

# ***MUNICIPALITY OF BETHEL PARK***

## **MINUTES OF REGULAR COUNCIL MEETING**

**Date:** September 11, 2017

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

**Location:** Municipal Building

1. Roll Call

Present: Council Members Colella, Consolmagno, Dixon, Hannan, Gibbons, Harrison, McLean, Moury and O'Brien

Also Present: Mayor Jack Allen; Shawn Arbaugh, Manager;  
Judith L. Miller, Assistant Manager;  
Solicitor Robert L. McTiernan; Chief Timothy O'Connor;  
Joseph Villella, Finance Director;  
Ashley Moore, Municipal Planner

2. Pledge of Allegiance

A Moment of Silence was held in Memory of 9-11-01.

3. Chair Announcement

An Executive Session of Council was conducted on Monday, August 28, 2017 to discuss personnel matters and property acquisition and on Monday, September 11, 2017 to discuss personnel matters and property acquisition.

### **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 said that September is here and regular story time is in full swing.

Free Speech and Free Expression: What you can Say, Paint, Wear and Display and Not, will be presented on Monday, September 18 at 7:00 p.m. by Brenda Lee Green, ACLU. This facilitated discussion will trace the legal history of the First Amendment including the substantial role the ACLU played. The discussion will explore issues including but not limited to hate speech/groups, Citizens United, Wiki Leaks, the Espionage Act and obscenity.

Practice SAT test program will take place on Saturday, September 23 at 10:00 a.m., presented by Omega Learning Center. This is a no cost, no obligation opportunity, a full three hour timed practice test (optional essay takes additional hour). Limited space available, registration is required.

Emergency Preparedness program will be held on Tuesday, September 26 at 7:00 p.m. This program will be presented by John Kuchma, Bethel Park Emergency Management. This program will help you develop a plan so any disaster or emergency is easily handled.

An Evening of Spirit Messages will take place on Thursday, October 19 at 7:00 p.m. at the Bethel Park Community Center. Tickets are \$25 each and can be purchased at the Library or the Library Website.

Adult Battle of the Books will take place on Thursday, November 30 at 7:00 p.m. The cost is \$50 per team, 18 years of age or older, three to five players per team.

The Library is partnering with the Bethel Park Education Foundation and the Historical Society, in conjunction with The Heist. This program is open to any Bethel Park student Grades K-12. They can write an essay, based on what grade they are in, or present a piece of art work prompted by why you feel Bethel Park Is Unique. Entries must be submitted by 5:00 p.m. on October 15. Winners will be contacted by the Library and a presentation will take place on the opening night of The Heist. The Heist is a play written by Courtney Williams, a cautionary tale about fictionalized events that lead to the nation's first armed car robbery that took place in 1927 in Bethel Park.

For more information on these and the many other programs and services offered by the Library, visit the Library's web site at [bethelparklibrary.org](http://bethelparklibrary.org). You can also follow the Library on Facebook or Twitter.

#### 5. Police Chief's Report

Chief Timothy O'Connor thanked those who stopped by the Police Department booth at Community Day.

Chief asked residents to be aware of the ongoing pipeline project on Bethel Church Road and to please follow all the posted detour signs and avoid using the adjacent streets.

The Crime Watch Meetings will resume on Monday, October 2, 2017 at 6:30 p.m. the Community Center.

Mr. Harrison asked that we remind everyone who has discontinued their land lines and use cell phones in their homes to please register the number change with the Police Department to be consistent with the Swift Reach program.

You can follow the Police Department news on Facebook, Twitter and Instagram.

6. Fire Chief's Report

Assistant Fire Chief Bob Brown announced that their Annual Open House will take place on Sunday, October 8, 2017 at the Brightwood Station from Noon to 4:00 p.m. This coincides with Fire Prevention week from October 8 through October 14. This year's message is Every Second Counts – Plan Two Ways Out. This message is to be prepared to have two ways out of a home if there is a fire. Families should practice home fire drills by preparing different ways to escape the house both in the daytime and night and to teach children how to escape on their own. You should also shut all doors behind you when escaping a fire to keep the air from spreading flames. You should go outside, stay outside and reinforce this to children. He also reminded residents that house numbers should be clearly marked on your home in clear view for both fire and EMS personnel.

