

**BOROUGH OF BRENTWOOD
MINUTES OF THE AGENDA MEETING OF COUNCIL
WEDNESDAY, JUNE 22, 2011**

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EXECUTIVE SESSION: President Trexler stated an Executive Session was held this evening to discuss personnel and contractual issues. No votes were taken.

1. Call to Order. The Agenda meeting of the Council of the Borough of Brentwood was called to order by President Trexler at 7:30 P.M., on Wednesday, June 22, 2011 in Council Chambers.

2. Pledge of Allegiance. The Pledge of Allegiance was recited by all in attendance.

3. Roll Call. The following answered roll call: Mr. Charlie Johnson, Mrs. Ann Schade, Mr. Clyde Zimmerman, Mrs. Catherine Trexler and Mr. David Wenzel.

Absent: Councilman Mario Richards. Councilwoman Janice Boyko due to illness.

Also present: Mayor Kenneth Lockhart, Borough Manager George Zboyovsky, Sitting in for Solicitor Thomas Ayooob III is Solicitor John Daley; Administrative Assistant Mary Lou Garase.

4. Public comments on Agenda Action items only. Please limit remarks to 3 minutes. None.

President Trexler stated there is one Action Item this evening and that is Item No. 9.k. Consider Resolution No. 2011-23, "Authorizing Borough Manager to Sign Closing Documents for 10 Marylea Avenue."

5. Communications. None.

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

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

7. President's Report – President Trexler stated the following will be reported at the next meeting:

- a. TOD Update. Transit Oriented Design (LGA) a plan that could be considered to market the entire Route 51 Corridor.

b. 4th of July Parade Participation – President Trexler stated the parade is coming up and Mr. Frombach, Chair of the 4th of July Committee, would like to know how many Council members will be participating in the parade? Mr. Johnson, yes; Mayor, yes; Mr. Zimmerman, yes; Mrs. Schade said she will contact Mr. Frombach; Mr. Wenzel said he hasn't made up his mind yet. President Trexler said she will be representing Council while riding with the EDS. President Trexler stated she has to give Mr. Frombach the information tomorrow.

c. President Trexler said she would like placed on the Agenda for next week is the next "REDD UP" Day in conjunction with Pitt "Make a Difference" day on Saturday, October 22, 2011. Pitt will also participate along with several other organizations willing to join in.

8. Mayor's Report. Mayor Lockhart said no report at this time.

9. Administrative and Finance Committee – In the absence of Ms Boyko, Mr. Johnson reported the following will be considered at the Council meeting:

- a. Approve the Minutes of the May 18, 2011 Agenda Meeting
- b. Approve the Minutes of the May 24, 2011 Regular Meeting
- c. Accept the Treasurer's Report for the Period ending May 31, 2011
- d. Consider payment of the Bills from May 11, 2011 through June 17, from the General Fund.
- e. Consider payment of the bills from May 11, 2011 through June 17, 2011 from the Sanitary Sewer Fund.
- f. Consider payment of the bills from May 11, 2011 through June 17, 2011 from the Capital Improvement Fund
- g. Consider payment of the bills from May 11, 2011 through June 17, 2011 from the Non-Uniform Pension Fund.
- h. Consider payment of the bills from May 11, 2011 through June 17, 2011 from the Police Pension Fund.
- i. Consider Resolution No. 2011-25 "Act 44 Conflict Resolutions."
- j. Consider switching gas suppliers

Mr. Wenzel said he would like to discuss this. Manager Zboyovsky said the information was in the Council packet. I received information today from our Broker, in 2009, we changed gas suppliers. That contract was with Snyder Brothers for three (3) years and the contract expires on September 30, 2011 this year. Manager Zboyovsky explained the rate savings with Equitable and other factors that determine the decreased rates. Manager Zboyovsky stated updated paperwork will be in your Council mail next week. A discussion ensued regarding electrical suppliers, etc.

Mr. Johnson continued:

- k. Consider Resolution No. 2011-23, "Authorizing Borough Manager to sign Closing Documents for 10 Marylea Avenue.

