

MINUTES  
BROOKHAVEN BOROUGH COUNCIL MEETING  
MONDAY, FEBRUARY 6, 2012  
7:00 PM

Council President, Daniel McCray, called the meeting to order at 7:00 PM. The meeting was held in the Brookhaven Municipal Center. He led in the Pledge of Allegiance to the American Flag and Mayor Hess read the names of the Borough residents who passed away during the month of January. A moment of silence was observed in their memory.

The record shows the following people seated at the Council Table: (from my right to left): Ms. Leslie, Mr. Wilwert, Mrs. Fooks, Mr. Linowski, Mrs. McKinley, Mr. McCray, Mr. Maddren from Maddren Law Office, Ms. Truesdale, Mayor Hess, Mrs. Erickson and Charles Catania, Jr., from Catania Engineering Associates.

ANNIVERSARY PRESENTATIONS – Mr. McCray and Mayor Hess

Mr. McCray and Mayor Hess called Gerald and Elaine Gardner, 710 Adams Drive, forward. Mayor Hess read a resolution prepared for them in honor of their 50<sup>th</sup> Wedding Anniversary. Mr. and Mrs. Gardner were married on January 20, 1962 at St. Laurence Church in Upper Darby, PA. Mayor Hess asked the couple for advice of how to make his marriage last as long as theirs. One of them said “keep your mouth shut”. (The record shows their backs were to me and I couldn’t tell which one said it.) Mr. Wilwert made the motion and Mr. McCray the second to adopt the Resolution. Motion carried by unanimous vote.

Mayor Hess read a resolution honoring Daniel and Bernice Vicario, 412 Trimble Boulevard on the occasion of their 50<sup>th</sup> Wedding Anniversary. Mr. and Mrs. Vicario were married on January 27, 1962 at Stella Maris Church in Philadelphia, PA. They were not able to attend the meeting tonight. Mr. Linowski made the motion and Mr. Wilwert the second to adopt the Resolution. Motion carried by unanimous vote.

SWEARING IN OF FIRE POLICE OFFICERS

Mayor Hess administered the Oath of Office to the following Brookhaven Fire Police Officers:

Captain David Schlott  
Jack Sminkey  
Robert Owsiany  
Dave Soroka

They were commended for the job they do and their dedication.

SCHOOL BOARD REPORT – Dr. Acosta

Dr. Acosta reported thanked the Board of Health and others for their donations to help needy families from Coebourn Elementary School during the holiday season. There were 30 families that needed help this year. The Variety Show was held last Saturday night. Family Math Night will be this Thursday, February 9 from 6:00-7:00 PM. The second round of parent/teacher conferences will begin on February 24 and the PSSA’s are coming up. She said Mr. Camma came over to Coebourn and took a look at the building. Mr. McCray said what a great job the children did in the Variety Show. He thanked all involved for their hard work and dedication.

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### FIRE CHIEF'S REPORT – Chief Montella

For the month of January, 2012 there were 3 fire incidents, 20 non fire incidents, 32 mutual aids and 8 drills. Broken down it is 30 structure incidents, 3 rescues, 8 drills/training, 2 wire incidents, 5 gas investigations, 1 vehicle incident, 3 CO detector investigations, 1 smoke investigation, 4 assists to the ambulance and 3 airbank incidents. There was no loss of structures, \$1,100 contents loss, \$2,000 vehicle loss for a total of \$3,100. \$800,000 worth of property was endangered. There were no firefighter or civilian injuries or deaths. The manpower report breaks down as follows: 6e fire calls with an average of 18 people responding for a total of 831 hours. There were 8 training sessions with an average of 29 people participating for a total of 522 hours. The owner of Rebel Indian Tobacco Shop purchased the Ward home on East Brookhaven Road. He permitted the fire company to do some training at the house. Someone asked how long is the house going to stay in its current burned out condition. The demolition permit has been issued and demolition is scheduled to begin on February 9.

### PUBLIC DISCUSSION

F. Clark Walton, 3641 North Clearwater Lane spoke saying he currently pays \$468 per year for sewer fees to Southwest Delaware County Municipal Authority (SWDCMA). What is he going to pay three years from now? He did some calculations and has come up with a figure of \$689 per year and a maximum of \$714 but this does not include the Middletown Interceptor or any increases from DELCORA in the next three years. What is the number he can look at three years down the line? Mr. McCray said he is sorry he does not have that information in front of him. He told Mr. Walton he would get back to him.

