



Borough of Ben Avon Heights

Tuesday, June 11th, 2024 - Council Meeting Minutes

A quorum is in attendance

Present:

Council Members: Berardi (Remote), Brown, Lope, Morris, Neunder (arrived at 7:03pm), Stiller

Police: Hanny

Fire:

Mayor: Dismukes

Solicitor: Mongilio

Secretary: DiNuzzo

Residents: Patty Schneider 50 Wilson Drive, Betsy Radcliffe 14 Wilson Drive, Greg Mihalko 3 Briar Cliff Road, Mary Ann Mihalko 3 Briar Cliff Road, Mark Davis 20 Banbury Lane

Call to Order: Mr. Brown started the meeting at 7pm

- 1. Approval of May 2024 meeting minutes:** *A motion was made by Mr. Lope to approve the May 2024 meeting minutes. Mr. Stiller seconds the motion. Motion passed.*
- 2. Approval of Updated Financials:** *A motion was made by Mr. Lope to table the updated financials. Mr. Morris seconds the motion. Mr. Brown noted this will need to be tabled until July's meeting. He noticed some discrepancies. Mr. Brown has been in communication with the accountant, but did not receive the updated reports in time for the meeting. motion passed.*
- 3. Approval of May 2024 financials:** *A motion was made by Mr. Stiller to table the May 2024 financials. Mr. Morris seconds the motion. Motion passed.*
- 4. Emergency Management:**
 - a. Fire: *No fire present.*
 - b. Police: *Report below. Chief Hanny wanted to note, please talk to your elder relatives over online scams. No one should be coming to your house demanding large sums of money and then putting it into bitcoin machines. Once the money goes into the bitcoin machine the FBI cannot retrieve the money. He will forward a powerpoint presentation that Ohio Township just presented for the Borough to share with the community. Mr. Brown noted that he wanted to thank Ohio Township police for sitting at the intersection of New Brighton and Perrysville, residents noticed many were pulled over for issues at that intersection this past weekend.*
- 5. Public Comment:** *Patty Schneider at 50 Wilson Drive noted that the previous Council meeting it was mentioned that Killbuck had been in communication with Ben Avon Heights over her hedges. She noted that she did have her landscaper go along and trim back her hedges since then and wanted to know if there had been anymore communication over this topic between Killbuck and Ben Avon Heights. Ms. Shneider also noted that she was curious if any incidents have happened at that intersection, or anywhere along Wilson Drive due to hedges. Her last question to Council was, if there were any additional discussions on putting a sign going up Wilson, to make the intersection at Wilson and Newgate a 3 way stop. Mr. Brown responded that he did not communicate with Killbuck after receiving their note on her hedges, and he has not heard any other complaints since. He added that Chief Hanny would know best about the incidents at that intersection and to his*

knowledge is only aware of the incident that took out the stop sign. Mr. Brown noted that that section of Wilson, where a 3-way stop sign would need to go is Killbuck.

Betsy Radcliffe 14 Wilson Drive stated that she would like Council to double check the map again, on what Ms. Schneider mentioned on a 3-way stop, she stated that the property at the end of Wilson at the intersection of Perrysville, the house to the left of that is Ben Avon Heights. Mark Davis, a resident present at the meeting, noted that the line is in the middle of Newgate. She continued with some recommendations for the working sessions that Council has been devoting towards editing the drafted zoning ordinance. She feels the agenda is too broad, she would like moving forward, for the agenda to say what page they will begin editing on. She also noted she is confused at where items that were unresolved in April's meeting stand, if it could be communicated if it's been resolved, it would be helpful. She requests Council send an email out about the working sessions.

Greg Mihalko at 3 Briar Cliff Road came to Council disappointed over the easement process so far. He currently does not like how his agreement is written and will appeal any action the Borough may take without an agreement he and his wife agrees on. He would like the Borough to look into putting the sewer easement somewhere else that is less aggressive on his property.

Mary Ann Mihalko at 3 Briar Cliff Road also came to Council tonight to discuss the sewer easements. She's is also disappointed with the information and how it was presented. She feels the way it's written, the sewer easement will devalue her property.

