



Borough of Ben Avon Heights

Tuesday, February 12th 2024, - Council Meeting Minutes

A quorum is in attendance

Present:

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

Police: Sgt. Beck

Fire:

Mayor: Dismukes

Solicitor: Mongilio

Secretary: DiNuzzo

Residents: Bryan Robertson 4 Kent Road, Chad Slencak 30 Wilson Drive, Jed Hottenstein 21 Wilson Drive, Patti Schneider 50 Wilson Drive, Kathy Scrabis 1 Oxford Road, Megan Thompson 15 Penhurst Road, Betsy Radcliffe 15 Wilson Drive, Susann Schneider 7 Biddeford Road

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

1. *A motion was made to declare John Radcliffe's office as member of Council as vacant by Mr. Lope. Mr. Stiller seconds the motion. Motion passed.*
2. **Appointment of open positions:**
 - a. Resolution to Appoint member of Council (2 year-term): *A motion was made by Mr. Stiller to nominate Jill Berardi. Mr. Dawley seconds the motion. Motion passed. Mr. Dismukes swore Ms. Berardi in as Council Member. Motion passed.*
 - b. Resolution to Appoint member of Zoning Hearing Board: *A motion was made by Mr. Lope to appoint Terry Brightman. Mrs. Neunder seconds the motion. Motion passed.*
3. **Approval of January 2024 meeting minutes:** *A motion was made by Mr. Dawley to approve January 2024 meeting minutes. Mr. Lope seconds the motion. Mr. Brown noted that we made the decision to tentatively approve Clyaton Morris to the Planning Commission, but this was not on the February agenda. Because of this, Council will vote on this in March. Mrs. Neunders name was spelled incorrectly. Motion passed with changes.*
4. **Approval of January 2024 financials:** *A motion was made by Mr. Lope to approve January 2024 financials. Mr. Stiller seconds the motion. Mr. Brown noted that in the beginning of the year the Borough typically does not have income coming in to offset expenses and needs to make a routine transfer from general fund to cover temporarily. He also added that the proof of publication for a Zoning meeting that was canceled will be reimbursed to the Borough by the solicitor. He also noted that the accountant entered a computer repair under the phone so this looks extremely high. Mr. Stiller asked if we are comfortable that the accountants made the requested updates to the general ledger for 2024. Mr. Brown believes yes. Motion passed.*
5. **Emergency Management:**
 - a. *Fire: Not present*
 - b. *Police: Report below. Mr. Brown noted that the report was more detailed and he thanked Sargent Beck. Sargent Beck noted that they have a new reporting system and they're still learning the system.*

6. Avonworth Historical Society: Avonworth Historical Society came to present to Council their need and want to move to a new location that would better suit their needs where they can have presentations that the public can easily access as well as the extensive archives. Avonworth Historical Society will allow Council to review the packet of information provided during their presentation and asked for a letter of recommendation. Council will vote to provide at the next council meeting in March.

7. Public Comment: Bryan Roberston at 4 Kent Road came to Council to speak some points on Ordinance 125. He Noted that if he does cut his hedges back to the required height his hedges will die. He added that they are a safety feature on his property as they keep his children in the yard as they play. He also noted that he does not feel they interfere with the safety at the intersection of Kent and Wilson. He feels safe walking the "Wilson curve".

Chad Slencak at 30 Wilson Drive came to Council to express some points on Ordinance 125. He supports repealing Ordinance 125 and appreciates Mr. Brown considering this as of the last meeting. He believes this ordinance is outdated as it was created in 1953 and as he lives at the "Wilson curve" he does not see the safety issue. He still believes there was selective enforcement of this ordinance.

Jed Hottenstein at 21 Wilson Drive came to Council to express some points on Ordinance 125. He feels repealing Ordinance 125 will rebuild some trust between him and Council. He stated selective enforcement bothers residents and loses trust in the government body that is supposed to enforce those rules.

Patti Schneider 50 Wilson Drive came to make a statement regarding Ordinance 125. She noted she feels she was the first one to receive a letter about hedges. She also was present to support repealing Ordinance 125. She added that the Killbuck stop sign has been moved to an appropriate spot by Killbuck, making it easier to see when stopped.

