducted on Monday, March 25, 2012 to discuss Police personnel issues.

Reports of Officials

4. Library Director's Report

Library Director, Christine McIntosh, stated that the Bethel Park Public Library provides services to inform, inspire and enrich the community.

Ms. McIntosh announced that the last day for AARP Tax Assistance is Tuesday, April 9, 2013 from 10:00 a.m. to 2:00 p.m.

Friday, April 12th is Drop Everything and Read Day and she asked that you turn off all mobile devices and sit and read for fifteen minutes which is in preparation for National Library Week, April 14 through 20. You are invited to stop by the Library for programs that are going on or for a tour of the Library.

Ms. McIntosh then talked about the Annual Book sale in Council Chambers. Thursday, April 18th is preview night. A \$25 ticket provides the customer one large brown bag to fill before the sale is open to the public. The Book Sale continues on Friday, April 19 and Saturday, April 20 from 10:00 a.m. to 5:00 p.m. Book prices range from fifty cents to \$3.00 each. Discount bag sale is Sunday, April 21 when \$5 gets you a large brown bag to fill with books and/or DVD's.

For more information on any of the programs and services offered by the Library, visit the website at www.bethelparklibrary.org

5. Police Chief's Report

Police Chief John Mackey announced that the next Crime Watch meeting will be held on Monday, April 15, 2013 at 6:30 p.m. at the Bethel Park Community Center. Applications are still being accepted to join the program.

The annual Drug Enforcement Drug Take Back Program will be held on Saturday, April 27, 2013 from 10:00 a.m. to 2:00 p.m. at the Community Center as well as the Highmark Direct Building at Norman Center. The Highmark location is sponsored by PA Resources Council. Only unwanted or expired pills are accepted, no liquids or needles.

6. Fire Chief's Report

Third Lieutenant Tom Kelton gave the fire report for the month of March. Lt. Kelton reminded residents to not use indoor electrical cords outside. This is very dangerous and he warns against it. He also encouraged residents to vote "Yes" on May 21st to the referendum supporting the Bethel Park Volunteer Fire Company.

Lt. Kelton announced that there will be another Town Hall Meeting on April 18th at 7:00 p.m. at the Brightwood Fire Hall for residents who want to obtain more information about the referendum and find out why this is so important to the community. In addition, there will be an Open House at the Brightwood Station on May 19, 2013. More information on these events can be found on Facebook or their website at www.bethelparkvfc.com

7. Mayor's Report

Mayor Morton announced the 90+ Club birthdays for April.

Mayor Morton then introduced Head Coach Jonna Burke and the Bethel Park Lady Hawks Girls Basketball team who recently won their first WPIAL Championship in school history. Ms. Burke thanked Mayor Morton for inviting the team to the meeting and for recognizing their accomplishments. She spoke about the hard work, dedication and selflessness of her team and introduced the girls to Council. Mayor Morton congratulated Coach Burke and the Lady Hawks on their achievements.

8. Approval of Minutes

Regular Council Meeting Minutes of March 11, 2013.

Motion by Mr. Allen and seconded by Mrs. Gibbons to approve the Regular Council Meeting Minutes of March 11, 2013. Motion Carried 9 – 0.

9. Bills and Payrolls

Motion by Mr. Allen and seconded by Mrs. Gibbons to approve the Bills and Payrolls for the Municipality per Bill List #040813 in the amount of \$1,567,484.23. Motion Carried 9 – 0.

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

Dan Gornick, 628 Rolling Green Drive, spoke his concerns of the Animal Control Service and the abundance of wildlife in his neighborhood which he attributes to his property bordering South Park. He said that he traps wild life and subsequently calls the Bethel Park Police dispatch in order for Animal Control to pick up and remove the animals. He said that on March 27th, he was advised by an Animal Control employee that he was in violation because he trapped a raccoon in cold weather. Animal Control Services stated that the outside temperature had to be above 40 degrees Fahrenheit in order to trap nuisance animals. Mr. Gornick did significant research and found no evidence to the accuracy of Animal Control Services accusation. Council President Moury asked that he leave his information and it will be given to Chief Mackey for reply.