Terry Martin, 207 Aucott Road and Tracy Martinelli, 216 Aucott Road spoke to Council about the proposed no parking in certain areas of Cambridge Square during snow events. They are concerned because there is a car that stays on the corner all year long and never moves off Aucott Road. Mr. Wilwert said the purpose of the resolution is to prevent vehicles from parking across the street from each other on snow events, preventing emergency vehicles from clear passage through the area. These signs only involve 9 to 12 parking spaces. Donna Baker, the President of Cambridge Square Homeowners Association, from 13 Ruth Road said Aucott Road was the original problem and she felt that the Borough ignored that. Chief Montella was asked to step forward and he explained the situations that caused this no parking resolution to become necessary. Two fire trucks and an ambulance could not get out of the development because of the way vehicles were parked. Chief Montella said no one wants to have loss of life over 9 parking spots.

### SOLICITOR'S REPORT – Mr. Maddren

Mr. Maddren recommended that approval of the Chester Water Authority Lease be placed on the March 5 Council Meeting Agenda.

Mr. Maddren spoke about the Agreement between the Borough, Boy Scout Troop 493 and Bill Smith for temporary storage of Troop 493's trailer on Borough property. Mr. Smith is the registered owner of the trailer. As a pre-condition to storing the trailer on Borough property the Troop must secure and maintain general liability insurance in the amount of \$1,000,000 naming the Borough co-insured. This is being worked on via Boy Scouts of America's Regional Council. Ms. Leslie made the motion and Ms. Truesdale the second to execute the Agreement. Motion carried by unanimous vote.

Mr. Wilwert made the motion and Mrs. Erickson the second to adopt Cambridge Square No Parking During Snow Events Resolution. Motion carried by unanimous vote. This is Resolution 2012-03.

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FINANCE COMMITTEE, CO-CHAIR VACANCY REVIEW COMMITTEE, FIRE COMMITTEE, POLICE COMMITTEE CHAIR AND CIVIL SERVICE LIAISON – Mr. Linowski

Mr. Linowski presented the Bill List for Approval dated 02 06 12. He asked that the bill that was received from Walton, Mulvena and Associates received earlier this evening be added to the list. The total of that bill is \$15,560.00, bringing the total to \$70,729.62. He made the motion to approve the Bill List as amended. Ms. Leslie made the second. Motion carried by unanimous vote.

A Letter of Proposal dated January 24, 2012 was received from Matthew C. Stone from Stone & Stone Law Offices. Mr. Stone proposed that his Law Office serve as Counsel for and provide legal services to the Brookhaven Borough Civil Service Commission at a rate of \$125.00 per hour on an as-needed basis as determined by the Civil Service Commission. Mr. Linowski made the motion to accept the proposal. Mr. McCray made the second. Mr. Linowski said there are no retainer fees involved with this service. Motion carried by unanimous vote.

Regarding the reduction in the Financial Security Guarantee for Pulte Homes Mr. Linowski said that at a previous meeting, Pulte was asked for a 30 day extension. They did not agree to that. The motion to reduce the Financial Security Guarantee was defeated by Council at that meeting. Because of this the Borough is now being sued by Pulte. Mr. Linowski made motion and Mr. Wilwert the second to reduce the Financial Security Guarantee for Pulte Homes to \$78,100. Motion carried by unanimous vote. Paul Mana, 131 Creekside Drive, President of the Traditions at Ridley Creek Homeowners Association, spoke saying their attorney was not notified of the proposed action on the Financial Security Guarantee on the agenda this evening. He said that Pulte has done nothing in the past three months—not one item was corrected. Mr. McCray said it is not the Borough's obligation to notify them. Mr. Maddren said that the reduction in the Financial Security Guarantee is required under the Pennsylvania Municipalities Planning Code (PMPC) and he agrees with what Ms. MacKenzie said at previous meetings about the Borough's obligation under the PMPC. He confirmed the fact that Pulte did file suit against the Borough and several Council Members. The Borough does not have any choice in the matter. He said he understands that the Homeowners have issues with Pulte but those issues are not covered by this escrow. Charles Boohar, 823 Creekside Drive, Treasurer of the Traditions at Ridley Creek Homeowners Association said Pulte has given them no response. Instead, they filed the law suit. Some of the problems are tied to a building code litigation and it is going to concern other parties. Mr. Boohar feels that their "hands are tied". Mr. Maddren said we are sorry they are having difficulties. Mayor Hess said he remembers that in December at a meeting the Pulte people promised to take care of the homeowners' problems. Mr. McCray said that the Borough will still be with the residents at TRC. Gary Green, Pulte's attorney, said that their firm has been in contact with Keely Carr, the Homeowners' Association attorney. He said Pulte "did get derailed a bit" to prepare for the litigation. The responses to the Homeowners Association's engineer's report will be completed by February 17. There was discussion about the need for the gate to be installed. Mr. Green said they are still waiting to hear from the property owner regarding the deed restriction. The gentleman is an airline pilot and isn't home much but he has said he wants to meet with the attorney. Mr. Green continued saying Pulte has had some sub-contractors out at TRC. They are trying very hard to reach resolution of these matters.

