



Borough of Ben Avon Heights

Tuesday, July 13th, 2021 - Council Meeting Minutes

A quorum is in attendance

Present:

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

Mayor: Dismukes

Solicitor: Vogel, Tucker Arensberg

OTPD: Sgt. Beck

Fire:

Secretary: DiNuzzo

Residents:

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

- 1. Approval of June meeting minutes: A motion was made by Mr. Radcliffe. Mr. Brown seconds the motion. The motion passed unanimously.** Mr. Stiller had a question on having the zoning meeting minutes From May available to the public. Mr. Cuteri noted that Jessica just returned from vacation and he has also been very busy this month, but we will review requested minutes at the next meeting. Mr. Vogel confirmed that there was no issue in these being posted late.
- 2. Approval of April financials: A motion was made by Mr. Radcliffe. Mr. Brown seconds the motion. This will be tabled until the next meeting.** Mr. Brown had a list of items that did not match, some items showed the Borough being over budget, and Mr. Cuteri agreed that these numbers did not look correct. Mr. Cuteri also added that he does want to talk about insurance, he'd like to get another quote from another agencies as we've had this one for a long time and can't seem to get a full report on what the costs are and what the raises are. He'd like another agency to give us quarterly reports and an overview of our insurance. Mr. Cuteri also added after some discussion that maybe it's time to have an in-person meeting with our accountant, myself, Jason and Jessica. Ms. DiNuzzo will set this meeting up.
- 3. Police Report:** Sargent Beck reported for the month of June there were a total of 74 calls, 63 of those were routine patrol. The others reports were both alarms, assisted an ambulance, 3 traffic related citations, pretty uneventful. Mr. Dismukes asked if the FEMA related items were squared away. Sgt Beck responded that yes, everything is up to date and submitted.
- 4. Fire Report:** no fire present at this meeting.
- 5. Engineers Report:**
 - a. June Report Attached.**
 - b. 2021 CCTV status:** LSSE stated they reached out to the company to see if their camera had been repaired, LSSE has not heard back as of yet.
 - c. Road repair schedule of work:** LSSE informed council that Liberoni is trying to get the rounded curb form for the curb machine to get the curbs done quicker. Mr. Cuteri let everyone know that there will be extra work done on Biddeford, he and Mr. Heyl reviewed the changes with the contractor.
 - d. Change order for work on Biddeford:**
 - i. Removal of the Concrete Island, subbase and New Asphalt Area from the Oxford Road at New Brighton Road \$ 8,784.64,**
 - ii. Pipe and Inlet Work on the End of Biddeford (From House #9 to end and connect to existing inlet through NEW Inlet) for the Cost of \$8,799.6.**