Mark Davis at 20 Banbury Lane came to Council tonight to discuss the sewer easements. With his background, he strongly suggests Council not enter a legal binding contract with the lead bidder, until all the easements are secured. Otherwise, if the project stops due to a property not agreeing to the project, he believes the Borough will pay at least a \$50,000 fee. Mr. Heyl confirmed there would be a fee, mainly for advance purchase of materials, but could not say how much it would be. He also added that there should be a solid restoration verbiage, so they hold up on their end on keeping those residents happy with how Jet Jack puts their property back into place. He suggests the Borough should look into and invest in moving the sewer lines to the street where the Borough has right of way and access. He also believes the proposed sewer easement is not on his property but on the Hebert's property and feels the survey is incorrect. He also currently will not sign the easement as presented.

6. Infrastructure and Operations:

- a. **Engineers report: (Memo below):** LSSE stated they are working on the next cycle of CCTV camera work for the sewer Operations and Maintenance (O&M) plan. Columbia Gas has begun the pa 1 call for the pothole issue on Canterbury.
- b. **2024 Sewer Project Easement Update and Resident Discussion:** Mr. Stiller noted that back in 2004 consent decree was filed by the Allegheny health department litigating Alcosan who provides sewer treatment services for 83 municipalities including Ben Avon Heights. Alcosan was found in violation of the clean water act during wet weather events as sewage overflows into rivers and creeks. As a solution to the overrun of sewer water that could not be handled during wet weather events, Alcosan placed the focus on municipalities to lower the penetration of ground water into their sewer systems. As a Borough we are tasked with different phases that occur for our sewers and we must comply and show that we are making improvements to our sewer systems by a certain date or we are subjected to penalty. We have also submitted a Maintenance and Operations plan as part of Consent Decree compliance.

The Ben Avon Heights O&M was created to maintain our sewer system on a rotating plan by each section of the Borough. We have our sewer systems flushed and cameraed to see where areas need to be repaired. There have been two phases of the consent decree and we have successfully adhered to both phases, and the O&M plan has been financed through sewer bill collections. To acquire money for future project work in accordance with the O&M plan, Ben Avon Heights applied for two grants in 2023 and were awarded in over \$400,000 to improve our sewer system. Mr. Stiller added that to his knowledge, Ben Avon Heights has never received grant money for their sewer systems. There are however stipulations to these grants such as a time constraint, as these grants must be used within the next year and a half.

The Borough has been behind on their own O&M plan created, these repairs were supposed to begin in 2020, phase 1 of this plan included Banbury, Devon, Canterbury and Perrysville; these were found to need the most repairs from camera work of the lines and the use of these grants will help the borough catch up on our own O&M plan. This project originally was bid out last year but bids were rejected as they came in too high. Another bid process was held this year that came back with more acceptable bids. Council feels it's important to utilize these grants, as if the Borough does not, they may need to find other means to fund these projects as the borough's annual budget is only around \$660,000.

He went on to add that 13 residents are impacted in this phase of the project, residing on Banbury, Briar Cliff, Devon, and Canterbury and noted the project should be complete in 60 days from the start date with around

7 days on site for each property. There will be other phases to come in the next 5-10 years to update our entire system along all of Ben Avon Heights.

Mr. Brown questioned since the properties on Banbury seem to be raising the most concerns, could we start on other roads in the bid while we figure out a solution for the properties on Banbury. Mr. Heyl noted that the Banbury work was the base for the bid so that wouldn't be an option to keep the current low bid. Mrs. Neunder added that the grant money is a huge win for the Borough as this project is close to our budget for the year. Ms. Berardi asked if we could award the contract contingent on the necessary easements. Mr. Heyl noted we have 60 days from the time the bids were open to award the contracts, which would give us about 2 more days to award the bidder. With that said, we either need to award bids or reject them all and start again. If Council were to award tonight, the letter will be sent to the contractor within the next day or two. After that, it would take them anywhere from 10-20 days to begin the project, but as Mr. Davis pointed out again, the Borough could receive a significant fine if the project is held up by any residents not signing the sewer easement agreement. Discussion took place. Mr. Brown stated that Council needed to decide if we are accepting the bid from the lowest bidder or not to award the bid; we could lose the \$400,000 grant. Mr. Heyl noted there may be a chance that we can re-bid, he'll have to look deeper into the timing after the meeting. Mr. Brown added he does not feel comfortable awarding the bid until we can come to agreement with the easements.