M-1 Motion by Mr. Johnson, seconded by Mr. Zimmerman and duly carried that Council adopt Resolution No. 2011-23, "Authorizing the Borough Manager to Sign Closing Documents for 10 Marylea Avenue." A Resolution of the Borough of Brentwood, Allegheny County, Pennsylvania, Authorizing the Borough Manager as signatory of the Closing documents associated with the Borough's Purchasing of Real Property located at 10 Marylea Avenue, Pittsburgh, PA 15227.

Mr. Wenzel questioned why is this happening? The Council President is to sign the closing documents.

Solicitor Daley said the Resolution is drafted to authorize the Borough Manager to sign the closing documents. Mr. Wenzel said he doesn't like that, nothing against our Borough Manager; he is probably the best Borough Manager in the South Hills and even further out. Isn't that the responsibility of Council to do Council work?

Solicitor Daley said at this point the Resolution is on the table and has been seconded. This is discussion concerning the resolution. Mr. Wenzel said we don't discuss anything and that is why I brought it up. Mr. Wenzel said this type of document is supposed to be signed by the President of Council. Solicitor Daley said I think it is open for other persons of Council to discuss as well. Mr. Wenzel questioned who is the Vice-President of Council? Mr. Johnson said Ms Boyko. Mr. Wenzel said who is President Pro-Tem? Mr. Johnson said I am. Mr. Wenzel questioned when is the closing? Manager Zboyovsky said tomorrow afternoon.

President Trexler stated my feeling about that is that we give George the authorization to take action tomorrow. Mr. Wenzel said you are missing the point of my argument. This is duties of Council. There is somewhere somebody has to do the duties they were elected to do. This is a big important thing.

Mr. Johnson said at the same time, we are all aware of what is going on. This is something as Council we are going to allow George to do this particular action. Yes, it is a Council responsibility; at the same time, we are saying not one of us is available that day to do this. President Trexler said we are giving Power of Attorney to do this on our behalf. Mr. Wenzel said he understands what we are doing, but why are we giving our duties away? President Trexler said not everybody is available. This is a part time job for all of us.

President Trexler called for a vote.

A ROLL CALL VOTE WAS TAKEN: Mr. Johnson, AYE; Mrs. Schade, AYE; Mr. Zimmerman, AYE; Ms Boyko, ABSENT; Mrs. Trexler, AYE; Mr. Richards, ABSENT; Mr. Wenzel, NAY. 4 AYES. 1 NAY. 2 ABSENT. President Trexler said, "Motion carried."

Mr. Johnson continued:

Item No. 9.1 Consider Resolution No. 2011-24, "Northwest Group Services Agreement for Health Insurance Plan Administrators."

M-2 Motion by Mr. Johnson, seconded by Mr. Wenzel and duly carried that Council adopt Resolution No. 2011-24, "Northwest Group Services Agreement for Health Insurance Plan Administrations. "A Resolution of the Borough of Brentwood, County of Allegheny and Commonwealth of Pennsylvania, Accepting and Approving Articles of Agreement between the Borough of Brentwood and NWGS Companies ("NWGS") to perform various Administrative and Record Keeping functions at the direction of the Borough of Brentwood in respect of various employee benefits programs and Authorizing Execution of said Articles of Agreement by the appropriate officers of the Borough of Brentwood. ALL AYES.

10. Public Works Committee – In the absence of Mr. Richards, Mr. Zimmerman stated the following will be considered at the Council meeting:

- a. Accept the Public Works Supervisor's monthly report
- b. Consider Work Authorization associated with additional field and office tasks to provide extra existing conditions for a proposed storm sewer line through two properties adjacent to Pinkney Way for Gateway Engineers in the amount of \$2,500.00.

Manager Zboyovsky said we are waiting for SHACOG to release the money this year; however, if not, we did re-apply for the same project for next year.

- c. Consider Work Authorization associated with the Hillson Avenue and Daub Way Roadway Rehabilitation – Phase 1 construction documents and easements for drainage improvements for Gateway Engineers in the amount of \$8,000.00.