- iii. As soon as LSSE receives the signed change order from the contactor, LSSE will send it to the Borough for signature. **A motion was made by Mr. Radcliffe to accept the change order once it's signed by the contractor. Mrs. Neunder seconds the motion.** Mr. Brown questioned where the additional \$17,000 was coming from as we do not have it in the budget. Mr. Cuteri stated that we would probably have to transfer it from reserves if we don't have it.
 - e. Mr. Stiller asked if there was a deadline in the contract as to when this needs to be completed by. Mr. Heyl responded that there is a deadline but there have been a lot of extenuating circumstances on this, weather being a big factor. Mr. Heyl also noted the deadline was June 21st originally. Council members asked if there was a drop-dead date in the contract, Mr. Heyl did inform them it can be but it's not the most efficient thing to do. Mr. Cuteri asked if we could request a schedule for when they would be back on site. Mr. Heyl informed council that they're just waiting on this piece for the machine. Mr. Heyl indicated the contractor would remove the incorrect curbs and complete the project per specification.
 - f. Mr. Stiller stated his other question was regarding all the stuff laying around in ditches and stuff is the Liability on us as the Borough for safety? Mr. Cuteri responded that it's their job to keep the site safe. Mr. Vogel added if any action went against us, we would then put it against the contractor.
 - g. Mrs. Neunder brought up a discussion on materials stored on site. Mr. Cuteri indicated the Mr. Heyl to have the contractor remove the stored materials and move the portajohn.
 - h. Mr. Cuteri stated that no one should be talking to the contactors, the contractor should go through the engineer. Residents have no business with making agreements with the contractor. Mr. Cuteri asked Mr. Heyl to talk to the contactor and get this straightened out. Mr. Cuteri then asked Ms. DiNuzzo to send an email out to the residents reminding them to please not discuss problems with the contractor directly, send concerns and complaints directly to the Borough so we can have the engineer handle any issues
 - i. Mrs. Neunder stated that there's also a concern as she has little kids in the yard and it's not fenced off on their side of the trenching, and she's worried about one of the kids going into the gutter. Mr. Cuteri responded that's a safety issue and asked MR. Heyl to notify the contactor to make the site safe. Mr. Heyl did state that the problem every contractor is having right now is getting materials.
 - a. **Developers' agreement with Shannopin update:** Mr. Vogel stated that he received the developer's agreement and made a few minor changes and sent them to Mr. Heyl to review. He's made a few additional edits and this will go off to Shannopin tomorrow morning.
 - b. **ALCOSAN updated regulations:** LSSE stated that they submitted a cap extension for December 31st 2021 as the cap expired June 30th. The 3 Rivers weather announced the consent order has been finalized and is just waiting for DEP to actually sign and issue it. Should be in within the next week or two. Mr. Vogel noted that while preparing the ordinance for the Borough to adopt, ordinances 240 and 247 do not mention in there that next time you can do this by resolution. Mr. Vogel stated that we should advertise for the ordinance to be passed next month. **A motion was made by Mr. Brown to authorize advertisement of adoption of the ALCOSAN pretreatment regulations. Mr. Stiller seconds the motion. The motion passed unanimously.**
- 6. Public Comment:** Larry Skerlong at 1 Stratford Road stated first just as an observation, I'm curious after the construction company screwed up on Devon and put in square curbs and then was made to correct that, how did it happen that they did the same exact thing on Biddeford, and who was supposed to have oversight over that. It was only a neighbor who got involved and called John to come over and have them stop or they would have continued doing square curbs. Which was not obviously in the contract. They had the forms; the forms were laying there to do the other curbs and they chose not to do it and there was no particular oversight from anybody else other than Joe. The second thing is, I had a question about the safety. There are sections of that, that's dug down about two feet, there are sections that go out beyond the hole in the road goes out beyond the plastic fence that they put up, and as two cars try to pass, there's a good chance that one of those holes' somebodies' vehicle could go into it or somebody could fall into it. It's not safe at all and that plastic fence isn't protecting anything. The third observation is, although they came and dumped some stone in Fardo's driveway, a lot of that has washed out so now the bottom two feet of their driveway is now a hole again, so they're not able to choose to park in there because there's a chance the car could fall down in there. It's just been a fiasco. It's unsafe and it's, you know the guys who are working the job are totally uncooperative, with the neighbors who are asking about it. And no one seems to be looking over it.

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Mrs. Neunder responded, I was, I was taking pictures and sending them to Al because that was what I was asked to do. So, I was taking pictures and photographing it, but I again, like you heard I'm not supposed to speak with the contractors. Mr. Skerlong responded well, someone needed to speak with them. Mr. Cuteri added well, we're not here to have the judgement of who did what, first off. I appreciate your comments, there is oversight, we've had residents getting involved as they shouldn't because it's created a lot of problems, created a lot of confusion, contractor was taking directions from people they should not have taken direction from, we have that under control, we're trying to get things back on course. As you heard, we're having the engineer talk to them about safety issues and make sure the area is safe and secured. So hopefully that will happen within the next day. Mr. Skerlong interrupted; well, it needs to be done quickly. Mr. Cuteri responded well, hopefully it will be done within the next day. Mr. Skerlong continued on the terms of the contractor who the other day as they were removing equipment said they're not sure when they're coming back. And the intervention by the Joe Rattay and the neighborhood, simply because nobody else seemed to be paying attention. Mr. Cuteri responded, no that's not true. I appreciate your comment but it's not true. It's just not true. Well, Joe's not even here so, I don't even think we should be talking about it, it's up to Joe if he wants to come in and talk about it, I'd be glad to talk to them, Fardo's are welcomed to come talk about their property so let's keep your comments relative to you, we've heard your opinion, and what you think, is there anything else you would like to say? Mr. Skerlong responded only that I hope it gets resolved quickly. Mr. Cuteri responded I think that's been our discussion here and the meeting, to get this resolved and get it moving.

