



Borough of Ben Avon Heights

Tuesday, October 13, 2020 - Council Meeting Minutes

A quorum is in attendance

Present:

Council Members: Brown, Cuteri, Dawley, Mihalko, Neunder, Stiller, Radcliffe

Solicitor: Vogel, Tucker Arensberg

OTPD: Chief Hanny

Fire: Chief Berie (arrived late due to emergency call)

Secretary: DiNuzzo

Residents: Jill Berardi, Dan Burgun, Michelle Dawley, Maggie Good, Evan Hudson, Hope Lucas, Chris Skerlong, Kati Von Lehman

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

- 1. Approval of September meeting minutes: A motion was made by Mr. Radcliffe to approve the meeting minutes. Mr. Stiller seconds the motion. The motion passed unanimously.**
- 2. Police Report:** For the month of September there were a total of 99 calls, 90 of those calls were routine. Chief did mention that there were a few incidents that had happened over the past few days and asked council what questions they may have for him. Mr. Cuteri wanted the Chiefs feedback on possibly temporarily changing the parks hours. The question was being raised after there had been some vandalism in the park, littering and some adolescents using vulgar and offensive language in the park. He also asked when other parks are typically open as our park hours are currently sunrise to 11pm, and if we changed them to sunset does that typically help with these situations? Chief does believe changing hours does help, as some of the other Boroughs they patrol have park hours from sunrise to sunset; he does feel it can limit vandalism at times. Mr. Radcliffe stated that he thought during this turbulent time, changing the hours until January temporarily to see then how things go from there. The Chief agreed that a trial period never hurts, giving the community time to provide feedback.

Mr. Dawley questioned Mr. Radcliffe on what he meant as council had not discussed yet any time change of the park and thought we were on the police report. Mr. Cuteri responded that we were talking to the chief now as he is our liaison with public safety and were inquiring with him on the idea of if we reduced the hours if that helps.

Mr. Dawley questioned what it meant if the park was to close at dusk and his son was still hanging around the park. What would police do if they drove by and saw his son at the park? Chief understands that each community is different. The police would react as Ben Avon Heights would want them to react. Several communities would say to give some grace period after dusk to allow the patrons clear out of the park. If they did see anyone, they would just remind them the park is closed and to move along while they are out on their patrol. Chief gave an example of Emsworth park, some of his officers found some kids at the park at 2am while on patrol; they stopped and reminded the kids to move along and the kids agreed.

Mr. Dawley questioned when these events happened as the event with foul language sounded as if it happened during daylight hours, which would be open hours. Mr. Cuteri stated the email from the resident who made the complaint sent it to Ms. DiNuzzo who shared it with him, it did not mention a time. He did note that the resident should call the police. Shortly after this complaint, the vandalism in the park, specifically to the light that illuminates the flag was damaged. There shouldn't be any issue with council or

council members asking how to handle this. Mr. Dawley felt that if we were discussing closing the park at dusk, we should be discussing what happens in the darkness, not what happens in the day when the park is open. Mr. Radcliffe noted that both cases occurred at dusk or after. Currently the closure is 11pm. If the Borough decides to close the park half an hour after dusk and the police patrolling see kids at the park, they'll simply just ask the kids to move along. He doesn't know if parents want their kids at the park that late anyway. Mr. Stiller asked if council could possibly discuss the park closure when it comes up on the agenda and if there was anything else council needed to ask or discuss with the chief. Mr. Cuteri noted that they were trying to get the Chiefs input on the best way to handle the park hours. Chief did note he was happy to stay around; The Heights have already taken the first step, which is community awareness, which is key. If you see something, say something. They rarely have any pushback.

Mr. Cuteri asked Chief if there were any restrictions other Boroughs put on Halloween night. To the Chiefs Knowledge all the Boroughs they serve, have left it up to the individuals of the Borough; if you want to participate in trick or treating, keep your lights on, if you do not wish to participate, turn your light off. Mr. Stiller asked if we should send something out to the community. Mr. Cuteri noted that the typical trick or treat time fell on the 31st between the hours of 6-8pm. He also noted he could not find anything online where the governor was prohibiting trick or treating. Ms. DiNuzzo will send the memo to residents.

Mr. Stiller asked Chief Hanny about an accident that occurred at the end of September on New Brighton; he stated the car went over the hillside and two residents called 9-1-1 and both had to wait over a minutes before reaching a person. He also noted that he was surprised on the response time, he wasn't sure if the police track the response times and if he could look it up and give council some insight. Chief did note that it is typical; there are a lot of stages a call goes through at the 9-1-1 call center. Unless it's "shots fired" type of emergency, the event then goes into a log that then goes to the dispatch center; the dispatch center covers 7 police departments. The dispatcher who receives the call from the log can only be on the line to one unit at a time. It could be 3-4 minutes before it can be dispatched, sometimes up to 15 minutes. Chief Hanny will go back and look into this and research this for Mr. Stiller. Mr. Stiller noted he was just surprised the fire police were there before the police. Mr. Cuteri also asked if the 9-1-1 dispatch was county wide, chief confirmed.

