

**BOROUGH OF BRENTWOOD
MINUTES OF THE AGENDA MEETING
TUESDAY, MAY 18, 2010**

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President Wenzel stated Council met with the Teamsters Union Local No. 205 at 6:15 P.M., no votes were taken.

EXECUTIVE SESSION: President Wenzel stated personnel and legal issues were discussed. No votes were taken.

1. Call to Order. The Agenda meeting of the Council of the Borough of Brentwood was call to Order by David Wenzel at 7:30 P.M.

2. Pledge of Allegiance. The Pledge of Allegiance was recited by all those present.

3. Roll Call: The following answered roll call: Mrs. Catherine Trexler, Mr. Mario Richards, Mr. Charlie Johnson, Mr. Clyde Zimmerman, Ms Janice Boyko and Mr. David Wenzel.

ALSO PRESENT: Mayor Kenneth E. Lockhart, Manager George Zboyovsky, Solicitor Robert Brown, sitting in for Solicitor Thomas Ayoob, and Administrative Assistant Mary Lou Garase.

ABSENT: Mrs. Ann Schade was out of town. Junior Councilpersons Emily Payne and Christopher Cappollo.

President Wenzel stated the following are Action Items: No. 9.c, 15.b and 15.c. Public comments will be taken at this time on these items only. None.

4. Communications. Manager Zboyovsky said none.

5. Department and Borough Managers Reports: President Wenzel stated the following reports will be considered at the Council meeting:

- a. Public Works Department
- b. Building Inspector
- c. Engineer
- d. Police Chief
- e. Solicitor
- f. Borough Manager

7. Mayor's Report – Mayor Lockhart said no report this evening.

8. Administrative and Finance Committee – Ms Boyko stated the following will be considered at the Council meeting:

- a. Approve the Minutes of the April 20, 2010 Agenda meeting and the Minutes of the April 27, 2010 Regular Council meeting.
- b. Accept the Treasurer's Report for the period ending April 30, 2010.
- c. Consider payment of March invoices from the General Fund.
- d. Consider payment of March invoices from the Sanitary Sewer Fund.

Mr. Richards questioned the Sanitary Sewer Fund payments from April 15, 2010 through May 14, 2010, regarding the amount of feasibility studies being conducted and the costs associated. Manager Zboyovsky explained the process, costs, and the projects of the ALCOSAN Consent Decree. A discussion ensued.

President Wenzel stated all Revenues come from tax dollars. Mr. Richards questioned what comes out of the Sanitary Sewer Fund? Manager Zboyovsky stated anything related to Sanitary Sewer expenses, which includes, consulting fees, engineering fees, American Water, for collection of waste-water for the Borough, if public works repair a sewer line, it comes from this fund. We also reimburse salaries from this fund associated with the sanitary sewer projects. Like Susan Toth collects the delinquent sanitary sewer fees. Mr. Richards said we are taking money out of this fund to pay for peoples wages? Manager Zboyovsky stated associated with sanitary sewer related activities. Manager Zboyovsky stated the state mandates all these repairs. Manager Zboyovsky explained Borough Management is based on fund accounting and stated there are certain criteria for each fund of the Borough. At this time, several people were speaking at the same time.

President Wenzel said, "I want to call order here now. We passed the Budget in December, of which you were a part of. I heard Manager Zboyovsky say the same words then as he is now. All these various funds that we have now, shows a better accounting of where our money goes. We do have people paying money on their sewage bills, so they pay it, Susan Toth, collects it and we pay her out of that fund to administrate it. It is that simple. If you need further explanation, I suggest that you ask Manager Zboyovsky after the meeting."

Mr. Richards stated that the fund was not set up for wages. Has it been taken out before Mr. Zboyovsky was Borough Manager? Manager Zboyovsky said yes. A lengthy discussion ensued regarding personnel wages, the percentage rate of wages taken from the fund, etc. A discussion ensued regarding the Budget.

President Wenzel said this was discussed at the Budget meeting. Mr. Richards said I am not finished. It is June 1st next week; we don't have the numbers from last year! How much money did we take in at the pool? I want to know how we lost \$12,000 at the concession stand last year. Show me how we lost \$12,000! I want to know how? I want to know how many pool passes that were sold last year! Why don't we have that information? President Wenzel questioned Manager Zboyovsky if anybody requested that information? Manager Zboyovsky said no. Mr. Richards said, "I am now. I want to know."