Manager Zboyovsky said this grant was denied last year; but when we prepared the budget for this year, we budgeted the financing from the Capital Improvement Fund.

- d. Consider awarding the Joint Municipal SHACOG O&M CCTV Inspection & Cleaning – Year 1 Contract to the low bidder, Robinson Pipe Cleaning Co. in the total amount of \$46,190.40.

M-3 Motion by Mr. Zimmerman, seconded by Mr. Johnson and duly carried that a Council concurs with the SHACOG's awarding of the Joint Municipal SHACOG O&M CCTV Inspection & Cleaning – Year 1 Contract to the low bidder, Robinson Pipe Cleaning Co. in the total amount of \$46,190.40. ALL AYES.

Mr. Zimmerman continued:

- e. Request for parking lines on Kaplan Avenue. – Mrs. Schade questioned what area on Kaplan Avenue? Mr. Zimmerman said it would be from 105-107 on

Kaplan Avenue.

Mayor Lockhart said the parking lines are working very well on Kaufman Avenue. President Trexler said she is concerned this may be a trend going, this is the second request and I feel this could possibly be a trend. We should consider putting some type of criteria together for this type of request by possibly having a petition submitted, making sure all neighbors are in agreement with it; and, secondly, who is going to keep those lines painted, whose responsibility is it to maintain it. How do you feel about developing some type of criteria? Mayor Lockhart said do as you do now have them fill out the paperwork and have Ralph go down to look at it, like a handicap parking space. You have to do that because of different neighborhoods. There are different situations for each case. Mayor Lockhart said the lines would be maintained and painted by the public works summer help.

11. Zoning and Ordinance Committee – Mrs. Schade reported the following will be considered at the Council meeting:

- a. Accept the Building Inspector's monthly report
- b. FYI – No Planning Commission meeting in June.
- c. FYI - The June Zoning Hearing Board meeting for this evening was cancelled and re-scheduled for July 27, 2011 at 8:00 P.M.

12. Park and Recreation Committee – Mr. Johnson reported the following will be considered at the Council meeting:

- a. BPI Update. Mr. Johnson reported Community Day was a wonderful success with the businesses and non-profits participating. The movie at night was attended by 75-80 people. Mr. Johnson said he was asked by COMCAST to do a 5 minutes program "Headlines News" from July 4th to July 30, 2011 on Channel 33 on Comcast Cable and Channel 816 on HD Cable. It will be on 50 times during that time. The BPI will be discussed among other projects. This is good publicity for Brentwood.

Mr. Johnson said the BPI will hold swimming pool parties on Saturdays throughout the summer and possibly hold movies in the park.

- b. Movie and Sound System Update. Mr. Johnson questioned if other organizations or non-profits will be using the movie system? Mr. Wenzel stated I have no problem with that if there were only one operator, that would be a great thing. A discussion ensued.

- c. Pool Status Report. Mr. Johnson said the 2011 Pool Report will be available at the next meeting.

d. Consider New Pool Robot Cleaner. Mr. Johnson said we will consider the purchase. Manager Zboyovsky said the Pool Manager suggested we purchase a new cleaner; the current cleaner is an older model and not working to capacity.

Mr. Wenzel questioned the bid for \$2,250.00. Manager Zboyovsky said we received a bid from a catalog, an independent supplier and from B&R Pools, our current vendor.

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

- a. Accept the Police Chief's monthly report
- b. Brentwood Civil Service Police Test (Update)

Mr. Zimmerman stated the Civil Service Police Testing will be conducted on July 1, 2011 at the Allegheny County Police Academy. Mr. Bill Gamble will oversee the written and physical agility testing of the 36 applicants

- c. Disability Pension Request Appeal.

14. Special Committees – President Trexler said we will discuss Special Committees: President Trexler said the EDS meet after the next Council meeting. President Trexler also stated the SHACOG meeting was last week; however, there was no quorum and we could possibly have a report in the Council mail.