Kathy Scrabis 1 Oxford Road came to Council to speak on some points on Ordinance 125. She presented to Council a petition of close to 40 signatures supporting repealing ordinance 125. Ms. Scrabis handed Ms. DiNuzzo the petition with signatures. *It was recorded that there are a total of 45 signatures.*

Megan Thompson at 15 Penhurst Road pointed out that Ordinance 125, 300, 257 and 254 all address trees or shrubs with regards to safety. She encourages Council to review those Ordinances and not necessarily repeal but amend and consolidate all four.

Betsy Radcliffe 15 Wilson Drive came to Council with points on the drafted Zoning ordinance. Ms. Radcliffe noted she independently reached out to the manager of the Allegheny County Planning Division for the process of preparing a zoning ordinance. She noted that a public hearing has a different purpose than a public meeting. From her understanding, a public meeting is an informal place for residents to attend and provide feedback and if those comments are accepted the draft is updated. A public hearing is ideally only held once and is the second last step in the draft preparation process that is legally required prior to the Council's vote. Ms. Radcliffe raised several points as to why she feels this is not ready.

In June there was a public meeting where only 2 of the 10 pages of resident comments were reviewed. There were issues raised about garage heights, setbacks would be tabled and reviewed by Council and she noted this has not happened yet and the residents are still waiting. In August the Planning Commission at the end of their last meeting voted to adopt changes made in the July draft that had been raised by residents. She feels due to the lack of legal supervision and Council's decision not to review the draft, the incomplete September draft was submitted to the county for review. After receiving the draft, the county made recommendations and feels Council has no idea how many of the suggestions the Planning Commission actually accepted from the county. She feels Council has not seen or discussed or reviewed the Planning Commission's comment response to the County. She feels Mr. Brown's decision to remove the grading and excavation section is a significant modification that should then be reviewed by the county. Her final point, she feels the draft is contradictory and confusing. She feels the solicitor failed to provide legal oversight in this draft process.

Susann Schneider at 7 Biddeford Road also came with concerns over the current drafted zoning ordinance. She agrees with the points Ms. Radcliffe stated and shared with Council. She added at the June meeting there were 10 pages of resident's comments on the drafted zoning ordinance. Only 2 pages were reviewed at that meeting and Ms. Schneider noted that the residents were promised another zoning meeting to discuss the other 8 pages still not reviewed with the public. She hoped that later in the meeting this would be discussed and still holds out hope this meeting will occur as she does not feel this draft is anywhere near ready.

8. Infrastructure and Operations:

- a. Engineers report: (Memo below): Mr. Heyl noted that they are working on the roads long-term plan for Council and one item he wanted to bring to Council's attention was they do suggest beginning crack sealant to help the roads last longer. Mr. Stiller confirmed this was a budgeted item. LSSE will have this in March.
- b. Review O&M master plan: LSSE provided Council at this meeting color coded handouts for the long-term Sewers O&M plan.. He noted that a new bid has been posted for the work and hopefully more bids will come in that fall within the budget. Mr. Stiller summarized that the plan in 2020 was not funded and with these grants they can help us be back on track without worrying about funding from our accounts as we have received over \$400,000 in grant

money for sewer improvements..A motion was made to authorize CCTV work for the O&M work by Mr. Stiller. Mr. Lope seconds the motion. Motion passed.

- c. Courtney Mill update: Mr. Brown noted that Courtney Mill Road is a mismatched road consisting of ownership from multiple municipalities. Ben Avon Heights and Killbuck own the beginning of the road. Killbuck recently reached out to see if we wanted to do a joint repair. This repair will be a chip and oil type patch which is typically what Killbuck does for their roads. Council will review Killbuck's proposal when it is received later this month.
- d. Speed sign project: Mr. Heyl noted they have been in communication with PennDot over what they require for this project for electronic speed signs to be added going into the borough on Perrysville (from Ben Avon and from Ben Avon Heights Road) and New Brighton (coming from Avalon). Mr. Stiller explained to the public that this is a continuation of the pilot that was done by the Ohio Twp Police on Perrysville last year that showed positive results in slowing traffic.. Mr. Stiller inquired with PennDot about permitting for this project and engaged LSSE to scope the work. A motion was made by Mr. Dawley to accept the Speed sign project scope work. Mrs. Neunder seconds the motion. Motion passed.