Mr. Linowski said the Police Committee has met and recommended to Mayor Hess and Chief Eller that Benjamin Kyler be hired as a full-time Brookhaven Borough Police Officer. Ms. Leslie made the motion and Mrs. Fooks the second. Motion carried by unanimous vote. This appointment is effective this evening and Mayor Hess will swear in Officer Kyler as soon as possible.

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Mr. Linowski said that DELCORA has learned that with the situation at Sunoco Refinery Sunoco will not be sending 10,000,000 gallons a day to DELCORA. The Resolution and DELCORA Act 537 Plan has been discussed at great length at previous meetings. Mr. Linowski made the motion and Mrs. Fooks the second to adopt the DELCORA Act 537 Resolution. Mr. Wilwert said that everyone knows what his opinions are about SWDCMA. He spoke about the 5<sup>th</sup> paragraph of the Plan. He also said that the Brookhaven Borough Planning Commission has not approved the Plan. Mr. Maddren said that the Planning Commission is an advisory commission to Council and that part of the resolution can be redacted. In addition, the schedule listed in Section 9, Table 9-1 of the Plan is way out of date. Mr. Maddren said that the Schedule is for SWDCMA and/or DELCORA. That can be redacted as well. The redaction can be done on the most current version of the DELCORA Act 537 Resolution. Mr. Wilwert asked if they decide to change something administratively, does the Borough have to do this again. Yes, if the plan changes in any way. Mr. Linowski amended his motion to include the two sections Mr. Maddren said could be redacted. Mrs. Fooks made the second. Motion carried by a 4-2 Roll Call Vote of Council as follows:

Mrs. Erickson – No, don't adopt the Resolution

Mrs. Fooks – Yes, adopt the Resolution

Ms. Leslie – Yes, adopt the Resolution;

Mr. Linowski – Yes, adopt the Resolution

Ms. Truesdale – Yes, adopt the Resolution

Mr. Wilwert – No don't adopt the Resolution

Mr. McCray – Abstained. Reason: He said he is employed by DELCORA.

This is Resolution 2012-02.

### MINUTES APPROVAL

Ms. Leslie made the motion and Mr. Wilwert the second to approve the Minutes from the January 3, 2012 Reorganization Meeting. Motion carried by unanimous vote.

Ms. Leslie made the motion and Mr. Wilwert the second to approve the Minutes from the January 4, 2012 Council Meeting. Motion carried by unanimous vote.

MAYOR'S REPORT – Mayor Hess had no report this evening.

### COUNCIL REPORTS

CHAIR VETERANS GROUPS, CHAIR EMERGENCY MANAGEMENT ADMINISTRATION, CHAIR RECYCLING, CHAIR FIRE COMMITTEE AND MEMBER POLICE COMMITTEE – Ms. Leslie

Ms. Leslie reported that 17,800 pounds of Christmas Trees were disposed of via Delaware County Solid Waste Department because our chipper was broken.

The Spring Shred-It Day will be held on Saturday, May 19 from 8:30 AM until Noon.

Ms. Leslie said the Fire Committee will meet on Thursday, February 16 at 7:00 PM.

A letter confirming the fact that George Cornog has been officially been appointed Brookhaven Borough's Emergency Management Coordinator by the Governor.

The Borough's updated Emergency Management Plan has been completed. Two hard copies are available

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for review. A resolution adopting it should be put on the agenda at future Council Meeting—possibly as early as March.

Messrs. Cornog and Jones are looking into getting new identification badges made for all Borough employees, Police Officers, Fire Company/Ambulance personnel, Town Watch members, as well as those who are appointed to committees in the Borough.

Ms. Leslie complimented Town Watch on the Spaghetti Dinner. She said it was “fabulous”. Mr. Wilwert thanked her for her compliment and for bringing so many friends and family members to the dinner.

CHAIR PUBLIC WORKS, CHAIR BUILDING COMMITTEE, MEMBER FIRE COMMITTEE, DEPUTY EMERGENCY MANAGEMENT AND MEMBER LONG RANGE DEVELOPMENT – Mr. Wilwert

Mr. Wilwert said the Spaghetti Dinner was great this year. He appreciates all those who supported this fundraiser. He said Town Watch has over 25 members now. Among others, he thanked Betty Kelley, Lynn McMonagle and Joe Kurman for their hard work at the dinner.

Mr. Wilwert reported that Town Watch has plans to talk to the Sunshine Foundation to see if they can help the Foundation grant an ill child’s wish.

He continued his report by saying that last month we had 2.9 inches of snow. We salted and plowed. The Maintenance Department is also working on filling in pot holes. They are using temporary patch. Also the sanitary sewer line on Williamson Avenue has been cleaned. Also had a problem on Meadowbrook Lane—5 gallons of paper towels and flushable wipes were clogging the system.