Mrs. Anita Potocar, 3544 Mapleview Drive, spoke about the deer population in her neighborhood and the dangerous situation they cause to people, shrubs and flowers. She asked why Bethel Park does not employ the same methods to lessen the population that Mt. Lebanon and Upper St. Clair use. She said the damage the deer are doing to the property in her neighborhood is getting out of control and has increased tremendously in the last ten years. She wants to know what plans Bethel Park has to eliminate or reduce this problem.

Mr. Moury asked Chief Mackey to comment.

Chief Mackey said that for many years, Bethel Park employed Whitetail Management in a controlled archery hunt. He gave the statistics for the last 5 years as around 55 deer per year. He said that most of the deer come out of the County Park where the majority of the hunting occurs. Part of the problem is the safety requirements to hunt in the neighborhoods, per the Game Commission. Methods used by various communities include controlled hunting with firearms which require a lot of thought by elected officials as well as residents. Bethel Park is densely populated which makes it difficult to hunt safely and observe safety zones. Upper St. Clair has a different layout of land then Bethel Park has and that may be why they have more success. Mt. Lebanon conducted the rifle hunt in the past, but currently does not do it because of concerns by their

residents. Trapping and sterilizing deer is not a viable alternative to control the deer population. He said Bethel Park has limited options.

Mr. Moury said we will continue to apprise residents as we move forward with discussions.

Mr. Dixon said there was a hearing in 2000 or 2001 in which was attended by the Pennsylvania Game Commission. At that time, Mr. Dixon asked the commission what the rate of deer reproduction was and he indicated that it is probably twice what we harvested. Mr. Dixon said we are destined to fall behind as the herd grows larger until we can take some action to bring the numbers down to a more manageable level. At that time, we can then fall back to the archery hunt.

GENERAL POLICY AND FINANCE

11. Citizens' Comments – General Policy and Finance Items

None

12. Ordinance – Year 2012 Police Administrative Salaries

Motion by Mr. Hannan and seconded by Mr. Allen to approve the ordinance providing 2012 salaries for the Bethel Park Police Chief and Lieutenant. Motion Carried 9 – 0.

13. Ordinance – Year 2013 Police Administrative Salaries

Motion by Mr. Hannan and seconded by Mr. Allen to approve the ordinance providing 2013 salaries for the Bethel Park Police Chief and Lieutenant. Motion Carried 9 – 0.

Requested Verbatim by Council Member Pape:

Mr. Harrison said:

“I have two items, one very quickly and that is that we have a Boy Scout in the hall here tonight. These boys have to earn three citizenship badges, a communication badge, many others, and one of the requirements for the communications is to attend a public meeting, so welcome. I always like to taut the scouting program. I think it is a great program for all young boys. Secondly, I would like to speak to the comments made by Councilman McLean at the last two monthly meetings about my position relative to the dedicated tax to the Bethel Park Volunteer Fire Company and I always emphasize volunteer when I speak of that organization. At minimum, his comments are disingenuous. At the March 11th meeting, Councilman McLean said in part the following comments I made. He says I want to tell people don't be fooled by what you're hearing. Every speech you're hearing is being made up here contrary to the proposal. He talked about the proposal for the dedicated tax. Every letter that is being written is being done with the intention of trying to prevent you the people from voting