Mr. Zimmerman questioned Manager Zboyovsky about the General Fund, Finance Page 7, and the Flag Factory expense of \$78.00. Manager Zboyovsky stated this expense was to replace the flag in front of the Borough Building, due to damage of the storm.

Ms Boyko continued:

- e. Consider payment of March General Obligation Bond Fund.
- f. Consider payment of March Capital Improvements
- g. Consider payment of March DCNR Grant Fund.
- h. Consider payment of Bills from the Non-Uniform Pension Fund.
- i. Consider payment of Bills from the Police Pension Fund.
- j. Consider Resolution No. 2010-39, Transfer of Investment Funds.

Mr. Richards questioned the Transfer of Investment Funds? President Wenzel said the information is on the Council Fact Sheet. Manager Zboyovsky said before setting up the Pension Board, the Fund Manager, having no direct contact with the Borough, he would arbitrarily make these decisions himself. Manager Zboyovsky said it would be more prudent to have any decisions to the pension funds be passed through Council via Resolution. Manager Zboyovsky said it is an official step to make any type of Fund transfers within the Pension Fund.

Ms Boyko continued:

- k. Consider Resolution No. 2010-42, Exoneration of Tax Collector

Mr. Zimmerman said Resolution No. 2010-42 the address should read 15227.

Ms Boyko said this will be corrected.

9. Public Works Committee – Mrs. Trexler stated the following will be considered at the Council meeting:

- a. Accept the Public Works Supervisor's monthly report.
- b. Consider auctioning of the Old Street Sweeper

President Wenzel gave Council an update and stated he spoke with Mr. Varney and he stated the vehicle is irreparable and the parts would be very expensive if the parts are available. Mrs. Trexler questioned what the options are for trade-in, auction, etc., A discussion ensued regarding an advertisement, an auction in Perryopolis or to consider an online auction.

Manager Zboyovsky said he spoke with the Solicitor as there is a potential of trading it in; however, we cannot give Borough property away. Manager Zboyovsky said we may have the chance to trade it in.

Solicitor Brown stated the Borough Code requires that if the Borough is going to sell property, with a fair market value, in excess of \$1,000; it has to be advertised and sold at public bid; which could be done at public auction, as Council is contemplating. There is

an exception to the requirement if you are going to trade-it in. A trade-in is another option. Manager Zboyovsky will review the options further. A discussion ensued.

Mrs. Trexler continued:

- c. National Public Works Week Proclamation

M-1 Motion by Mrs. Trexler, seconded by Mr. Zimmerman and duly carried that Council adopt the “National Public Works Week” Proclamation by the Council of the Borough of Brentwood designating the week of May 16, 2010 through May 22, 2010. ALL AYES. At this time, Mrs. Trexler read the Proclamation.

Mrs. Trexler continued:

- d. Consider Hiring three (3) Public Works Summer Temporary Employees
- e. FYI – Community Clean-Up Day is June 5, 2010.

Mrs. Trexler stated the annual Community Clean-Up Day is Saturday, June 5, 2010 in the park from 8:00A.M. to 2:00 P.M., or until the dumpsters/trucks are filled. Also, Goodwill will be collecting computer equipment the same day at the park from 10:00 A.M. to 2:00 P.M. This service is free to Borough residents. Proof of residency is required.

- f. Flow Isolation Study to start in the Borough next week. President Wenzel said this will be paid out of the Sanitary Sewer Fund. Mrs. Trexler read the requirements, dates and times of work on this project.

10. Zoning and Ordinance Committee – In the absence of Mrs. Schade, Ms Boyko stated the following will be considered at the Council meeting:

- a. Accept the Building Inspector’s monthly report.
- b. Consider resignation of Diane Bender from the Zoning Hearing Board.
- c. Opening on Zoning Hearing Board

President Wenzel said we should advertise this position. Ms Boyko questioned if the position will be advertised? Manager Zboyovsky questioned do you want to advertise for an alternate or for the vacant position? Manager Zboyovsky suggested Council advertise for the alternate and have the current alternate be appointed to the vacant position.

Ms Boyko continued:

- d. Consider hiring one (1) Code Enforcement Summer Temporary Employee

President Wenzel questioned how many applicants? Manager Zboyovsky said one.