Assistant Chief Brown thanked all those who visited their apparatus and booth at Community Day.

He then gave the Fire Report for the month of August.

Mr. Harrison commented that in preparing for a fire event, children should be instructed and reminded to go to an identified place so that they can be made accounted for, such as a certain neighbor's house or at a particular location outside of the home.

Mr. Moury said that Sunday, October 8<sup>th</sup> at 10:00 a.m., the Bethel Park Historical Society will have a dedication of the designation of the School House as a Historical Landmark by the Pittsburgh History and Landmark Foundation, followed by an Open House from noon to 4:00 p.m.

Assistant Chief Brown said that the Fire Company will celebrate their 90<sup>th</sup> anniversary this year.

7. Mayor's Report

Mayor Allen thanked everyone who attended Community Day on September 9 and most especially all the groups that participated such as the Police Department, EMS, Fire Company and Jim Gastgeb for the Rev up and Roll. He also asked everyone to keep friends and family in Houston and Florida in your thoughts and prayers after the devastating hurricanes.

Mayor reminded everyone that the annual 90 Plus Club Luncheon will be held at the Community Center on Friday, October 6 at noon. Anyone 90 years of age or older who did not receive an invitation and would like to attend must contact Janet Davin at the Municipal Building.

The summer is coming to an end. The Farmers' Market last day will take place on September 28. The last Recreation Flee Market is September 16.

Fall Clean-Up Day is Saturday, October 21, 2017. Please contact Janet Davin for more information if you would like to participate.

Mayor Allen then presented Library Director Christine McIntosh with a Proclamation celebrating Love Your Library Month.

Ms. McIntosh said that September is Love Your Library Month. She urges everyone to get a library card. She wants the community to know that if you can donate to the Library, this is a good time to do so. The Jack Buncher Family Foundation will match any donation made this month from a \$150,000 match pool of funds to any Allegheny County Library.

At this time, Mayor Allen presented his Make Bethel Park a Better Place to Live award to Elaine Volpe. Elaine is the Children and Youth Librarian. She is being honored for her dedicated service to the Library and the community. She has won several best practice and early learning awards. Elaine also does a children's program that airs on BPTV and on YouTube.

Ms. Volpe thanked Mayor Allen and said she finds it easy to do good when the community you are in is a good one. She says she loves the job she does and thanked Ms. McIntosh and the staff at the Library for their support.

Mayor recognized Cathy Lordi on her upcoming retirement.

#### 8. Municipal Manager's Report

Municipal Manager Shawn Arbaugh highlighted a few items. He thanked everyone who attended the Town Hall Meeting and said he will do it again next year.

Mr. Arbaugh said that the Road Program is ongoing. You can check the Bethel Park Facebook page for the schedule of when each road is expected to be worked on. This information will be updated weekly.

Columbia Gas work is still ongoing. They currently are performing boring work on an under stream issue and base repair work which they were not prepared to do. We are hoping that the roadway will be opened by the end of September. He thanks everyone for their patience

Elm Tree Park received new playground equipment which includes a chess and checker board installation. You must bring you own checkers and chess pieces.

Mr. Arbaugh announced that assisted hearing devices are now available in Council Chambers for hearing disabled individuals. The devices will be placed on the Administrative Assistant's desk for those in need.

Mr. Harrison attests that the hearing devices help and they can be used at all meetings.

9. Approval of Minutes

Regular Council Meeting Minutes of August 14, 2017

Motion by Mr. Hannan and seconded by Mrs. Gibbons to approve the Regular Council Meeting Minutes of August 14, 2017. Motion Carried 9 – 0.

## 10. Public Hearing of August 28, 2017 – Off-Street Parking and Loading Requirements

Motion by Mr. Hannan and seconded by Mrs. Gibbons to approve the Public Hearing Minutes of August 28, 2017 – Off-Street Parking and Loading Requirements. Motion Carried 9 – 0.

11. Bills and Payrolls

Motion by Mr. Hannan and seconded by Mrs. Gibbons to approve the Bills and Payrolls for the Municipality per Bill List #091117 in the amount of \$879,379.70. Motion Carried 9 – 0.