- 9. Green Spaces Update**: Mr. Lope noted that they were working on their 5-year plan for the park. Mrs. Neunder did some research and reached out to Wexford. The advice she was given was to get DCRN involved as soon as possible during the grant application process so they fully understand what our plan is. She added that it's important to show the multiple steps that the Borough plans to take in their 5–10-year plan when applying for DCRN grants. They have reached out to several landscape companies and landscape architects. Mr. Lope noted that the DCRN deadline for this year is in April, so there is no sense in applying this year as the plans are not set, but they can plan accordingly for 2025. Mrs. Neunder added that she has looked into a few companies to go a more natural approach to the weed and fertilizing of the park, but does not have a quote to discuss with Council as of yet. She added that she made A&N aware of the hedges Council wants cut back to make a safer hedge line on Lynton Lane. Mr. Brown noted that the parks subcommittee should reach out to the solicitor to work on advertising for the collective bids for their projects.

10. Building, Zoning and Code Enforcement:

- a. Discussion of Ordinance #125 and intersection safety: Council agreed that we need to look at all the ordinances that touch on items like Ordinance 125 as Ms. Thompson also brought to Council's attention. Mr. Lope and Mr. Stiller raised similar concerns about if removing this would leave the Borough vulnerable. Mr. Mongilio feels completely abolishing 125 would leave the Borough vulnerable for any sort of liability with accidents at intersections with hedges. He feels the better approach would be to review the ordinances that all touch on the topic of hedges at intersections and consider consolidating. Sargent Beck also added to this point, that there needs to be something on the books about hedges at intersections for safety purposes. He noted that these types of letters that were sent out are very common in the larger municipalities they oversee but can understand with Ben Avon Heights being a smaller, tightly knit community how upsetting these letters can be. Mr. Dismukes added that Council should come to a conclusion on this topic in the next few months. Mr. Dawley, Mrs. Berardi and Neunder all echoed similar concerns. Mr. Brown added that he feels Council should consider and look into hiring a code enforcement officer so this does not fall on Council members who volunteer their time. Council will also review the ordinances that overlap and prepare to discuss the next steps at the March meeting. Council thanked residents for continuing to come to Council meetings to continue to voice their concerns.
- b. Zoning Ordinance update: Mr. Brown thanked Ms. Radcliffe and Ms. Schneider for their comments earlier in the meeting. Mr. Brown made a statement about the history and process that has taken place over the past few years. He noted that the original Zoning Ordinance was created in 1925. It was updated in 1994 and amended in 2007 to allow the Borough to have a Zoning Officer and a Zoning Hearing Board. In 2014, the Borough authorized joining the joint comprehensive plan so the Borough could continue to only be residential zoning. In 2017 the joint comprehensive plan was approved. In 2019, another amendment occurred to allow Shannopin Country Club to continue their operations. Mr. Brown added that he was led to believe if we did not pass a new zoning ordinance, that we would not be included in the joint comprehensive plan and commercial businesses would be allowed in the Borough. He added that the solicitor confirmed that this information was incorrect and previous leadership felt it would be a good time to update the ordinance. At this point, Council really needs to decide how to move forward, pause, or not move forward— but he does feel the current ordinance is outdated and could use updating. He wanted to be clear that there is no rush to complete this. Mr. Stiller agreed there is no rush to complete, and wants time for new members of Council to get comfortable with the process and document, and with their expertise, will receive some great input. Mr. Brown suggests Council discuss how they would like to continue at the next Council meeting in March.
- c. Zoning applications: Ms. DiNuzzo reported for the month of January there were no applications submitted.

11. Administration:

- a. *A motion was made to approve the Resolution to adopt the conflict-of-interest policy:* Mr. Dawley felt that Council should have a conflict of interest policy in place. *A motion was made by Mr. Lope to approve the Conflict-of-Interest Policy. Ms. Berardi seconds the motion.* Mr. Brown noted that you can still have a conflict of interest, you just need to make the Council aware of the Conflict of Interest. *Motion passed.*
- b. *A motion was made to approve the Resolution to adopt the Sick/No show policy:* This policy will help the borough manage call-offs with crossing guards which has been an issue. *A motion was made by Mr. Stiller to approve the sick/no show policy. Mrs. Neunder seconds the motion. Motion passed.*
- c. *A motion was made to approved the 2023 Annual Report:* Mr. Stiller noted there were a few typos pointed out by Mrs. Neunder that he will fix. *A motion was made by Mr. Dawley to approve with the changes the 2023 Annual Report. Mrs. Neunder seconds the motion. Motion passed.*

12. Executive session began (8:55pm): This executive session was called to discuss administrative and client attorney topics.