- 3. Fire Report:** For the month of September, there were a few calls one being an accident on New Brighton, a CO alarm on Wilson but it turned out to be the batteries. The picnic the residents asked the Fire Department to attend for the kids went really well. Chief Berie asked if the Borough would be participating in Trick or Treating on Halloween, Mr. Cuteri let Chief know that we'll have it from 6-8 on the 31st of October, if residents would like to participate, they can, and to please follow any Covid guidelines. Chief Berie also dropped off the FireVest program pamphlet to share with the community as discussed at a previous meeting. Mr. Cuteri asked how fire receives their 911 calls as there were some questions about the wait time and arrival from the first responders. Chief explained the order of response is: police, ems, and fire is always the last to be notified. Fire normally will not respond to accidents unless the police request their assistance. Mr. Cuteri asked when the Christmas Tree sale will begin, Chief stated the day after Thanksgiving, November 27th, 2020.
- 4. Approval of August Financials: A motion was made by Mr. Radcliffe to approve the August financials. Mr. Brown seconds the motion. The motion passed unanimously.**
- 5. Engineers report:**
 - a. Administrative Consent Order (ACO):** COA anticipated to be released in late June. Likely a 10% reduction in flows will be incorporated into order. COA has not been issued to date. On June 16, 2020 the Borough submitted a Sewer Cap Extensions request that included 15 additional taps within Ben Avon Heights Borough. Borough Council approved the update to the Operations and Maintenance Plan at the May 2020 meeting. LSSE to prepare structure physical inspections as CCTV work occurs. LSSE issued RFPs for CCTV and cleaning of sanitary sewers on July 1, 2020. Work was awarded to Robinson Pipe Cleaning Company in the amount of \$39,072.50 as noted in letter dated August 13, 2020. The pre-construction meeting was held on September 10, 2020.
 - b. Long Term Road, Sidewalk and Curb Plan:** LSSE performed walkthrough with the Borough on August 24, 2020. LSSE provided 5-Year Road Plan and Opinion of Probable costs to Borough for review.

- c. **2021 Roadway Improvement Program:** LSSE is to provide Service Order Authorization for Borough review. Base Bid Roads to include Stratford (Clovelly to Biddeford); Add Alternates to include Devon (Pennhurst to Wilson), and Kent (Wilson to Dead End), and rolled curbs for three roads listed.
- d. **Newgate Road Sewer Tap:** LSSE was notified by Dave Haslett of Avalon Borough that a property owner along Newgate Road in Kilbuck Township would like to make a sewer connection to the Ben Avon Heights sanitary sewer. LSSE notified the Borough that the property owner must obtain sewage planning approval from the PADEP prior to connecting the sewer. If the Borough plans to charge a Tap Fee, a simple study to determine the maximum permissible fee in accordance with Act 57 must be performed. The Borough could then determine a tap fee that the resident should pay. This fee should also be charged to Shannopin's proposed tap as well. To date LSSE has not been contacted by any property owners in Kilbuck Township. Ben Avon Heights Borough issued a letter September 23, 2020 to Elizabeth L. Stephans Baker notifying indicating that the Borough would not accept taps from properties outside the Borough. Mr. Cuteri also noted that he was in contact with the plumbing company that is overseeing the property project at Frew plumbing.
- e. Mr. Mihalko also wanted to bring to councils' attention that when the sewers were being attended to, there is one that is now sunk-in and needs to be raised back up by the stop sign at Banbury. Mr. Cuteri said the Borough would bring that to the engineer's attention.

6. Public Comment:

Kati Von Lehman 9 Banbury Lane wanted to bring to councils' attention the Ben Avon Heights Centennial Facebook page; it was created by the centennial committee and the responsibility was given to a resident of the Borough to oversee. Since the celebration, this resident continues to use the centennial Facebook page and for the most part over the past 7 years has been posts about bugs and events in the area. However, recently there was a post about the signs being vandalized at the park and the post was very political. As a page that was not only endorsed by council, but created for a community event, it seemed an inappropriate place to put this post. Kati also commented that if you google Ben Avon Heights Centennial, it takes you to that Facebook page from our website. She also noted that she did speak with an attorney who did feel that the Borough could be liable and at risk for the posts made by this page.