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

None

**GENERAL POLICY AND FINANCE**

## 13. Citizens' Comments – General Policy and Finance Items

None

## 14. General Policy and Finance Items

Resolution No. R9-11-17A – Rezoning Notification

Motion by Mr. McLean and seconded by Mrs. Gibbons to adopt Resolution No. R9-11-17A authorizing the implementation of a policy to provide additional notification to property owners of applications for rezoning. Motion Carried 9 – 0.

Mr. Moury said we are following state requirements for rezoning advertising. There is an expansion of 500' for a Public Hearing. Anytime a zoning application is heard, we will now advise residents within 500' from the property proposed so residents will have an opportunity to attend the Planning Commission Workshop at which time the rezoning application will first be considered instead of waiting until the Public Hearing is held.

Mr. Harrison said that the Planning Commission has two reasons. One is to hold a workshop meeting where details of the application are discussed and this will

provide people the opportunity to attend the workshop prior to the regular meeting and Public Hearing.

15. Appointment – Planning and Zoning Commission

Motion by Mr. McLean and seconded by Mr. O'Brien to appoint Peter Grandillo to the Planning and Zoning Commission for a term to expire on December 31, 2018. Motion Carried 9 – 0.

Mr. Harrison said:

“Just a reminder for Council and the public. Mr. McTiernan was appointed by Council as solicitor to replace the former solicitor Victor Delle Donne. This action resulted from the fact that I identified more than a hundred occasions that the former solicitor violated a legal (unintelligible) opinion he issued relative to a court case filed against me by Council. He refused to address these violations and he was terminated.

The court action against me resulted from my brief position as the Chairman of the Safety Committee, Council Safety Committee. At my request the Chief of Police at that time scheduled a one hour visit each week for me to become familiar with the operations of each group of the department. Each visit was conducted by a person in the police department assigned by the Chief. I was in the presence of that person at all times during the visit. The purpose of the visits was to acquire information to better understand the operation of the police department. All the information I acquired was from the person conducting the visit, the police department person conducting the visit. Council claimed that I stole information from the police department. Apparently my visits didn't sit well with the hierarchy. After two months I was removed as Chairman of the Council Safety Committee. Council then sued me.

Solicitor Delle Donne ruled that he could not represent Council as a lawyer in an action against a member of Council. Council was allowed to hire a lawyer at public expense. My request for legal representation was denied. The court case was filed.

The case was heard at the Common Pleas Court level and Council uh lost. The case was ah resubmitted, through the Common Pleas Court and Council lost again. Council had the case filed in the Commonwealth Court and Council lost again. The case spanned more than and I'll just mention that that the Council considered appealing to the to the to the State Supreme Court. The Supreme Court didn't have to take it but but they but they lost their vigor when my lawyer said he was not only going to file for my legal expenses to be reimbursed, but that he was going to file for punitive action uh uh money so that sort of quieted that. Anyway, the case spanned over seven years. I spent several tens of thousands of dollars for my legal representation. It is estimated that the total cost to the public over the seven plus years was approximately \$200,000. The public paid that.

Recently I mentioned from this dais an e-mail I issued to all Council members, Mr. Moury gleefully reported from his seat at this dais that I admitted that the e-mail was a violation of the law. I did not admit I violated the law. Mr. McTiernan opined at the time the whole time that time that my action was subjected or subjected me to possible prosecution due to my inadvertent error. To my knowledge, I I didn't know, I didn't

know, Mr. McTiernan had a copy of my email. It had been issued several weeks before the last public meeting. If he if he didn't if he didn't have a copy, I don't understand how he could pass an opinion. If he did have a copy, why would he wait several weeks and then make the statement about me being subjected to prosecution uh at a public at an unwritten (unintelligible) public meeting.

More recently Councilman Consolmagno issued an e-mail to all Council members with Mr. McTiernan as an addressee. The e-mail addressed an issue for Council consideration, therefore, I allege the e-mail should get the same attention as my e-mail.

This is not the case. To my surprise. Mr. McTiernan responded to the e-mail with an e-mail. He indicated he became familiar with the issue from Councilman O'Brien. In his e-mail Mr. McTiernan said he would consult with one of his law partners about the issue. As an aside I, I once called Mr. McTiernan on an issue and was chastised. I was instructed that communications to the solicitor on municipal business was was not to be conducted by an individual Councilman. That is not acceptable.