13. Executive session ended: 9:29pm

14. Meeting adjourned at: 9:30pm

Jessica DiNuzzo, Secretary

2/5/2024

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

DESCRIPTION	JANUARY CALLS	YTD CALLS
Disorderly Conduct	1	1
DPW Request	6	6
EMS Call	2	2
Harassment	1	1
Local Ordinance Violations- Fireworks Complaint	1	1
Local Parking Ticket	1	1
Police Detail - Crossing Guard	1	1
Police Detail - Directed Patrol	60	60
	73	73



MEMO

846 Fourth Avenue, Coraopolis, PA 15108
(412) 264-4400 • (412) 264-1200 Fax
info@lsse.com • www.lsse.com

TO: Ben Avon Heights Borough DATE: February 9, 2024

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

SUBJECT: **February 13, 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)**

Repair scope for the 2021 and 2022 have been drafted and project has been submitted for a PA Small Water Grant. PA Small Water Grant application has been submitted. PA Small Water and Sewer Grant awarded in the amount of \$257,053.00. LSSE has issued a SOA letter for O&M Plan Tasks that require completion in 2024 on January 26, 2024 (Attachment A).

*2023 O&M CCTV has been completed.
2024 O&M Budget provided on December 12, 2023.*

3. **MS4 Permit**

MS4 Waiver was approved through 2028.

4. **LSA Grant**

Borough was awarded \$149,905.00 for the 2023 Sanitary Sewer O&M Repairs project. LSSE provided a scope summary in a memorandum dated May 3, 2023 which included sewer repairs identified in 2020 through 2022 CCTV contract (Years 1 through 3). Bids were opened on November 3, 2023. Bids rejected at December meeting. Surveys completed February 5, 2024 to meet current PA One Call requirements. The re-bid of the project was advertised for a March 8, 2024 bid opening.

5. **PA Small Water and Sewer Grant**

Borough was awarded \$257,053.00 for the remainder of the Years 1 through 3 O&M Repair and a portion of Year 4 and 5 Sanitary Sewer O&M Repairs project. Surveys completed February 5, 2024 to meet current PA One Call requirements. LSSE preparing bid documents for this project.

6. **Canterbury Paving**

Columbia Gas indicated their contractor would address the issue.

7. **Canterbury Sidewalk and Curb**

a. *GEDTF Grant submitted for project. GEDTF was not awarded.*

b. *2023 LSA Grant has been submitted.*

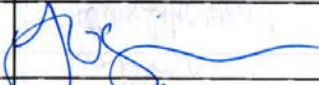
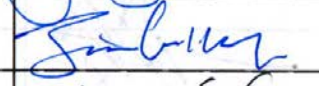
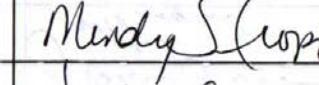
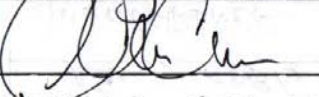
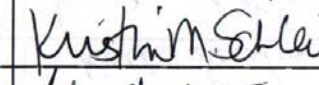
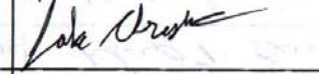
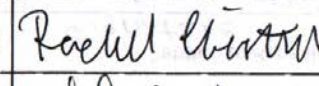
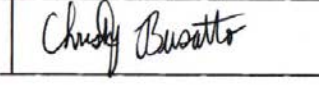
8. **2024 Road Paving**

LSSE provided a preliminary estimate of probable construction cost to repave the portion of Courtney Mill Road within the Borough of Ben Avon Heights and to repair the area on Canterbury Road.

9. **Electronic Speed Sign Permitting**

LSSE has issued a SOA letter dated February 2, 2024 (Attachment B).