Clayton Morris at 2 Canterbury stated that first of, it sounds like there's equipment that needs to be stored, if it's on neighbors' properties, we can move it to my industrial sites down on Ohio River if it's a storage concern. Mr. Cuteri responded, yeah, I appreciate that, apparently the neighbor gave them permission and so we're – Mr. Clayton interrupted I have a property – Mr. Cuteri continued yeah, we have areas where they can store stuff, I think it was just mostly this porta john, probably excavation debris I'm not too clear on that, but we'll get that clean, but I appreciate the offer. Mr. Morris responded, sound good, and for the future too. I'm here as I was a couple hours late on sending my comment for the zoning issue, I'm really excited to have some solid zoning ordinances. I sent one comment on the sound, a portion of it. Everyone else is required to stay below 60 or 65 depending on the time of day, we have a new, a couple of new lots that changed from single family to private recreation, and there's no reasonable sound requirements on them, just sound requirements on residents, so. On page 55 section 501, the exception I think should be removed for that. Mr. Cuteri responded, yeah, I think that was brought up the sound issues, so we are going to look into that section. The process is that the planning commission, we've asked that they submit all their stuff and we're going to go through that, make changes that are appropriate, and give descriptions as to why or why not on any of the things that are suggested or talked about, or explain how they work. That will be a public meeting that we're going to do that in, there won't be public comment, but the public will be there to listen and hear what we're talking about and then we will, the planning commission will submit that to council for their review and that will be another public meeting, right John? Mr. Vogel replied yeah, I mean keep in mind the planning commission is having a public meeting, the public can comment on it but, I think the whole purpose is going to be though to narrow it down because if you take it to the extreme, you'll never get anything done because someone is always going to have a problem with something. But I think at a certain point we narrow it down and proceed.

Mr. Morris responded yeah, I was a little late in my submission, so should I re-email it? Or how can I get it submitted in? Mr. Cuteri asked if it was sent. Mr. Cuteri asked Ms. DiNuzzo if she received it. Ms. DiNuzzo asked if he wanted her to share it. Mr. Cuteri responded, yes, I think we have another one that was a little late too, so. Mr. Cuteri stated we were just trying to create a deadline because we already had one. Mr. Morris responded I totally understand. Mr. Cuteri responded, thank you. Anyone else?

Bert Fary at 11 Oxford Road asked if we knew when that next public meeting would be on the draft ordinance. Mr. Cuteri responded that it hasn't been scheduled yet, I need to get together with HRG and kind of go through and compile all the comments. And then we'll try and get it scheduled this week, so that we'll be, it will show up on the website and we'll probably send a notice around to everybody by email. We'll notify everybody when that's going to happen.

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Damian Liska at 19 Banbury Lane stated that he didn't have the agenda on him and he wasn't sure if the Avonworth Community Park Board minutes was part of the agenda or. Mr. Cuteri responded, yes, it is. It's right after public comment.

Ed Gould at 13 Stratford stated that since it doesn't seem like there's a schedule, for the rest of the road, I know that people are trying hard to and all that good stuff; there's a stack of pipes right at the end of my driveway, they need to be put somewhere else until they're going to be used. They've been there for over 45 days or so. Based on the conversation tonight I don't have a lot of confidence that this is going to be done anytime soon. Mr. Cuteri responded I will relay that to our engineer as well. These are next to your driveway? Pipes? Are they drainage pipes? Mr. Dismukes asked are there 3 or 4? Mr. Gould responded 5. Long sections of black corrugated pipe.