There are two concerns here. One is Mr. McTiernan's response to the alleged illegal e-mail by Council member which would seem to subject that Council member to the same possible prosecution as was stated in my case. The second issue is Mr. McTiernan's pursuit of a legal defense that has not been authorized by Council.

I am expressing I am expressing concern because of my because of previous actions by Mr. McTiernan that suggests alleged inappropriateness.

The HRC was written by an elected commission of which I was a member. An attorney (the father of present sitting Councilman McLean) was elected chairman of the HRC commission. The commission unanimously agreed to write the HRC in plain English to keep the lawyers' fingers out of it.

The HRC clearly states (Section 1107) - "The effective date of an ordinance shall be no sooner than thirty (30) days after its adoption..." Anyone who understands plain English, including Council members, cannot logically misunderstand this statement.

Several months ago an ordinance was introduced and approved by Council to put a dedicated BPVFC tax on the ballot. This Council vote violated Section 1107 of the HRC. Prior to the vote I recited to Council the section of the HRC that would be violated by an affirmative vote. Therefore, Council members that voted for the ordinance cannot truthfully plead ignorance of the law. Council members' affirmative vote violated the law. A few weeks later Mr. McTiernan issued a Philadelphia Philadelphia lawyer type opinion stating that the ordinance was legal contrary to the HRC.

It makes one wonder whether some illegal backroom guidance was given to the Council members relative to casting an illegal affirmative vote for the ordinance. Go ahead and cast your vote, your illegal affirmative vote and if it is questioned Mr. McTiernan will cover you.

Three days after the vote, twenty seven days before the ordinance became effective, Mr. McTiernan hand carried the ineffective ordinance to the election bureau. He actually

issued a letter to Council indicating he did that. The BPVFC question was placed on the ballot.

I spoke to Mr. Wolosik (the election bureau director) about this issue. He reminded me that Allegheny County has over 130 independent governed entities. Many of these communities like Bethel Park are home rule communities. He stated the election bureau and its legal team cannot be familiar with with the details of each charter. Therefore, the election bureau has to rely heavily on the governing body solicitor to ensure that a submitted ordinance complies with their HRC.

These actions by Mr. McTiernan make me wonder where he is whether he is wandering into murky waters that caused the demise of the person he replaced. Maybe more than the federal government needs to drain this swamp.

A final note: Councilman McLean who is the son of the HRC Commission Chairman, and a lawyer, had the audacity several months ago to state in essence from this dais this "Harrison is correct in stating that the ordinance was ineffective at the time of its delivery to the election bureau but the date the people voted on the question, it had long it had long since become effective. This statement conceals the fact that the question would not have been on the ballot if the law had been abided by. Misleading the public is unacceptable. Maybe the Philadelphia lawyer disease is contagious.

The Courts recognized, in their opinions hopefully and hopefully the public recognizes that the actions cited above are all political and can a result in large expenses to the taxpayers.

And I'll just mention that the way Mr. McTiernan handled the announcement of my possibility subjected to prosecution ah but he answered an email that was sent by another council man ah just, just is strictly politics, just political. Thank you."

Mr. Moury said:

"Okay the story is an accommodation of many things. He he wants you to believe it happened in the last three months and this allegedly happened as he likes to tell it over in the last 40 years, maybe even started before I was born, that's how old it is. The one thing I want to comment on because most of what he said is nonsense, as he usually does. He talked about the email that he originally sent out encouraging the people to respond to him. If he goes back and looks, and we'll hear this next month, I'm sure, he was the one that sent the email encouraging debate and he copied our solicitor. So before you go throwing stones, Don, you gotta look in the mirror because that email, I'm pretty sure was included the solicitor, so that's one of the 52 conspiracies you talked about tonight you can take off your list. But most of what he said, all of it is not true. Thank you very much."