Ms Boyko continued:

- e. FYI – The Zoning Hearing Board will meet on Wednesday, May 26, 2010 at 8:00 P.M.

- f. There is no Planning Commission meeting scheduled in May.

11. Park and Recreation Committee – Mr. Johnson gave the following report:

- a. Update on the Brentwood Park Initiative and stated the meetings are open to the public.
- b. The pool passes are going on sale next week
- c. The pool opens on Saturday, May 29, 2010. Mr. Johnson said a decision will be made next week if the pool will be open or closed on June 22, 2010, Brentwood Kennywood picnic day.
- d. Consider request from School District to use the Stadium and Facilities for the 77th Annual Commencement of Brentwood High School on Wednesday, June 9, 2010 at 7:30 P.M. as well as for graduation practice on June 7, 8, and 9th from 8:00 A.M. to 12 P.M.
- e. Consider Resolution No. 2010-43, “Fourth of July Celebration”
- f. Consider request by the Brentwood Dukes Re: Field Permits for 2010 Football Season- Stadium and Facilities for Windsor, Dailey and Radisson Fields.
- g. Consider request by the Brentwood Park Initiative for use of Stadium and Fields for August 21, 2010 Brentwood Community Day. (Rain date August 22, 2010)

Mr. Richards questioned the Brentwood Dukes Agreement (Permit) for the Concession Stand and stated the Band Parents want to use the Concession Stand for fundraisers and other activities. Mr. Johnson said to have the Band Parents submit the request in writing. A discussion ensued.

12. Public Safety Committee – Mr. Zimmerman stated the following will be considered at the Council meeting:

- a. Accept the Police Chief’s monthly report.
- b. Consider Adopting Ordinance No. 2010-1188, Amending in Limited Part, Chapter 152 of the Brentwood Borough Code, pertaining to Parades and Assemblages and who grants the permits.
- c. Consider Adopting Ordinance No. 2010-1189, Amending in Limited Part, Chapter 39 of the Brentwood Borough Code, pertaining to the Duties and Responsibilities of the Chief of Police.
- d. Consider Resolution No 2010-40- Re-adoption of County Emergency Operations Plan.
- e. Consider Hiring two (2) Police Officers.
- f. SHACOG Joint Police Testing – August 2010

President Wenzel stated it is not necessary, we have a current list and I spoke with the Chief regarding this. Mayor Lockhart said we do not need the testing; we are considering the hiring of two officers. President Wenzel stated Item No. 12.f will be removed from the Agenda.

Mr. Zimmerman continued:

- g. FYI - EMS Report
- h. FYI - BVFD Report
- i. FYI - Library Report

13. Special Committees:

ACBA – Mr. Zimmerman said no report.

ALOM – Mr. Johnson said no report.

PSAB – President Wenzel said no report.

BBOA – President Wenzel said no report

EDS – Mrs. Trexler said they formed a hiring committee to consider the hiring of an Executive Director.

CONNECT – Mr. Johnson stated the meeting will be held in June and he will attend.

3 Rivers Wet Weather - Mrs. Schade is absent.

Route 51 Planning Committee – Ms Boyko said no report.

SHACOG Board – Mrs. Trexler said the meeting is on May 20, 2010.

WATERSHED – Mrs. Schade is absent.

14. Old Business –

- a. Meeting with Councilperson Rudiak Update. – Mrs. Trexler.

Mrs. Trexler stated the Borough will discuss with Councilwoman Natalie Rudiak on the revitalization of Brownsville Road near the Carrick area.

- b. Consider Amending Resolution No. 2010-01 – Council Policy and Procedures Revisions President Wenzel stated he will add another revision and it will be that there will be a “President’s Report,” prior to the Mayor’s Report.

At this time, President Wenzel stated this is the time to discuss the Council Policy and Procedure Revisions. Mrs. Trexler commented on page 2, paragraph a, in changing the time to 12 Noon Thursday, prior to the Agenda or Regular Council meeting. My concern is we meet Tuesday evenings and between the Agenda meeting and the Council meeting that gives us only a day and a half to prepare the Agenda.