Mr. Johnson said he and Borough Manager Zboyovsky attended the CONNECT Congress meeting and several resolutions were adopted. Manager Zboyovsky said he received an email that Representative Readshaw is sponsoring a House Bill to expand the Port Authority Board. I contacted the Executive Director Cathy Risko of CONNECT and requested she contact Representative Readshaw and request he amend the House Bill to include in a member of the CONNECT group to the Port Authority Board. A discussion ensued.

President Trexler said the next Route 51 Corridor meeting will be in July.

15. Old Business –

a. Borough shirts. President Trexler said she discussed with Manager Zboyovsky and suggested we go with Unifirst, they already have the Borough logo. Mr. Wenzel said I thought we already voted this down. President Trexler said we voted down paying for it. Since Unifirst already has the logo, they have a catalog available for anyone interested we could have shirts made up with the Brentwood logo. I am interested for marketing, there are a lot of functions that I go to with other representatives from other municipalities. It is a good way of marketing and a good way of showing Brentwood is involved and Brentwood is participating in these various functions. Mr. Wenzel questioned who pays for it? President Trexler said, we do, personally. President Trexler

said we do have money set aside for marketing and I would like to throw this proposal out to kind of compromise because in order to get everyone on board, to get a shirt, because there are a going to be some people that don't want to pay to have one. Would Council be willing to consider, because we don't have to pay for the set-up fee, at least allowing one shirt to come out of that fund and any additional shirts to be purchased for them to be paid for personally... Mr. Johnson said it is my opinion, personally, I think we should pay for everything ourselves, I don't think it is right for our community to pay for our shirts.

President Trexler said I just thought I would put this out there and maybe it would encourage people to get one. Mr. Wenzel said to just make a nice name tag and give it to them.

Mr. Johnson said if we want a shirt, I wouldn't mind having a Brentwood shirt, we could order them through George. But I think we should pay for them ourselves. Manager Zboyovsky said he will look at the Unifirst catalog on the website and see what they have. Mr. Johnson said we should all contact George, give him the size, number and money to place only one order. President Trexler questioned Manager Zboyovsky if they have sample shirts. A discussion ensued regarding the color, design, etc. Mr. Johnson said we need to get the catalog. Mr. Wenzel said we should have a deadline of July 1, 2011. Manager Zboyovsky said there are several brands and designs. If you are interested in a particular shirt, please get the specific number, name and size and give it to the Borough Manager.

b. Borough Building Feasibility Study – Community Meeting Date.

Manager Zboyovsky said there are three items regarding this tonight, whether or not to invite Architectural Innovations to the July meeting to address any questions; and, since this is such a big project, if any questions are related to electrical and mechanical she would invite the specific individuals. If a design issue then the lead architect would need to be invited. The second main item would be setting a date for the Community meeting.

Mr. Johnson said on page 7.8 they have the police and the EMS criss-crossed, the label. I think what is critical, on the first floor with the EMS and the police, I only see one men's room and one women's restroom. It seems like it is in the main lobby. I don't see a restroom for the EMS and a restroom for the police department. Manager said that the police department will have a women's locker room with restroom. Manager Zboyovsky said the main concern at this time is the footprint of the building. A discussion ensued and it was agreed that Council does not feel it is necessary to have the Architects come back.

Mr. Wenzel suggested we have the Agenda meeting the same night at 6:00 P.M., and have the Public Hearing at 7:00 P.M. The Agenda meeting will be held at the Brentwood High School Board Room and the Public Hearing held in the High School Auditorium.

At this time, it was determined to have the Public Hearing on Tuesday, July 19, 2011. Manager Zboyovsky said he will contact architect Jan Brimmeier to confirm the date and time. Manager Zboyovsky said we will advertise the Agenda meeting at 6:00 P.M., in the High School Board Room and advertise the Public Hearing meeting at 7:00 P.M, in the Brentwood High School Auditorium. Manager Zboyovsky said we will have a short meeting, with no Executive Session. The Borough Solicitor will be present at the Agenda meeting. If an Executive Session is necessary we could have it after the Public Hearing. Manager Zboyovsky said this would be advertised in the South Hills Record, posters at the Library, EMS and Fire Department and possibly the electronic sign at the GBU.