Mr. O'Brien said:

"Don likes to present this jinglistic attitude and I really believe if he was born in a time when our country was founded, we'd probably still be English because he doesn't get along with anyone. He doesn't call the solicitors because he didn't like the last one and



he doesn't like this one. He didn't doesn't get along with any Council members. He doesn't have any friends. He doesn't have any alliances here. He hasn't had any alliances from our last 25 years here. He talks about that day of the uh lawsuits. That was before my time, in fact, my first, very first meetings in the months that I first came on here, I was asked to make a vote to continue the lawsuits against Mr. Harrison. I thought they were absurd then and I think they are absurd now. I voted not to pursue it and I voted to pay him his legal fees so Bethel Park can move on. Twenty-five years later, we're still talking about it. I I don't really know why. Don, we come here and we like to build things. We like to create friendships and alliances across political lines and build a better Bethel Park. All you do is come here and rip things down. Play this isolation, this guy on top of the hill that everyone's shooting at. I'm not sure where you're coming from anymore. I mean, everything we try to do here, you put a roadblock, you say it's no good, you do this, you do that. You don't get along with the solicitors. You don't get along with members of Council. You know, a lot of wisdom Mr. Pape said about you I didn't really believe it then, but boy it sure seems true now. And going after the solicitor. You know, we're all political people here, we're all pretty much fair game. That man there, this is his livelihood. This is his reputation not just here but in other communities and in this country. How dare you? How dare you go after him? I'm fair game, you've been coming after me for years. But Mr. McTiernan, one of the most honorable, most truthful people we have ever, has ever walked in front of this this Council? Come on, Don. Leave it alone. Thank you."

Mr. Hannan said:

"For the most part, the first page and a half of Mr. Harrison's speech happened more than twenty five years ago. And people sitting up here at that time for the most part moved on to other places or are deceased. I mean, it gets to the point where trying to to embellish your situation and why you do things, it's all really old news. It has nothing to do with what we are doing right now, and what he's trying to do is justify his activity when most of us know that that's not legal because we attend conferences. We know what's current. We But Mr. Harrison hasn't been to a conference, the ones since I've known him for more than twenty five years, because he thinks he knows everything. So, that's that's the way he operates. We understand that. Moving forward, as Mr. O'Brien said, we we try to build this community, make it a good place for our people to live and the politics aside, it's it's really his thing because he has no other way to to get back at things because he has fallacies, and he has things that he doesn't know about because he doesn't want to know about. He knows what he thinks, and what he thinks is right whether it has to do with the Fire Department ordinance, setting up the the vote on the fire station. That whole thing, it's over with. Get used to it, it's done. The building is up. Everybody seems to be relatively pleased at the outcome, except Mr. Harrison because he doesn't have anything else so say about anything. So. Thank you."

Mr. Harrison said:

"I just want to point out that that a couple of things. One, your comment about the email. Number one I did not copy Mr. McTiernan."

Mr. Moury said:

“Check the record. Next month I will.”

Mr. Harrison said:

“I’ll bring the thing and read on it in the record, my email. It did not have Mr. McTiernan’s address nor a carbon copy version but. Secondly, I I get bludgeoned up here and that’s fine. It doesn’t bother me. But, Mr. McTiernan gets all this high praise. What does he have to say about saying at the public meeting several weeks after the email issue, that I’m subject to prosecution, but he got an email from another Councilman and he responded to it and in the email he says he conferred with one of his partners in his in his ah legal firm about ah the defense stance and ah what’s he going to have to say about responding to that email ah with another email but his response to my email, I don’t know how I got a copy, is that I am subject to prosecution? Thank you.”

Mr. McTiernan said:

“Mr. Harrison, I wasn’t going to say anything but I will just make three points. First of all, I can’t deliberate as a matter of law. I’m not a policy maker, I am not an official. If a council person puts me on notice of a hearing that’s coming up or an issue, that’s not unusual and I will remind you, Mr. Harrison, you and I have had many, many conversations over the years. Mr. Spagnol often asked me to give you a call to make sure I was up to date on something you were concerned about in your district. Secondly, I never said you personally were going to get prosecuted. I just reminded you and all the members of Council, which is my obligation that anyone who does violate the Sunshine Act is subject to the penalties beyond an apology or personal embarrassment. I never suggested that you were personally going to be fined or prosecuted um that’s. I think I answered both of your questions.”