Joe Dawley 19 Canterbury stated he had something related to Jordan Tax services. I have a concern on how they treat their customers. I was late on a payment, and then all of a sudden, they filed a lien on my sewer piping, without notifying me whatsoever. And then it took forever to try and communicate with Jordan Tax Service, write a letter, send it certified letter, get them to respond in writing that they incorrectly filed a lien on my sewer pipe. And they were trying to charge us 210 in fees. So, it seems like beyond just being a tax collector, and they then move into the debt collector, I'm concerned they're trying to profit off of residents. Mr. Fary added I second that too, I had the same thing happen and the second bill they send, had the amount of the last bill as still pending so I paid that but they don't tell you about these late fees and that they've already submitted them to the collection's person that's the next desk over. So, you have these other fees and you get the lien notice, and you call them. And one of the line items is 50 dollars for postage. So yeah, that was. Mr. Dawley continued I'd like to have an accounting of what those activities above and beyond sewer collection that they've done, past collections that they've done. In terms of fees. Mr. Cuteri stated I believe we have a contract with them that outlines the terms and fees. Mr. Vogel responded, we have a contract with them, but I think if you want, it may be best if someone from our administration talks to them, talks to Jordan, talks to Bill Linard of Jordan Tax, to say that look, this is a, this is what's happened and what ends up happening is that things mushroom from things being two days late to having a lien placed on there, so.

Mr. Stiller asked if we can see the data on the sewer charges that they've passed along in the past couple of years? Mr. Stiller continued I get that some of it was camp stories or whatever but if we can see the data, from 40 something residents then Mr. Cuteri interrupted well let's hold up. We're not an investigative agency, okay? We're council. Mr. Stiller questioned we can't ask for data? Mr. Cuteri continued, we have a complaint, let's look at the complaints, what the issues are and try and figure out what the problem is, okay? We don't need to start doing research on the last 3-5 years. I mean, people have problems, there are some problems now, there are obviously some problems now, let's dig into it. If it's abusive then, we can talk about it. Does that make sense? Mr. Dawley responded but to Steve's point, there could be people that paid the fees. Because they didn't know what else to do. So, they're going to say they haven't been abusive I can guarantee that. Mr. Cuteri responded but that's not what we're going to be asking them, we're going to ask them what happened. I mean, you both have a complaint that you missed tax payment and they put a lien on immediately without a notification. They did that, that sounds improper to me, I don't know, John do you have a sense on that? Mr. Vogel responded, it depends on what exactly the contract says, on that. I think what happens is that, they have to. You know you're explaining the situations on it and it's like saying, alright, why is this occurring, and if they're able to provide the information saying yeah, we may be able to say this is how many times we filed liens. But I know that, I would be interested to hear from them, from council, to hear from them that okay, what is the process and why does that get imposed and where.

Mr. Dismukes asked if we could circulate the contracts so that we can actually read it and understand what it says? Mr. Thompson at 15 Penhurst asked how long is the contract good for? Council members responded 3 years. Mrs. Neunder stated I mean I did question this because they sent us a letter like saying they were going to do something but it was before the due date, and I called Jordan and I said why are you sending postage out and wasting paper and doing this when it's before the due date. And they were like oh we just have to give you another notification.

And I'm like yes but this is showing that this is late but it's not even to the due date yet. Mr. Dawley added they're a debt collection agency. That's their job and they treat us like we're in debt, so. It's not a good feeling. Mrs. Neunder stated I think you answered this last time but I think you said there aren't too many options for us to select from, right? Mr. Vogel responded, no. Mr. Cuteri added yeah, let's find out what's going on.