President Wenzel said too much was added at the last minute and Council didn’t have the time to prepare for it. If you have an issue, we can discuss it at any meeting, you can consider a motion; we are not restricting that. When the staff downstairs changes something on the Agenda then all that paper needs thrown out and it takes time to prepare it again. It is a time thing and more of a guide.

Mr. Richards questioned the Solicitor regarding the PA Borough News Magazine, questions and answers section regarding the procedures on the Agenda. I want to say somewhere in Cumberland County, PA, they were limiting the residents to questions that were not on the Agenda. Some residents took it to the ACLU and they said because it was not on the Agenda, they can ask questions that are not on the Agenda!

Solicitor Brown stated he would need to pull out the relevant provisions of the Borough Code. You can't stop a resident from asking a question. President Wenzel said he will get the paperwork and give it to the Solicitor to review. Manager Zboyovsky said this is not relevant to us; we have comments at the beginning of the meeting and at the end of the meeting. Mr. Richards requested the Solicitor review it and get back to him.

President Wenzel questioned Mr. Richards what question do you have for the Solicitor? What is your question to him? Solicitor Brown questioned do you want me to give you an opinion as to whether or not we are allowed to restrict citizens' comments prior to the meeting? President Wenzel said you cannot restrict their time to speak on other than Agenda items during that meeting. Mr. Richards said I want to know what we can do and what we can't do. That is all. Solicitor Brown said I can meet with you after the meeting to review that section of the Sunshine Law.

Mrs. Trexler continued:

c. Consider request from Western PA Conservancy – Re: Donation of Land to Borough – Mrs. Trexler.

Mrs. Trexler stated she thought there may be an interest group interested in doing something with the property, this is a good opportunity for an interest group to put consider a nature trail, or possibly an Eagle Scout Project, We have illegal dumping at the site. I think we should postpone accepting the donation now and have the Conservancy clean up the property and prevent the illegal dumping.

Mr. Johnson said we should tell the Western PA Conservancy to find someone else to donate the land instead of postponing it. Stop it now!

Ms Boyko said my opinion is not to accept it but seek a group interested in it. Mr. Richards said we should enforce them to put up a gate or signage indicating no trucks/no dumping.

President Wenzel said we will put this on the Agenda and call for a vote at the next meeting. We vote and the conservancy finds somebody. We don't get involved in that; it is not our property.

Mr. Zimmerman questioned if we can go after the Conservancy?

Solicitor Brown stated he did a little research on this, if the Borough does accept the property as to whether it is subject to real estate taxes, as long as the property is being used for public purpose, a nature trail or for preservation of open space, it probably would be exempt from taxation, based on my research it would be exempt from taxes.

15. New Business –

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a. Consider Resolution No 2010-41, Opposing House Bill 2431 (PN 3570) to amend the Pennsylvania Constitution to radically alter the structure of local government in Pennsylvania. It would establish counties as the basic level of local government in Pennsylvania. Municipalities would only be allowed to exist under the jurisdiction of the county who would then determine what type of duties they would perform. Counties would be tasked with all control of personnel, law enforcement, land use and zoning, sanitation, and health and safety.

President Wenzel stated we will vote on this next week. Mrs. Trexler commented the PSAB recommends that we oppose this bill.

b. Consider granting the Fourth of July Race Committee permission to utilize the Borough Bulk Mailing Rate at cost.

M-2 Motion by Mrs. Trexler, seconded by Mr. Johnson and duly carried that Council approve the request of the Fourth of July Race Committee permission to utilize the Borough Bulk Mailing Rate at cost.

Mr. Richards questioned if we do that for them, do we do it for everyone? Is the organization is a 501C3? Ms Boyko stated we pay taxes and have an EIN number; we do one bulk mailing per year. This is at no cost to the Borough. Mr. Richards said if we do this for them, we have to do it for everyone. A discussion ensued.

Solicitor Brown said Council has the discretion to consider the applications or requests on a case-by-case basis and look at the facts and circumstances surrounding the organization making the request. I don't think Council would be establishing any kind of precedent by approving this. President Wenzel said the Fourth of July Race is not in conjunction with the parade; it is an activity of the Borough and within the Borough for its residents. A discussion ensued.

Solicitor Browns said this is not an issue of a violation of fees. This is the Borough agreeing this corporation to use the bulk mailing.

President Wenzel called for a vote. ALL AYES. President Wenzel said, "Motion carried."