16. New Business –

a. Discuss Revisions to Council Rules & Procedures –RE: Revolving Presidency. President Trexler stated a resolution is required to make this change. President Trexler said the current procedure is every two (2) years a new Council comes in, there is a re-organization of Council, and this Resolution would change that to be an annual re-organization. Mr. Johnson said I though that was why Mr. Wenzel was moved from his position because his year was up. President Trexler said we could do that at anytime, but we wanted to have something in writing. Mr. Wenzel said it should be done by the Council coming in. President Trexler said the discussion was to do something like Whitehall, they re-organize every year, it gives Council an option for change, and we could parallel Whitehall, or have a change every other year or keep it as it. I think this should be open for discussion for everyone to have the opportunity to make the change.

Solicitor Daley said the Borough Code requires every time a new Council comes in, you re-organize the first Monday of January. Solicitor Daley said other municipalities have a re-organization every year. Basically it may have been a gentleman's agreement and it is traditionally by seniority, a new official would not be the President or Vice-President. As long as the Borough is consistent with what the Borough Code requires, can a Borough rotate the Borough Presidency on an annual basis, I believe it can. Mr. Wenzel said I agree with that. But I agree that also to change the chairmanships of the different committees. That is my point, why just say put the President in and he can appoint whoever he or she wants. Solicitor Daley said the matter may be for a lack of better term, it may not be illegal, so much of a legal matter as to the assignments and so forth by the Council etc. It is a political matter to be discussed and to be hashed out by the Council.

Mr. Johnson said what we would probably do is in November or December we could nominate an individual to be President and then they would go around ask what committee they would like to serve on. I think that would be fine.

Mrs. Schade said in the past years, they were reputable people that served 4-16 years. It wasn't that you were against them. They were on Council for a long time and would say I want to be on a certain committee. I don't feel we have to do what Whitehall does. A discussion ensued.

President Trexler said we will leave it as is. The way it is now in accordance with the Borough Code we are not going to make this an annual thing. At this time, several Council members were speaking at the same time.

Mr. Johnson questioned if this is an annual thing? Mr. Johnson said I think it should be an annual thing. Mr. Zimmerman agreed that it should be an annual change of Presidency and Vice President. Trexler said I think we should put this on the Agenda for next week. Mr. Wenzel said we should do as our Solicitor suggested and keep it as a Gentleman's Agreement. Solicitor Daley said he did not make a suggestion; it was a comment regarding how other municipalities handle it. President Trexler said I think it is a good opportunity if someone wants to try something different and it gives them the opportunity, they don't have to wait two years. President Trexler stated this will be on the Agenda for next week.

Mr. Johnson said a few months ago, he had a meeting with the owner of Giant Eagle and Echo Realty regarding not being able to sell raffle tickets at Brentwood Towne Square. Mr. Johnson said at one of the fundraisers, they gave the Giant Eagle a hard time, and Echo Realty said no more soliciting raffle tickets. I was wondering if it is legal and if Council got involved and wanted to sell raffle tickets, BPI, 4th of July Committee, only non-profit organizations in the Borough. If they wanted to sell raffle tickets they would have to go through Council for approval. We would have to have Echo Realty and Giant Eagle to approve this before we approach Council.

Solicitor Daley stated I don't want to give you a firm answer at this time. I would have to take a look at this. As Council may be aware, our office was asked to review the ordinances involving transient oriented businesses in the Brentwood. There was an issue concerning a non-not-for-profit canvassing group that dealt with an issue of public consumers. Also, there are constitutional issues with regulating speech and that particular ordinance was designed to police door-to-door operations. There is a distinction between canvassing which is generally looked upon as being done for a public non-profit, religious or charitable purpose vs. commercial soliciting where you have the typical door-to-door salesman or huckster selling vacuum cleaners number of organizations there have been legal challenges and a number of not just Brentwood Borough ordinances, but a number of city ordinances. In my own community of Mt. Lebanon was sued in Federal Court by SCIU involving canvassing activities back to 2004 before the presidential election. The typical requirements for these organizations, under the old ordinances, you go out get a permit or a license from the Borough Manager, and if you are subject to registering and approved by the Borough Manager, the cases made it abundantly clear, those ordinances at least as to canvassing, as opposed to solicitation are unenforceable. Solicitor Daley said they will not survive a constitutional challenge. There is some question if the canvassing group is asking or soliciting for a donation for a not-for profit, there are some questions as to constitutionality there. What is not clear is to what is