Mr. Cuteri responded that we will need to fix that link from our website, he would also have to look more into whether council endorsed the Facebook page, he was aware of the centennial committee. Mr. Vogel suggested removing the link from our official website to eliminate any confusion. The Borough also does not have trade mark protection on the Borough logo; therefore, the person or group could use it. This page was created as a private group; therefore, the Borough really cannot tell the residents to take any posts down. Mr. Vogel also disagreed with the statement that the Borough could be liable for any posts made by this page. Council members pulled up the Facebook page in question and looked at the similarities of the centennial page and the official page. Mr. Stiller mentioned that in the past residents have been confused by the two different pages and accidentally signed up for the Centennial page when they wanted the official page.

Mr. Dawley asked what happens when it looks and feels like an official government page? What about the reputable damage? When someone acts on behalf of the entity or appears to act that causes that entity reputable damage, which is what these posts have caused. Mr. Dawley suggested that either council ask for the post to be taken down or, the owner of the page put their name in the title so it would read "Jane Doe's Centennial Ben Avon Heights" page. Then, the posts would show was Jane Doe and not Ben Avon Heights. Kati noted that since this was the first page created, people joined this page as directed by the town website to this page as at one time, it was the only option.

Hope Lucas at 16 Clovelly Road came to council to express her frustration over a Facebook post on the Ben Avon Heights Centennial page. This page was originally created by the centennial committee which was appointment by council. She feels that council should reach out to this resident who is still running this page and ask them to change the name of the page so there is no confusion between this page and the official Ben Avon Heights Borough page. She also suggested that council should write a letter reminding the resident they do not represent the community or council and should change the page name so the residents name is in the page. Mr. Cuteri asked if someone could explain what the offense was, Ms. DiNuzzo showed Mr. Cuteri. the page in question. Hope also explained while she reviewed the page and post, that the resident posted about the signs being vandalized in the park. She then stated that the resident equated black lives matter to anti free speech and then in the thread to follow, equated Marxism in reference to those who

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don't agree, and people were referred to as Nazis, so in addition Hope stated that she did not get into a political discussion, but did say to this resident that they should post this on their own personal page. Hope also stated that she would have been equally offended if someone from the opposite side of the political spectrum had posted these items. Kati also noted that when she too suggested to put the residents name on the page the resident responded with: I don't have to do anything.

Mr. Cuteri stated council would take the steps to disassociate this Facebook page from the Borough website and would also discuss what the next steps the Borough should take with legal counsel. Hope stated that she does not like being called a Nazi and a fascist, in which Mr. Cuteri responded, neither did he; but the constitution protects the people which allows people to call you a Nazi and that unfortunate but that's the way it is.

Maggie Good at 45 Wilson Drive was wondering if council would agree to de-link the page. Mr. Cuteri informed Maggie that during the discussion about this page thus far, he asked Mr. Brown to please do so. Mr. Brown confirmed that they have been disconnected from each other during this meeting.

Chris Skerlong at 1 Stratford Road came to council with concerns on the number of political signs as well as the home-made non-political signs which she finds some to be offensive. She is under the impression council and the Borough will allow political signs on the fence in the updated zoning ordinance, but would like council to re-consider. Mr. Cuteri informed Chris that the current zoning ordinance is under construction and will be available for the public to view and comment during a special public meeting. The updated ordinance will be more specific as currently there is nothing on this subject. Mr. Cuteri also noted that we the Borough cannot control how people act, he personally feels it's silly and tries not to get personally offended by the signs, but it is hard. Chris asked if there was a legal reason why we have to allow signs in the park. Mr. Vogel noted that if you allow certain signs you cannot discriminate against others in content. Signs have to be obscene, not vulgar to be taken down and that's a high standard.

Council member Steve Stiller recalls in the past the Borough not allowing political signs, including the fence at the park. He feels the signs specifically on the fence are a safety issue as drivers are stopping and taking pictures. He also noted that in ordinance 125 signs on private property must be 30 feet set back from an intersection and feels this should apply to the park as well. Mr. Vogel noted that if you are going to deem this a safety issue, you will need documentation such as police reports involving accidents at that intersection. A question was raised that if it's deemed a safety issue to have signs at the park, why can't the signs be taken down. Mr. Dawley asked council if they should pass a resolution over this. Mr. Vogel stated that if you deemed it a safety issue, you would need objective proof such as the police saying these accidents were caused by these signs and we deem it dangerous. Mr. Mihalko feels it seems like all the signs getting stolen and destroyed are Trump signs so he understands when people decide to then make homemade signs.

Mr. Cuteri noted that we have always allowed signs in that area, if we're going to outlaw the signs then we can do that when we pass the new ordinance. Mr. Stiller suggested just no political signs, Mr. Cuteri noted that we cannot discriminate on the type of signs in that area. He's not here to argue a point he's just here to explain the options. The options will not be decided by a handful of people, it will be decided on deliberate and thoughtful process; we want your input and we hear what you're saying. There are two sides to everything, we're required to uphold the US constitution, we swear an oath to that when we take office.