on this important issue. Don't be fooled into thinking it's something else, that is what it is. Three years have been spent on this and have been devoted to coming up with what is the best way for us to make sure that we can maintain the volunteer fire company and what is the best way for us as a municipality to contribute to that effort. That is the end of what the minutes say that he said to that. Councilman McLean knows that I have consistently supported the Bethel Park Volunteer Fire Company. This is a fact supported by statements by members of the company that these public meetings thanking me for urging contributions from a larger number of businesses and residents. So what's the bone of contention? It is that I do not favor altering the constitution of the Municipality, I am speaking of the Home Rule Charter, to accomplish the mission. Council's claim is that the Home Rule Charter provides a security from future overturning the dedicated tax without a vote from the public. An equally secure method to accomplish the mission is to pass an ordinary ordinance specifying the dedicated tax. The public, in accordance with the Home Rule Charter, could equally subject any action to repeal such an ordinance to a ballot vote. Naturally, I could understand Council's concern. If this Council is willing to violate the Home Rule Charter as they did by allowing the February 11th ordinance to be used to get a dedicated tax question on the May ballot, they equally can be concerned about future Council doing the same thing. The future Councils could say that this Council provided a basis for such an action. I will present a little history lesson relative to the Bethel Park government. I first got elected to Council of Bethel Borough. That's right, it was Bethel Borough. Bethel Borough was initially essentially the two mining towns of Coverdale and Mollenauer. The Borough was ruled in accordance with a state law called the Borough Code. As Bethel Park grew into a more suburban community, it became designated as Bethel Park Borough to distinguish it from Bethel in the eastern part of the state. The Borough was still ruled in accordance with a state law called the Borough Code. In 1980, the state enacted legislation that allowed local governments to opt for Home Rule. In accordance with the new law, Bethel Park citizens elected a Home Rule Charter Commission of which I was a member. The Commission wrote a proposed Charter, had several public hearings on the proposed Charter, and submitted the revised Charter for a vote on the ballot. The Charter was handily approved and became effective on January 2, 1978. The purpose of the Charter was to provide our own ground rules for the operation of our local government. At the time the Home Rule Charter was being written, there was some discontent in the community because of actions by previous Councils to formulate action for approval at the public meeting that the public was not aware of. Once these actions were approved by Council, the public had no convenient way to override the Council action. I introduced a rather unique section in the Home Rule Charter that requires the ordinances passed by Council, that the ordinances do not become effective for thirty days after Council approval. In that thirty day period, the public was provided the ability to challenge the ordinance in accordance with the Home Rule Charter. This is section 1107 of the Home Rule Charter entitled Effective Date, that has been discussed at this dais for the last few months, that Council passed an ordinance on February 11, 2013 specifying an action to put a question on the May 21st primary ballot to alter the Home Rule Charter to mandate a dedicated tax to the Bethel Park Volunteer Fire Company. Council was informed prior to that vote that the timing of this action

violated the Home Rule Charter. The ordinance would not become effective until March 13th, it was enacted on February 11th. March 13th. The election bureau required that requests for ballot questions to be placed on the May 21st ballot had to be submitted by February 19th. Mr. McTiernan, our solicitor, submitted the ineffective ordinance to the election bureau on February 13th. This is 28 days before the ordinance became effective in accordance with the Home Rule Charter. Council could not claim they were unaware of the conflict. Mr. Moury very pompously waived a copy of the Home Rule Charter from the dais on February 11th saying that he brought a copy for Mr. McTiernan. Council was grossly inept in this action. They like to brag about meeting for three years with the Bethel Park Fire Company to formulate a plan, and yet they didn't take time to do their homework and plan to act on the ordinance in a timely manner consistent with the Home Rule Charter. Although I don't agree with the Home Rule Charter route, the need for legal opinion would not have occurred if Council had acted on the ordinance in January or specify the February ordinance November 5th, which is the General Election day this year, as a date for the question on the ballot. The November 5th date would be timely because the Bethel Park Fire Company stated at a public presentation at the Brightwood Road Station that the demolition of the station is now scheduled for early 2014. Council clearly violated the Home Rule Charter with forward knowledge. It was then clear from the actions at the meeting, I'm talking about the actions of the meeting of February 11th, that Council had previous knowledge of the forthcoming ruling by Mr. McTiernan, that I call a Philadelphia lawyer type ruling, stating that the state overrides our Home Rule Charter. No rational reason has been provided to the public or to this Council Member for such an untimely and illegal action. It is for this reason that I charge Council with ineptness and poor planning. Members of Council complain repeatedly, Mr. Hannan has done that many times, that the 30-day effective date stipulation of the Home Rule Charter causes the annual budget be passed at the November public meeting. The claim is that this denies the Council the benefit of the late-in-the-year tax income information that may affect the numbers in the budget. It is interesting to note that a Philadelphia lawyer type ruling has never been in question or given to resolve this concern. The practice of taking actions that violate the law is a symptom of all levels of government from the Federal down to the Bethel Park level. The message seems to be that the governing bodies don't have to obey the law because they know what is good for the public regardless of the law. Examples of such action is the nation's President not submitting the required annual budget for over three years and is in the process of submitting budget now that is at least two months late. Also, our previous state Governor bragged about signing the state budget in December that was due in June. If we don't insist on our elected officials to abide by the law, this symptom will not only continue, but it will get worse. The ailment will not be cured unless the public sends the message to the governing bodies that they will not tolerate actions contrary to the laws. My position is that if the governing bodies purposely violate the law, which I claim Bethel Park Council did, then the public should reject their actions. Thank you very much."