- c. LSA Grant Sewer Project Award, vote: Mr. Brown noted that Council needs to decide if they are accepting the low bidder from Jet Jack at \$232,000 this evening. *A motion was made to table voting and not to approve a bidder at this time, but to ask the lowest bidder to extend their offer by Mr. Brown. Mrs. Neunder seconds the motion. Motion passed.*
- d. Wilson Sinkhole Update: Mr. Stiller worked with West View Water to repair the road. The road work has been added to their restoration list to adhere to our ordinance standards after doing the emergency work.
- e. Electronic Street Sign – Traffic Signal Maintenance Agreement Resolution, vote: Mr. Brown noted there are three stipulations from PennDot over the speed signs: borough must maintain the signs, keep maintenance logs, and the borough is limited in information we can share from them. *A motion was made by Mr. Stiller to accept the resolution. Mrs. Neunder seconds the motion. Mr. Morris opposes, motion still passes.*

7. Green Spaces Update: Mrs. Neunder noted that they planted some flowers under the Ben Avon Heights sign and thanked Mr. Power for the mulch donation. Mrs. Neunder added that they just received a quote for cutting back the hedges and will receive a hedge maintenance trimming quote soon. Mr. Lope noted that since there was some misunderstanding with the park planning project prior to last month's meeting, they have been speaking to the residents of the community and wanted to reiterate what their approach is. They want to approach the maintenance and updates in the park in a methodical, calculated manner and to update and preserve the park for multiple generations. Currently we have two swing sets, the playground equipment, basketball and tennis court, benches, fences and the vegetation throughout the park. All of this will need to be updated at some point and the parks subcommittee feels it's responsible to plan to update the park, especially to use as a budgeting tool; Council president Brown has been asking for a master plan since February of 2023. They are currently researching and understanding the current and future funding needs of the park and they are in the processing of drafting a letter to the community to offer background and explanations on what the parks subcommittee plans to achieve.

- a. Playground Audit: Mrs. Neunder noted at the previous meeting it was noted that the playground had a significant amount of rust. They decided that it would be important to audit our playground so we can move forward with what should be replaced. Mrs. Neunder questioned if this would open us to any liability issues. Mr. Dismukes questioned if requesting this under client attorney privilege would be able to avoid this and it would. Council will vote on this topic at the next meeting.

8. Building, Zoning and Code Enforcement:

- a. Zoning Ordinance update: Mr. Brown noted we had our second meeting and went through pages 11-15. Will take Ms. Radcliffe's request into consideration.
- b. Joint Comprehensive Plan 2027: Mr. Dismukes noted that the Comprehensive Plan is very important to continue being part of as we're such a small municipality. It's designed to support existing residential uses in our community; in neighboring communities there are uses in the community that are not currently allowed in ours and to continue to assure these will not pop up in ours, we should continue to be part of this joint comprehensive plan which is due for an update in 2027. The beginning process to update this will begin soon.
- c. Zoning applications: Ms. DiNuzzo noted for the month of May 1 application was submitted for a 12x14' pergola.
- d. Code enforcement: no issues were presented

9. Administration:

- a. Sunshine Act Clarity: Mr. Stiller wanted to remind all that the Sunshine Act is a Pennsylvania Law, and Council takes the act and adherence to it very seriously. He believes it is key to maintain a transparent government by deliberating openly and building trust with the community. Every year when new Council are sworn in, the solicitor does a presentation on the Sunshine Act, so all are informed during the onboarding process. This new training process began in 2022.

There were a few items brought to Councils attention by a resident. Item #1 was that in the April meeting a voting item was added at the end of the meeting regarding an addition to the meeting minutes. The Sunshine Act states any voting item needs to be posted on the official agenda prior to the meeting. After the legal team reviewed this, the vote was to amend an existing agenda item, which was an edit of the meeting minutes, therefore an amended agenda was not required. Item number 2: Did Council state the reason for executive session at the last meeting? Sunshine act states that prior to any executive sessions it be communicated to the public as to why there is an executive session. Council did in fact state the reason for the executive session in May which was public safety, the solicitor and other Council members confirmed this. Item 3, is Council properly advertising their working sessions? The new working sessions started in April and have been used to update the drafted zoning ordinance. The sunshine act states that all public meetings be advertised prior to the meetings; all working sessions have been advertised in advance all at once for the remainder of the year, similar to how regularly council meetings are legally advertised. Mr. Stiller added we spend about \$3,000 on legal advertising and have looked into other more affordable options, but are still only limited to the Pittsburgh Post-gazette.

In addition, other items to note: Council posts working session info on our website along with agendas and minutes. We have fully complied with Right to Know Requests, and also passes along communications on topics requested by residents. There have been requests for financial information and we share what we can as approved in public meetings. All internal council emails that have a quorum on them state this as such in the first line of the email, and that conversation is limited to non-voting items only. Anyone can contact the Borough email and Jessica can funnel those questions and concerns to the correct subcommittee or leadership.