We want to make sure we are doing what is legal and proper and not it just react because we're angry and we can come to a rational conclusion; getting your input is the first step. Hope also suggested that council send an email to the community that this has been a problem, we're concerned about safety so we would be appreciative if you would not put signs up and take down those that you may have already put up. It's voluntary so residents can choose to or not. Mr. Cuteri did note, the assumption by many is those signs are only from people in the community, that is unlikely.

Evan Hudson at 9 Banbury Lane disagrees with limiting the park hours from dawn to dusk, he doesn't feel the acts of vandalism will continue after the next few weeks. Council president Alan Cuteri also wanted to express his frustrations over the number of complaints the Borough receives where the residents would like to remain anonymous. If you see kids or adults acting out in the park and you don't feel comfortable

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confronting them, call the police. Calling the police would be the most anonymous route. Mrs. Neunder noted that we have the non-emergency police line on our Boroughs website and encourages all to use this.

It was later clarified by Chief Hanny later in the meeting that the non-emergency number is only manned during business hours. Residents should use the 911 call center for these types of issues.

Michelle Dawley 19 Canterbury Road, she also does not agree with closing the park at dusk over one incident at the park. She feels our children of the community need a place to meet with their friends, council presidents' letter recently said that if we enforce the dusk or dark then the police can remove people who are up to no good. It's either closed at dark or not, you cannot tell when someone is up to no good. Mr. Cuteri did not feel this was an alarmist move as it was more than one incident, it was a total of 3 within a short period of time. Mr. Mihalko noted that the park was vandalized and similar behavior took place at the park in the past, where he had to call the police because the event confrontation escalated. This group came back at night and spray painted and vandalized the basketball court.

Jill Berardi at 11 Banbury Lane is also upset at the decision of closing the park at sunset. Sunset currently is at 6:45pm and as Jill drove to the meeting this evening, she passed the park and noted an estimated 17 people in the park. She typically walks around 7:45pm and notices many still in the park. She feels during Covid, people need to get out of the house and go somewhere and the park is a great place. If council does decide to close the park early to consider a reasonable time to allow kids, young adults and adults time to blow some steam off. Mr. Cuteri asked Chief Hanny if calling the non-emergency line is better and Chief responded he would need to know a little more details about a situation; if the event took place in the evening or the weekend, it would be better to call 911 as the non-emergency line does go to headquarters office, which is open regular business hours. Mr. Mihalko suggested that since there is power at the park, would the residents be opposed to having cameras? Point at the flag, or the fountain, two items that were vandalized and costly to fix. Mr. Cuteri stated we're still looking into the cameras at the intersection but we are at a road block as there is only one provider, which makes it hard to bid.

Dan Burgun at 5 Briar Cliff also wanted to approach council with his thoughts on closing the park early. He and his family enjoy going in the evening hours, he does understand that 11pm seems late but feels dusk is too early. He also feels signs in the park are inappropriate and would love to not see those signs there. He also wanted to touch base on the Centennial Facebook page, he personally is not on Facebook but did see the page and it does appear to look official. Dan would be a fan of the traffic camera as well, but not one in the park.

- 7. Green space update:** Mr. Radcliffe informed council that tomorrow, they will complete the seeding of the site that used to be the old dump site as well as remove the dead weeds. This should be complete by the end of the weekend. In the park he had a carpenter re-build some of the park benches this past weekend. Ron Scott who is a resident of the community is in the process of replacing and fixing the broken light that illuminates the American flag, it could take up to two weeks to complete this project. The hedges along Lynton Lane along the park were cut back for safety as he would like to keep them at two feet or lower. Mr. Cuteri said he got an updated quote on the park clean up and Mr. Radcliffe suggested we stay with what we currently have at \$950.00 and keep the three segments but have an end date as last year wasn't complete until late January. Council noted they will keep park hours the same.
- 8. Police Contract update:** Mr. Cuteri informed council that the police contract is renewed every 5 years and that council needs to authorize renewal for the 5th year with an increase of \$800.00 for the one-year extension. Mr. Vogel suggested we discuss this next meeting so all members can review and start the motion. The contract goes until the end of December 31st 2020.
- 9. Zoning applications:** For the month of September there were no submissions.
- 10. Executive session:** Began at 8:04pm
Regular session resumed at 8:07pm
The meeting ended at 8:08pm

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The next scheduled meeting is November 10th 2020, at 7pm at Avalon Volunteer Fire Hall.

Jessica DiNuzzo, Secretary

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