Mr. McLean said:

“First of all I want to say that I stand by the comments that I made at the last two meetings. But I also just want to point out that Mr. Harrison has now for several meetings gone into this theory, which is his alone, that something that was done with the ordinance we passed in February is wrong. There is not another person who has looked at this other than Mr. Harrison who is of that opinion. Our solicitor who serves us as Counsel and looks at the legal issues has told us that it was appropriate. The County elections department has looked at it and told us that it is appropriate. There is only one person in this entire matter who has a problem with it and that’s Mr. Harrison. That does not make it illegal. In fact, much to the contrary it’s clear that what was done here was proper and appropriate. So, I stand by my comments because there is no other explanation for why someone would continue to insist on trying to tell you that there is something wrong when everyone else who has looked at it had not had a problem with it. And it all comes back to someone is trying to prevent you from having a vote on May 21st. But you’ll get your chance, you’ll get to vote. And that’s going to happen. I want to clarify another matter that Mr. Harrison raised about the approach that we’ve taken here of amending the Home Rule Charter. His original complaint was that it was contrary to the nature of the document of the Home Rule Charter. That the Home Rule Charter is supposed to establish the form of government and it’s not something in which we should be introducing this referendum for the millage for establishing a basis for the fire company. The truth is that if you look at the statutes of Pennsylvania that establish the form of government for governments like townships and boroughs, you’ll see that they too have provisions in them that establish the amount of millage that can be devoted to certain things, including for fire companies. In fact, I happen to have here the statute that is in place for second class township code. And it specifically allows townships to have an annual tax to purchase and maintain fire apparatus and a suitable place to house fire apparatus. Exactly what we are proposing here. It then also says, though, that if the annual tax is supposed to be set at a higher level than what is prescribed in the statute, then the question is to be submitted to the voters of the township. The point is what we are doing here with our Home Rule Charter is exactly what is done in the case of the other forms of government. But this gets back to a little bit of history as well. About the Home Rule Charter, the purpose of the community adopting a Home Rule Charter is to give itself the flexibility that it wants to adopt as to its form of government. It’s why we ended up after we went through the Home Rule Charter exercise of having a Council, Borough Manager or Municipal Manager, and Mayor form of government, because we selected that. So with the Home Rule Charter, we have the flexibility to do the things that we think are the appropriate way of running our community. So we have decided in this particular incidence, like it’s done in other forms of government, whether they are boroughs or townships, that we should dedicate a certain amount of the millage each year to the facilities for the fire company. It is not novel, it’s not that it’s never been done, and it’s neither illegal nor inappropriate. We’ve gone about it in a correct way and as I say, every single person except one who has looked at this has concluded that this is proper and appropriate. So, for all those reasons, I stand by the comments that I made last

month and I stand by the comments I made two months ago. And I stand by the comments I'm making tonight. Thank you."