- 7. Jennifer Fink and Hobie Webster proposed new members to Avonworth Community Park advisory board:** Mr. Cuteri did ask for both Jennifer and Hobie to be here tonight but Jennifer is under the weather, so out of caution they both decided to stay home. Council is excited and thankful that they want to join the board. **A motion was made by Mr. Brown to nominate Jennifer Fink and Hobie Webster as Avonworth Community Park advisory board members. Mr. Radcliffe seconds the motion. The motion passed unanimously.**
- 8. ARPA local recovery fund application:** Ms. DiNuzzo stated she needed to update some federal forms that were out of date, but did receive a letter stating that we should receive \$37,994.92. This is the American Rescue Plan Act of 2021.
- 9. Ordinances to be added to our website:** Mr. Cuteri noted that this topic came up in the planning commission meeting. He also noted that we had refrained from putting these on the website in the past due to data storage. He asked if we were to pay for a hosting site, is it a lot of money to do that? This way, residents have access to all the ordinances. Mr. Brown raised a good point that while having the ordinances on the website is helpful, being able to search the ordinance is the feature most desired because currently, they are very hard to search. Mr. Brown stated he has no problem putting them on the website. Mr. Vogel made a suggestion, there's a company called ecode360, they have all the ordinances of many municipalities. It could be a faster option; it may be more expensive but you can put something on your website that would just be a hyperlink to ecode360. We don't codify our ordinances. But if you had them on ecode, if you searched for something specific within our ordinances, it would pull up all of our ordinances with those topics. Mr. Stiller noted that issue we have with most of our ordinances due to them being so old is that they're pictures, and it's nearly impossible to convert them to PDF. Mr. Brown will look into trying to convert these. Mr. Dawley requested we look into the cost of ecode360 for the service. Ms. DiNuzzo will look into the cost of ecode360 and revisit this next meeting.
- 10. Abandoned vehicle ordinance:** Mr. Vogel requested council members send him items that they would like to see in the abandoned vehicle ordinance. He circulated a draft copy for council to review. He noted that when you give police jurisdiction which is what the council wanted instead of the zoning officer, the police do use discretion with these issues. For example, if someone has a car parked in their driveway and came back to a broken window, we're not going to then say it's a junk car, here's a citation. Mr. Brown had a few points, first was on item 6 battery with exposed battery acid, suggested removing containing acid; the second item was in section 4, doesn't just want the penalty to be money, want the car actually removed. Mr. Radcliffe agreed. Mr. Vogel noted there may be a certain issue on that. Mr. Vogel also suggested having the police chief take a look at the ordinance for this thoughts and comments. Mr. Dismukes added he believes you have to give the property owner notice before towing the vehicle. Mr. Vogel agrees. Mr. Radcliffe wanted to add missing license plates.

Mrs. Neunder had a question on that, if you have a summer vehicle that is fully paid for, and takes the vehicle off the road and turns their plates in end of summer, so it's still an expected vehicle. Mr. Radcliffe noted most people who do that put the car in storage or some type of garage. Mr. Cuteri noted that we don't require that if they have a driveway. Mr. Dismukes added we don't want a junk yard. That's not necessarily a safety issue. Why don't we want boats and RVs parked in the community? Is that a safety issue? Mr. Cuteri added that's my second point about article 5 but that's another discussion. Does the license plate have anything to do with safety if it's parked? Does the inspection sticker have anything to do with it? Mr. Stiller asked what if the car is covered? Then you can't tell if there are stickers or a license plate on it. Mr. Cuteri added that's why we have to be very clear on what the issues are here. Mr. Radcliffe added if someone has a car wintering it needs to be in the driveway, not the side yard. Mrs. Neunder noted she believes the zoning covers that. Mr. Cuteri asked if we could put that in here, Mr. Vogel responded yes, but that does get a little more into zoning.
- 11. Greenspaces:** Mr. Radcliffe informed council that he has received a few comments from neighbors concerned over parts of the fence along New Brighton. The part of the fence in question was put in about 35 years ago,