- b. Borough Email Notifications: Mr. Stiller noted that they are looking into how we're using email notifications right now and review how we communicate with our residents. Mr. Brown noted we are the only Borough that sends emails to our individual residents. He would like to change our emails to just Borough topics and would like the community club to send out community events. Mr. Morris would like us to send out more notifications, but condense them into one i.e. sleep over in the park, working sessions, etc. Mrs. Neunder noted she currently has a property in another community that sends out weekly emails and she feels that's too much and less effective than more streamlined emails. She feels a monthly email would be a better idea. After debate, the prevailing thought with council was to continue to send out emails with community events and other important borough topics, but to try and collate them into a monthly email to residents.
- c. Monthly/Quarterly Newsletters: Much of the conversation of this topic was covered in the previous borough Email Notifications agenda topic.
- d. 2023 Audit: Mr. Brown noted we received our 2023 audit and there were no outstanding items.
- e. Set Working Meeting Agenda: June 25th 2024 7pm Avalon fire hall

10. Executive session: no need for executive session

11. Meeting adjourned at: 9:02pm

Jessica DiNuzzo, Secretary

**CALL SERVICE REPORT GROUPED BY DESCRIPTION
INCIDENTS REPORTED BETWEEN 05/01/2024 AND 05/31/2024
BEN AVON HEIGHTS**

DESCRIPTION	MAY CALLS	YTD CALLS
Animal Complaint	0	1
Animal Complaint - Injured/Deceased Deer	1	1
Assist Other Agency	0	1
Burglary Alarm - Residence	0	1
Civil Dispute	0	1
Disorderly Conduct	0	1
Domestic Disturbance	0	2
DPW Request	0	7
EMS Call	1	6
Fraud	1	1
Harassment	0	1
Local Ordinance Violations- Fireworks Complaint	0	1
Local Parking Ticket	0	1
Police Detail - Crossing Guard	1	6
Police Detail - Directed Patrol	70	329
Road Hazard	1	1
Traffic Citations	2	3
Traffic Complaint	0	1
Traffic Stops	0	2
Welfare Check	0	1
	77	368



MEMO

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TO: Ben Avon Heights Borough DATE: June 6, 2024

FROM: Kevin A. Brett, P.E. S. O. No.: 0452-01
John R. Heyl, P.E., CPESC

SUBJECT: **June 11, 2024 Meeting**
Engineering Report

cc:

Following is a summary of the engineering services provided since the last Engineering Report:

1. **Phase II Consent Order and Agreement (COA)**

Task for the remainder of the Order include continued O&M and reporting of SSOs.

2. **Sanitary Sewer Operations and Maintenance (O&M)**

2023 O&M Repairs – Contract No. 23-SW1 (Re-Bid):

- *Borough was awarded \$149,905.00 LSA Grant*
- *Request for Easements for 2023 Sanitary Sewer O&M issued March 29, 2024.*
- *Bids were opened on April 5, 2024.*
- *LSSE issued the Bid Report for Borough review on April 9, 2024.*
- **Next steps include obtaining all easements, awarding contract, and scheduling pre-construction meeting. Contractor to be reminded that each homeowner will need to be given a minimum of 48 hours' notice before starting work on respective properties.**

2024 O&M Repairs:

- *PA Small Water and Sewer Grant awarded in the amount of \$257,053.00.*
- *2023 O&M (Year 4) CCTV has been completed.*
- *2024 O&M Budget provided on December 12, 2023.*
- **2024 O&M (Year 5): CCTV and MHPS completed May 6, 2024 along Biddeford Road and Stratford Road. LSSE to begin review and determination of repair scope upon receipt of deliverables from contractor.**

3. **MS4 Permit**

MS4 Waiver was approved through 2028.

4. **Canterbury Paving**

Columbia Gas indicated their contractor would address the issue.

5. **Canterbury Sidewalk and Curb**

2023 LSA Grant has been submitted.

6. **Electronic Speed Sign Permitting**

The survey work has been completed. LSSE is preparing the Highway Occupancy Permit application. LSSE transmitted permit plans and PennDOT documents for Borough review and signature on May 14, 2024.

LSSE submitted the ARLE grant application. ARLE Grant reviewer indicated that the “scope of your project meets eligibility requirements for the ARLE Funding Program, however, based on our review of the project area and proposed improvements, the requested grant funding exceeds the estimated safety benefits of the project”.