permissible and what is not permissible as far as for profit solicitation. Groups that are challenging these ordinances are by large canvassing groups and the courts have been pretty uniform in saying you cannot require prior pre-registration or pre-licensing. It can be content, regulation of speech and be looked upon as a prior restraint on free speech; and the courts exercise strict scrutiny and the courts (.inaudible) these ordinances (.inaudible). Now this is something different than can Council give a blessing on a non-profit, you can't do it unless you have the approval of Council. This is a slightly different issue. I think there would be some issues concerning whether Council or any government official could say we will approve selling these raffle tickets and not approve selling these raffle tickets. Selling raffle tickets may not look as it can be construed as a form of speech. If the Council wants us to look in the legality of something like this, we could do this.

Mr. Johnson said he would check with Giant Eagle and Echo Realty first and if we could do this would they accept us saying this group is authorized to sell tickets. Solicitor Daley said as far as selling tickets on their property, it is private property and they have as a private property owner, it could be adding a no solicitation sticker or no canvassing sticker on their door. Even if pre-registration requirements may not survive a constitutional challenge, if a person has if it is commercial solicitation, if a person has a no solicitation sticker on the door, there is a provision under the ordinance that would survive scrutiny for that. That is enforceable. I don't know if a Borough ordinance in Brentwood could compel a tenant like Giant Eagle or other property owners, the property owner can still say no.

Mr. Johnson said there would be an agreement between Echo Realty and Brentwood Borough to approve somebody to do this for a non-profit organization based in Brentwood.

Solicitor Daley there could be issues you approve this non-profit coming into the Borough and not approve another non-profit and that could be looked upon as content regulations of speech and you could get a court challenge. I am not saying it might not be necessarily successful, but you might be inviting litigation.

Mr. Wenzel said I don't think Echo Realty or Giant Eagle would want to get into an agreement like that simply because we are telling them who they can have sell their tickets and then they come over here and we tell them they cannot sell tickets that you need approval by Brentwood Borough Council.

Mr. Johnson said I am looking at Brentwood Towne Square and the capability of selling tickets and they refuse us there. Mr. Johnson said approximately 70-75% of the business in Brentwood Towne Square comes from Brentwood.

Mrs. Schade stated the 4th of July no longer sells tickets at the Brentwood Towne Square. Mrs. Schade stated she met with Giant Eagle and Echo Realty several years ago

regarding the selling of raffle tickets and Giant Eagle said no. They blamed it on Echo Realty and Echo blamed it on Giant Eagle.

Solicitor Daley said apparently this practice was going on at one time and questioned what made it stop? Mr. Johnson said it was the 4th of July Committee that gave them a hard time. Mrs. Schade said she heard it was another group. A discussion ensued.

Mr. Wenzel said I shop there all the time and every time you walk in there is always someone there selling something. It does get annoying to some people. Mr. Johnson said that is why we would limit it.


Solicitor Daley questioned if the Salvation Army is there with the kettle at Christmas? Mr. Johnson said I haven't seen them there last year. Mr. Johnson said a lot of money can be raised at that location. We lose so much money by not doing that.

Solicitor Daley said if Council or perhaps the Borough Manager gives us guidance to research this further we certainly will. We will hold off and I think there will be legal questions.

17. Public comment – Please try to limit remarks to 3 minutes. None.

M-4 Motion by Mr. Johnson, seconded by Mr. Wenzel and duly carried that Council adjourn the meeting at 8:45 P.M. ALL AYES.

Respectfully submitted,


Mary Lou Garase
Administrative Assistant