

Borough of Ben Avon Heights

Tuesday, May 7, 2019 – Special Council Meeting Minutes

The Special meeting of council was held at Shannopin Country Club at 7:00 P.M.

A quorum was in attendance

Present:

Council Members, that are not Shannopin Country Club members: Cuteri, Hebert, Smith, Stiller

Council members, that are Shannopin Country Club members: Radcliffe

Council members not present: Rick Barardi, Jason Brown.

Solicitor: Vogel, Tucker Arensberg

Public: Jack Goodrich, Shannopin Secretary

Mr. Cuteri began the meeting at 7:00 PM.

- 1. Curative Amendment and Validity Challenge Adoption of Ordinance Amendment:** Mr. Vogel announced to council that the Borough had properly advertised this special meeting, held on May 7, 2019 to consider and vote upon the Curative Amendment and Validity Challenge, filed by Shannopin Country Club, to the Borough's Zoning Ordinance, Ordinance number 261, as amended. Council members were provided the Hearing Officers Findings of Fact, Conclusions of Law and Recommendation, regarding the March 27, 2019 Hearing, four (4) days in advance of this meeting. Mfr. Vogel said that while Council members were free to vote his recommendation was for Shannopin Country Club members to abstain as such a vote might be considered a conflict of interest

Mr. Vogel then read aloud the entire section "III Recommendations" of the independent hearing officer report prepared by Kathryn Clark, Hearing Officer, dated May 2, 2019.

A motion was made by Mr. Cuteri to accept the Hearing Officers suggestions. Mr. Radcliffe second the motion.

Mr. Cuteri asked for discussion. There were no comments or discussion on the motion. Mr.

Cuteri Called for a roll call vote:

- a. Hebert Aye***
- b. Stiller Aye***
- c. Smith Aye***
- d. Cuteri Aye***
- e. Radcliffe Abstain (as he was a member of Shannopin County Club)***

The Aye's have it, Council denies the validity challenge and does not adopt the proposed Curative Amendment filed by Shannopin Country Club.

- 2. Ordinance No. 342:** With regard to the recommendations made by the Hearing Officer, which acknowledges that Shannopin has been in existence at its current location for almost 100 years, that the Zoning Ordinance of Ben Avon Heights is not Exclusionary and is consistent with the joint comprehensive plan of which Ben Avon Heights is a party to, that Council enact an amendment to the zoning ordinance, in the manner contemplated by the Hearing Officer Recommendations, as this amendment would not constitute "spot zoning" as stated in the Hearing Officers Report.

Mr. Vogel's office drafted up Ordinance No. 342, which is similar to Shannopin's proposed curative amendment. Under the new Ordinance, section 6.1 is amended to state:

6.1 Permitted Uses by Right

1. Principal Uses

e. Private Recreation. A private Recreation Use that is located on one lot that has a minimum lot area of five (5) acres.

A motion was made by Mr. Cuteri to accept Ordinance No. 342. Mr. Stiller seconds the motion.

Mr. Cuteri asked for Discussion. Mr. Cuteri questioned if this Ordinance could be passed without the normal advertisement and wait period, Solicitor Vogel indicated that this was legal ion this instance as a matter of existing law for this particular circumstance. There was no other discussion on the matter.

Mr. Cuteri called for a roll call vote:

- a. ***Hebert Aye***
- b. ***Stiller Aye***
- c. ***Smith Aye***
- d. ***Cuteri Aye***
- e. ***Radcliffe Abstain (as he was a member of Shannopin Country Club)***

The Aye's have it, motion was passed an Ordinance No. 342 is adopted.

3. Public Comment: Mr. Goodrich, Shannopin secretary, was glad to hear an agreement was made allowing the Shannopin the possibility of future projects. Current projects are now on hold due lack of funds.

This meeting adjourned at 7:14 P.M.

The next regularly scheduled monthly meeting is May 14th, 2019 at the Shannopin Country Club.

Respectfully submitted,
Jessica DiNuzzo, Secretary