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it is very deteriorated. Mr. Radcliffe feels this section of fence should be replaced and it's about 220 feet long. Mr. Cuteri questioned if we were just replacing the fence fabric. Mr. Radcliffe stated the top bars as well, but the posts in the ground will remain. Mr. Cuteri also asked if we were doing vinyl fabric coated black. Mr. Radcliffe responded that yes, it will be the same, the problem with the current fence is that it's a light gauge, we'll go with a heavier gauge this time. Mr. Cuteri also asked if they were putting a tension wire at the bottom as that can help keep the fence straight. Mr. Radcliffe added that they'll also fix the tennis court fencing as it's hanging in certain areas and add a new latch going into the tennis court. They'll also put in the Clovelly Briar Cliff sign that was taken out last year. The cost of this work will be \$5,360. The quote is from Allegheny Fence, Mr. Radcliffe noted we've used them in the past and they've done great work. He did reach out to other companies and did not receive any responses back, therefore he believes we should go with Allegheny Fence. Mr. Brown asked if this was in the budget? Mr. Radcliffe stated that no, this is why he's bringing it up. Mr. Brown then asked because it's \$5,000 do we need an open bid? Mr. Vogel responded that no, we would need one for 11 and 21. Mrs. Neunder questioned that the last time Mr. Radcliffe mentioned extending the fence from New Brighton and wrapping it around Lynton, is that included in this bid? Mr. Radcliffe responded that no, not at this point and the reason is we've added privet hedges, within 12 months they'll grow in nicely.

Mr. Brown stated he does not have a problem doing this, he just wants to make sure its budgeted, and it does not sound like it's an issue that needs to be addressed immediately. My proposal would be to do it next year in 2022. Mr. Radcliffe noted that some residents have concerns about their kids being able to walk through the fence or under. Mrs. Neunder asked if there was a way to get the repair done immediately? Mr. Cuteri noted if we wait, it's going to cost more. We have the funds; we're going to have the ARPA money which will go towards roads. It's partially a safety issue, it's the looks of the neighborhood, I don't see why we would delay it. We're allowed to modify the budget any month we want to, we could actually do it tonight. Mr. Stiller noted that the budget is at 32,000 for the year and so far, we're at 660. There's leaves and all of that stuff that comes later in the year, but it's not like you're way over budget for the year. **A motion was made by Mr. Radcliffe to spend \$5,000.00 to fix the fences, replace the partial fence, fix the street pole and the tennis court lock. Mr. Dawley seconds the motion.** Mr. Dawley would like council when building the budget next year, add things council would like and then be able to select items. We could have held off on the basketball courts until next year, we could prioritize next year. Mr. Radcliffe agrees, this problem with the fence seems to have grown over the last 6 months. Mr. Browns request is to someone minimize adding to the budget, try to figure out what's optional so it's not a \$5,000.00 additional cost. **The motion passed unanimously.** Ms. DiNuzzo asked if there was an update with the playground. Mrs. Neunder responded that she's still gathering information and data.

12. Planning Commission Hearing: Mr. Cuteri informed council that we're going to schedule another meeting.

13. Sunshine ACT: Mr. Vogel noted that they passed amendments to the sunshine act, and what these amendments basically do is we have to set our agenda 24 hours prior to the meeting, which we do, we have to post it on our website, which we do, we also need to bring copies of the agenda, which we do. The thing that can be tough is changing the agenda. Mr. Vogel is still discussing this with his partners because with these amendments, what happens is those in Harrisburg feel the agenda should be frozen without any changes. Mr. Vogel believes there are provisions in here that allows changes for emergencies. The problem I see with this is, we're going to have a lot of agendas on them as a precaution. Mr. Vogel believes our procedures are pretty good. Mr. Vogel noted that the only challenging item would be that this also should be posted at the municipality building. Mr. DiNuzzo stated she can post it in the bay window, or the office door off the garage.

14. Executive session: There was no executive session this meeting.

Meeting ended at 8:31 pm

The next scheduled meeting is August 10th, 2021 at 7:00 pm at Shannopin Country Club

Jessica DiNuzzo, Secretary