Mr. Moury said:

"I'm a little insulted tonight, Mr. Harrison. You only mentioned my name once. Last month when I wasn't here, I counted more than a dozen times. I can go through point by point the comments that were made last month and I can go point by point this month, but you know what, I'm not going to lower myself to Mr. Harrison's level. I will say that everything Mr. Harrison said last month and this month is factually incorrect. Mr. Harrison wants to pretend, and I'm not a Philadelphia lawyer either, Mr. Harrison, and welcome to the club, Mr. McLean. Very exclusive. But, having said that, Mr. Harrison likes to give a history lesson, he wants to cast a shadow of a doubt on the process, on the issue, on the fire department. It's really sad that he would stoop to this level to do that. I was one of the people that spent the time, the three years, to meet with the fire department and I want to go on record tonight having looked at everything, I would encourage people to attend the upcoming meeting, ask questions. I've been asked a number of questions by residents in this community including in Ward 5 to what we're doing. And they had questions on the issue. I would like to go on the record, Mr. Harrison that I support this. I will be voting yes on May 21st. I would encourage the residents of Bethel Park to vote yes and support the fire department. Unlike Mr. Harrison, I'm willing to make a commitment to the community and a commitment to the fire department. I don't just sit up here as Mr. Harrison does and give lip service when it doesn't cost him anything. He spent more time in the last three months writing his speech than he's spent in the last three years on the fire department. But this is no surprise. In my time on Council serving with Mr. Harrison, he's been pretty consistent. Mr. Harrison likes to live in the past while the rest of us like to plan for the future. I think everything he's done is basically tried to undermine the credibility of decisions Council's made, decisions that people within the community made and I think it's very disappointing, but he's always up and spends his time after the decision's made. And I think that's not what we're here elected for, we're here to listen to the people and make the decisions and move on. And I guess the only thing that I would say Mr. Harrison advocated for in the years I've work with Mr. Harrison on this board, how could we forget the emergency access road? His 700 foot \$5,000 road that he talked about for nearly two years. He went out and collected signatures under the premise that he could build this 700 foot \$5,000 road. Then he voted with every other member of Council to have the traffic consultant look at it and see what the actual cost was going to be. It cost us probably in the neighborhood of \$6,000, a thousand dollars more than his road. And we were told by the professional consultant that this emergency access road out of the rear of the Industrial Park would cost over \$750,000. I think Mr. Harrison's credibility speaks for itself, and once again I would encourage the residents to support the fire department and vote yes on May 21st. Thank you."

Mr. O'Brien said:

"I would like to welcome Mr. McLean. You have joined a sea of elected officials over the years that Mr. Harrison has openly said they were wrong and participated in covert activities. The number is alarmingly high. But you have to understand what this does. This creates doubt. The fire department, in my twenty some years here, has been such a good group of guys, they're good souls. They really haven't asked for much. And now they come to us and they're asking for something because they're kind of desperate. You know, it took a lot for them to do this. It took a lot of planning and a lot of soul searching to try and find a way that they could compete with the equipment they have, the readiness they need without our help, but it was impossible. But now they come to us for help, and it's on the May 21st ballot. So what do we do, some of us do, we create doubt. So, instead of looking at the issue for what it really is to help the fire department to compete in this time, to help the fire department to really protect our safety, we create doubt so when people go into the polls, they really are thinking about everything but what they should be thinking about, what does it really mean? And the fire department has never come to this community other than to ask for donations for help. And I just think that that's wrong. You know, you can create doubt when you are talking politics, and about issues, but please, Mr. Harrison, don't bring this on the fire department. They are a bunch of very proud, wonderful people that donate their time and their good will and really care about the people in this community and they are asking for our help. The issue on the table on May 21st, regardless of how we got there, it's there. Join the support, Mr. Harrison. Ask the people to vote for this to support the Bethel Park Volunteer Fire Company, for now and in the future. Thank you, Mr. Chairman."