Ms Boyko continued:

c. Consider Amendment to Resolution No. 2010-37 Designation of Agent
Resolution February 2010 Snow Storm

M-3 Motion by Ms Boyko, seconded by Mr. Johnson and duly carried that Council approve and adopt the Amendment to Resolution No. 2010-37 Designation of Agent Resolution – February 2010 Snow Storm. ALL AYES.

Ms Boyko continued:

d. Lease Agreement for M. Vickless parking Lot (Maintenance only)

Manager Zboyovsky stated he has been approached by Mr. Vickless owner of a parking lot where Borough employees park their personal vehicles. Mr. Vickless is requesting maintenance and upkeep in a written agreement; not looking for money or rent if Borough would maintain it.

Mayor Lockhart stated when permission was given for the restaurant part of the Conditional Use parking spaces was part of that agreement. If we enter into an agreement for parking, then the restaurant would be in violation of the Variance for the parking, on the required number of parking spaces. Also, if we maintain the property and somebody falls who is responsible.

Solicitor Brown said if the Borough would agree to this, any kind of lease that the Borough would enter into would have to have some strong indemnification provisions making sure that he would indemnify and hold harmless the Borough for any type of loss. They are responsible for insurance A discussion ensued.

President Wenzel said Mr. Costa said a Variance was granted for parking spaces. Solicitor Brown requested a copy of the transcript and the approval of the Variance. Solicitor Brown said the word "Maintenance" would be defined in the lease."

President Wenzel said we will table this for now until we get the Solicitor's recommendation.

f. Employee Time Clock

Mr. Johnson said this clock was purchased several years ago. President Wenzel the time clock was for one department; but, it was never implemented. Mr. Johnson said who was the clock for? Mayor Lockhart said it was for everyone, except the crossing guards. The clock was for all other employees, public works, secretary and management. Council purchased it. Mrs. Schade was here at that time it was purchased.

Mr. Johnson questioned if we need to open contracts to put this in.? President Wenzel said no.

President Wenzel said we never had an issue with the employees regarding the need for a time clock or any work problems. The police department monitors their employees with no problems. The public works department supervisor monitors their time and there was never an issue. Why create an issue if it doesn't exist.

Mr. Richards said why is it an issue? President Wenzel said they don't work in the building. A discussion ensued.

Mayor Lockhart commented we will eventually be going to keyless entry, swipe the card to it and it is on the computer. The keyless entry monitors who enters the building and at what time; with the keyless entry you don't need the time clock. Ms Boyko suggested we sell the time clock. A discussion ensued. President Wenzel said this item will be put on the Agenda for the next meeting and a vote will be considered regarding the time clock.

16. Public comment. Please try to limit remarks to 3 minutes.

a. John Melcher, Drebert St., came before Council complaining about property on Munsey Ave. Mr. Melcher stated there is a problem with young kids visiting the house, in and out, smoking/selling drugs, underage drinking and dumping trash everywhere. President Wenzel stated you need to call the police. A discussion ensued regarding the Planning Commission recommendation and the Zoning Hearing Board granting Variances for the pool. Manager Zboyovsky will contact the Building Inspector regarding the property (Variances granted) and the boat in the rear of the house. Mr. Melcher complained of several properties in the area that have trash, several vehicles parking on the sidewalks, etc. Mayor Lockhart said he and Chief Butelli will also discuss this. President Wenzel said some of these complaints you need to call the police. Mr. Zimmerman requested Mr. Costa be involved in this and to review the files on the Variance granted for the swimming pool. A discussion ensued regarding property maintenance, paper streets, etc.

b. John Eisenbarth, E. Garden Rd., came before Council regarding the following:

- Lights on in the Little League Field late at night. President Wenzel said the BAA pays for the lighting.
- The Agreement between the Borough and the Dukes regarding the Concession Stand. Mr. Eisenbarth questioned the use of the concession stand for other organizations such as the Brentwood Band Parents Association. Mr. Johnson said to have the Band Parents Association write a letter to Council to use any Borough facilities.
- Vehicle ordinance regarding parking cars on sidewalks.

M-4 Motion by Mr. Johnson, seconded by Mrs. Trexler and duly carried to adjourn the meeting at 9:15 P.M. ALL AYES.

Respectfully submitted,

Mary Lou Garase
Administrative Assistant