Petition to Repeal / Rescind Ben Avon Heights Borough Ordinance No. 125

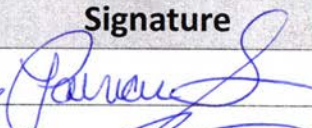



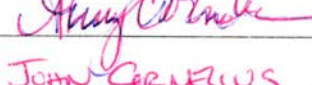

Petition Background		Ordinance No.125 does not promote safety and has been unevenly enforced and there have been no incidents of vehicular accidents; therefore, said ordinance no longer serves the interests of public safety and welfare as when it was enacted in 1953		
Action Petitioned For		We, the undersigned, respectfully request that the Ben Avon Heights Borough Council initiate an action to Repeal and/rescind Ordinance No. 125		
	Name	Signature	Address	Date
1.	Leigh Culley			2/10/24
2.	Jim Culley			" "
3.	Mindy Cropper			2/10/24
4.		Stacey Cropper		2/12/24
5.	Kristin Schleis			2/10/24
6.	Jake Christian			2/10/2024
7.	Rachel Christian			2/10/24
8.	Chucky Busatto			2/10/24

Petition to Repeal / Rescind BAH Ordinance 125
 Name _____ Signature _____ Address _____

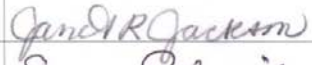


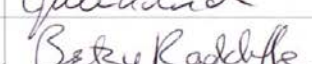
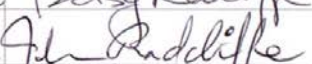
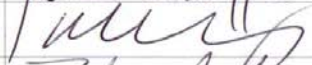


Date _____

Name	Signature	Address	Date
9. Max T. Busone	Max T. Busone	[Redacted]	2-10-24
10. Kathy Scrabis	Kathy Scrabis	[Redacted]	2/10/24
11. Ann Scarab	Ann Scarab	[Redacted]	2/10/24
12. Julie Gardner	Julie Gardner	[Redacted]	2/10/24
13. Marcia Logan	Marcia Logan	[Redacted]	2/10/24
14. Josh Dhremer	Josh Dhremer	[Redacted]	2/10/24
15. John Isnerwood	John Isnerwood	[Redacted]	2/10/24
16. Kathy Isnerwood	Kathy Isnerwood	[Redacted]	2/10/24

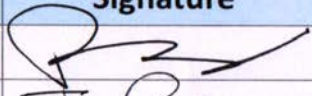
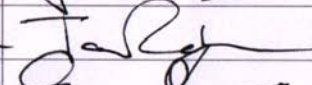

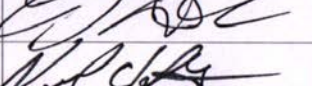
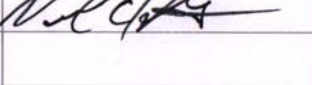
Petition to Repeal / Rescind Ben Avon Heights Borough Ordinance No. 125

Petition Background		Ordinance No.125 does not promote safety and has been unevenly enforced and there have been no incidents of vehicular accidents; therefore, said ordinance no longer serves the interests of public safety and welfare as when it was enacted in 1953	
Action Petitioned For		We, the undersigned, respectfully request that the Ben Avon Heights Borough Council initiate an action to Repeal and/rescind Ordinance No. 125	
Name	Signature	Address	Date
19 Patricia Schneider			2-6-24
20 John Schneider			2-6-24
21 Greg Gledhill			2-9-24
22 Susan Gledhill			2-9-24
23 Amy Corn	 <small>Caring 11 us</small>		2-10-24
24 John Cornelius			2/10/24

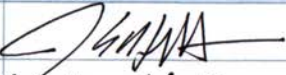
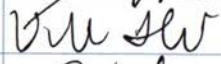
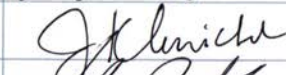

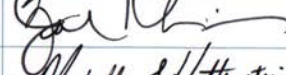
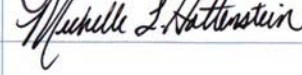