Mr. Pape said:

"I would like the people to join this subject. I hope an awful lot of people don't misunderstand this. If these people belly-up? I'm a businessman and I thought about it. If they decide they're not going to have a volunteer fire department and we have to have a fire department, that's a law. Now, do you realize what it's going to take? And don't forget, seven days a week, 24 hours a day. It isn't going to take one man, two men, three men, maybe seven or eight people you've got to hire. And the way I'm looking at it, if this thing bellies-up, you are going to be paying double the taxes and mark my words. As far as Mr. Harrison, I have one thing to say about him. It's a shame that we have to put up with you all these years. I'll tell you what I did while I was sick. I was off three months and I broke my pelvis, and I had a lot of time. I went through, back a lot of Councilmen, at least 26 that this man couldn't get along with. Just like he is right here right now. You mean to tell me that all them people are wrong? I don't think so. I'll tell you, I sat at home and I listened when he tried to take on our solicitor. He's become a sidewalk attorney, too. I'm telling you, you don't know what we put up with here. You know, he's the only one that says this and say that. I tell it the way it is, if you don't like it, shame on you."

Mr. Harrison said:

“I just want to point out that all the chatter tends to indicate that I’m not faithful to supporting the volunteer fire company, and that is not true. I’ll make it clear, the whole discussion is about the process and they don’t want to address the fact that they were inept. If they’d have done their homework, they would have passed the ordinance either a month sooner or put in a November date. And that’s what the whole question is about and they could talk all they want to about the law and that type thing, but the matter of fact is that the Home Rule Charter is crystal clear on the effectiveness of an ordinance and they bypassed that and, as I say, for no rational reason that I’ve heard explained. Thank you.”

Mr. McLean said:

“One last comment. Earlier today, we heard from the fire company that they got a couple meetings coming up. What I would encourage everyone to do is attend those meetings, listen. There is nothing to this issue about the validity of the question being on the ballot. It will be on the ballot, so you owe it to yourself to go to the meetings, inform yourself and make a decision about this because the voters are going to have to decide. But while you’re there, and you have the members of the fire company in front of you, ask them if they think Mr. Harrison is supporting them. Ask them if they think he is. Thank you.”

PLANNING AND ZONING ITEMS

14. Planning and Zoning Items

No Items

Mr. Allen talked about the Veterans’ Banner Program on Route 88. He said the last day to fill out an application for a banner is April 30th. The banners will be up for Memorial Day. Applications can be obtained and questions can be answered at the American Legion or the Municipal Building. Applications are also available on the Legion’s and Municipal websites.

HEALTH, SAFETY AND WELFARE ITEMS

15. Health, Safety and Welfare Items

No Items

Mr. McLean announced the 2013 Spring Cleaning Day sponsored by the Municipality in conjunction with PennDOT. It will be held on Saturday, April 20th. Any individual, group or organization can participate by contacting Michelle Baynham for more details and to receive supplies which are provided by PennDOT.

In addition, Mr. McLean reminded residents of the spring leaf collection which will take place the week of April 22 through 26. Leaves must be placed at the

curb on your regular trash collection day in bags or in boxes or cans that can be dumped. No plastic bags will be collected.

PUBLIC WORKS AND MAINTENANCE ITEMS

16. Public Works and Maintenance Items

No Items

Mr. O'Brien said that Memorial Day is approaching. Sponsors for the flags around the plaza are being requested. The \$100 donation is used for cost of flag maintenance for one year. If anyone is interested in participating in the flag donation program, they can contact Councilmen O'Brien, Allen or Hannan.

He also stated that Leonard Anthony, a Veterans' Memorial Committee member, Vietnam veteran and Marine, suggested that the month of April be dedicated to the POW's. Per that request, the Memorial will be displayed predominately with POW flags for the month of April in honor and memory of those men and women who are still unaccounted for.

17. Adjournment

Motion and second to adjourn at 8:26 P.M.



Manager