Mr. O’Brien said:

“Don, I want to challenge you tonight. I want to challenge you. We have so many issues, not just in Bethel Park, but in our Country, in our county and they all affect us. I want to challenge you to take this passion you have with what you are doing here and turn it into something that could come good out of it. Some passion that you have, an issue, find one, bring it to us, we’ll support you. It’s a real, real issue based on 2017 what’s going on in this country, what’s going on in this community and what’s going on in this state. We have a lot of problems and we need your help. We don’t need condemnation, we need your help. Thank you.”

Mr. Harrison said:

“I...

Mr. Moury said:

“No you cannot, you spoke twice. Mr. Harrison.”

Mr. Harrison said:

“I...

Mr. Moury said:

“Mr. Harrison, you are out of order, you had your two turns to speak.”

Mr. McLean said that we received from the Finance Director, the Preliminary Municipal Budget for 2018. It will be looked at and subject to further review. He said we can tell folks that the preliminary budget is balanced without a projected tax increase. That is subject to change. Council will take it up on September 25<sup>th</sup> at the first Budget Meeting. The Public Hearing will be scheduled for October 23<sup>rd</sup> at 7:45 p.m. A copy of the budget is available by contacting the Municipality. He said we look forward to working with everyone including the Finance Director and the public on what we do in 2018.

Mr. Dixon welcomed Mr. Peter Grandillo to the Planning and Zoning Commission.

### **PLANNING AND ZONING ITEMS**

16. Citizens' Comments – Planning and Zoning Items

None

17. Ordinance No. 9-11-17 – Amendment to the Municipal Ordinance to Regulate Unmanned Aircraft Systems (Drones)

Motion by Mr. Dixon and seconded by Mrs. Gibbons to approve Ordinance No. 9-11-17 amending the Zoning Ordinance to Regulate Unmanned Aircraft Systems (Drones). Motion Carried 9 – 0.

18. Resolution No. R9-11-17B – Grant Acceptance – Active Allegheny Grant Program

Motion by Mr. Dixon and seconded by Mrs. Gibbons to adopt Resolution No. R9-11-17B authorizing the accepting of grant funds through the Redevelopment Authority of Allegheny County Active Allegheny Grant Program and executing of the necessary contract documents for the Bicycle Transportation Plan, in accordance with the Municipal Planner's correspondence dated September 6, 2017. Motion Carried 9 - 0.

Mr. O'Brien said we have an application for a 130 foot cellphone tower at Logan and Irishtown Roads on Masonic Hall property adjacent to Wilamit Drive. There have been some delays on this application. There will be a Public Hearing on November 29, 2017 at 7:00 p.m.

Mr. Harrison asked for clarification on this hearing.

Ms. Moore said this application will be reviewed at the Workshop meeting on November 29, 2017.

**HEALTH, SAFETY AND WELFARE ITEMS**

## 19. Health, Safety and Welfare Items

No Items

**PUBLIC WORKS AND MAINTENANCE ITEMS**

## 20. Citizens' Comments – Public Works and Maintenance Items

None

## 21. Public Works and Maintenance Items

Resolution No. R9-11-17C – Vacant Property Recovery Program

Motion by Mrs. Gibbons and seconded by Mr. Hannan to adopt Resolution No. R9-11-17C, Vacant Property Recovery Program, authorizing the participation of the Municipality in the Redevelopment Authority of Allegheny County's Vacant Property Recovery Program, subject to certain requirements. Motion Carried 9 – 0.

## 22. Change Order – Accubrine / Salt Storage Structure

Motion by Mrs. Gibbons and seconded by Mr. O'Brien to execute a Change Order in the amount of \$201,220.21 for the Accubrine System and Salt Storage Structure at the Public Works Complex, in accordance with the Municipal Manager's correspondence dated September 7, 2017. Motion Carried 9 - 0.

Mr. Harrison mentioned that this is a tremendous magnitude for a change order. He said it was explained to us tonight why it happened and he is still not happy with it.

Mr. O'Brien said that the flowers at the Veterans' Memorial are absolutely beautiful. He thanked Dan Duff and the Community Foundation for the generous Grant and Sharon Taylor and Rick Raeder for all their hard work this past weekend. Fall flowers will be added to finish up the grant in the next few days.

Mr. O'Brien thanked Cathy Lordi for going the extra mile and thanked her for her service.

Mr. Moury added thank you and you will be missed.

23. Adjournment

Motion and second to adjourn at 8:44 P.M.

  
Manager