Petition to Repeal / Rescind Ben Avon Heights Borough Ordinance No. 125

Petition Background		Ordinance No.125 does not promote safety and has been unevenly enforced and there have been no incidents of vehicular accidents; therefore, said ordinance no longer serves the interests of public safety and welfare as when it was enacted in 1953	
Action Petitioned For		We, the undersigned, respectfully request that the Ben Avon Heights Borough Council initiate an action to Repeal and/rescind Ordinance No. 125	
Name	Signature	Address	Date
25 Janet Jackson			2/7/24
26 Susan Schneider			2/8/24
27 D. Dole Dornier			2/8/24
28 Julie Kulenda			2/8/24
29 Betsy Radcliffe			2/10/24
30 John Radcliffe			2/10/24
31 Mauran Sings			2/10/24
32 Ralph Anderson			2/10/24

Petition to Repeal / Rescind Ben Avon Heights Borough Ordinance No. 125

Petition Background		Ordinance No.125 does not promote safety and has been unevenly enforced and there have been no incidents of vehicular accidents; therefore, said ordinance no longer serves the interests of public safety and welfare as when it was enacted in 1953	
Action Petitioned For		We, the undersigned, respectfully request that the Ben Avon Heights Borough Council initiate an action to Repeal and/rescind Ordinance No. 125	
Name	Signature	Address	Date
33 Bryan J. ROBERTSON			2/4
34 TARA ROBERTSON			2/11
35 EMILY HENST			2/11
36 JOSHUA HEWST			2/11
37 Noel Hewst			2/11

Petition to Repeal / Rescind Ben Avon Heights Borough Ordinance No. 125

Petition Background		Ordinance No.125 does not promote safety and has been unevenly enforced and there have been no incidents of vehicular accidents; therefore, said ordinance no longer serves the interests of public safety and welfare as when it was enacted in 1953	
Action Petitioned For		We, the undersigned, respectfully request that the Ben Avon Heights Borough Council initiate an action to Repeal and/rescind Ordinance No. 125	
Name	Signature	Address	Date
38 Jonathan Hottenstein			2/11/2024
39 Viktorija Telis			12 Feb 2024
40 Jennifer Klimchak			2/12/24
41 Michael Rivitto			2/12/24
42 Joe Klimchak			2-12-24
43 Michelle Hottenstein			2/12/2024
44 Mark Donley			2/12/2024
45 Kirsten Donley		2/12/2024	

From: Elizabeth Radcliffe [REDACTED]
Subject: Fwd: Repeal ordinance#125
Date: February 13, 2024 at 1:23 PM
To:



Begin forwarded message:

From: kirsten donley <[REDACTED]>
Subject: Repeal ordinance#125
Date: February 10, 2024 at 12:41:27 PM EST

As you know we are out of town until 4/15.

Can you convey the following message to Council and have our signatures added to the petition?

Mark and I have read the petition to repeal Ordinance #125 and would like our names to be added to the petition.

Kirsten and Mark Donley

[REDACTED]
[REDACTED]

From: Elizabeth Radcliffe [REDACTED]
Subject: Fwd: Ordinance #125 comments
Date: February 13, 2024 at 1:22 PM
To:



From: Margaret Good <[REDACTED]>
Subject: Ordinance #125 comments

Please submit the following at the next Ben Von Heights Council Meeting:

Tom Von Lehman and I have read Ordinance #125 and agree with some of the comments we have heard from other neighbors. We believe that this ordinance is dated and should be amended to meet the current needs of our community. We also agree with the Council that if shrubbery from properties in our community are overhanging the road and impacting view corridors when turning and going around curves, the shrubbery should be trimmed or removed for safety reasons. However, we are against eliminating the Ordinance and then passing a new one at a later date. We are concerned that a new Ordinance may have "grandfather" issues. Therefore, we recommend amending the current Ordinance. For example, the Ordinance prohibits any hedge, sign or other similar obstruction exceeding three feet in height if it is within 30 feet from some point (not clearly defined in the Ordinance). The 30 feet needs to be reviewed as well as the 3 foot height. Are these measurements the correct measurements to provide for safe travels on Ben Avon Heights roadways.

As in the past, if the Council decides to move forward, I would recommend hiring an attorney that specializes in writing this type of Ordinance. I believe this will make the process faster and more efficient.

Sincerely, Maggie Good