Mr. Wilwert said that the Maintenance Department will start working on the bleachers in Memorial Park.

CHAIR ZONING HEARING BOARD, CHAIR COMPREHENSIVE PLANS, CHAIR HOLIDAY PARADE COMMITTEE, CHAIR LONG RANGE DEVELOPMENT, MEMBER POLICE COMMITTEE AND MEMBER FIRE COMMITTEE – Ms. Truesdale

Because there is nothing on their agenda, the Zoning Hearing Board will not meet in February. She will have a more detailed report in March.

Ms. Truesdale thanked Town Watch for having the Spaghetti Dinner. It was excellent. She also thanked all those who helped, especially Mr. Kurman, the Chief sauce maker.

CHAIR HEALTH INSPECTOR, CHAIR PLANNING COMMISSION, CHAIR ARBOR/SHADE TREE COMMITTEE, CHAIR TRAFFIC CALMING AND SCHOOL BOARD LIAISON – Mrs. Erickson

Mrs. Erickson spoke about speeding in the Borough. She feels a deterrent is needed and suggested speed humps or bumps, even if they are the temporary kind. Mr. McCray said he checked out pricing on the temporary speed bumps and they are reasonable to purchase.

Mrs. Erickson said she also has concerns about businesses in the Brookhaven Shopping Center. There are people loitering in that shopping center. She recommended adopting an ordinance concerning loitering.

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Mrs. Erickson continued her report speaking about individuals who call the Board of Health to express their opinion about something they feel violates the health code but very often the person expressing their opinion insists on remaining anonymous. Mrs. Warfield must know who the caller is and where he or she can be reached in order to report back to them.

Mrs. Erickson said the house at 3408 Victor Avenue needs to be torn down. It's been over three years since the fire. She would not like to live near it and is sure none of the neighbors appreciate the condition it remains in.

The Planning Commission will meet on Wednesday, February 15 at 7:00. Their meetings have been changed to the third Wednesday at 7:00 PM.

BUSINESS AND REVITALIZATION COORDINATOR, CHAIR ORDINANCE COMMITTEE, MEMBER CONDO ASSOCIATION, SCHOOL BOARD LIAISON AND LIAISON CLOCK COMMITTEE – Mrs. Fooks

Mrs. Fooks announced she will be getting together with the Ordinance Committee. She has asked another resident to become a member of the committee and will let Council know the person's response.

ENGINEER'S REPORT – Mr. Catania

The Application for 2012 County Aid has been prepared by his office and is ready to be adopted as a Resolution. Mr. Wilwert made the motion and Mr. Linowski the second to adopt Resolution 2012-01. Motion carried by unanimous vote.

Mr. Catania explained the recommended Street Restoration Specifications at Workshop on January 23. He recommended that these specifications be adopted. Mr. Wilwert so moved and Mrs. Erickson made the second. Motion carried by unanimous vote.

Catania Engineering Associates tabulated the bids opened on January 23 for the sale of our used Kohler Generator being sold "as is". The highest responsible bidder was Georgeo's, 409 Green Street, Marcus Hook, PA. Georgeo's bid was \$3,001.01. Mr. Wilwert made the motion and Mr. Linowski the second to award the bid to Georgeo's for \$3,001.01. Motion carried by unanimous vote.

It was necessary to repair a street lateral at 3427 Commerce Drive. Mr. Catania recommended Council's ratification of this repair by JMC Contracting. Mr. Wilwert made the motion and Mr. Linowski the second to ratify this work. Motion carried by unanimous vote.

It was necessary to do emergency work at our WWTP—equipment in the Clarifier. Mr. Catania recommended Council's ratification of this work. Mr. Wilwert made the motion and Mr. Linowski the second to ratify this work. Motion carried by unanimous vote.

Mr. Catania announced that the Chester Ridley Crum Creek Watershed is sponsoring a lecture on at Penn State Brandywine on February 12 at 2:00 PM. The topic of this lecture is Native Plants, Birds, Bees, Butterflies and a Healthy Watershed. What's the Connection.

INSPECTORS' REPORTS

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BOARD OF HEALTH – Mrs. Warfield

Mrs. Warfield said her inspections are on-going.

Regarding the generous donations of used eye glasses, Mrs. Warfield asked Board of Health Secretary, Helen Elmer, to speak. Mrs. Elmer said that Chief Eller had made her aware of the need of used eye glasses in Peru. In April we sent a box of glasses there to help the people. We have just sent another box to Peru. The people are very appreciative.

FIRE MARSHAL – Mr. Leslie

Mr. Leslie reported he has been to Traditions at Ridley Creek and has made a punch list. This has been shared with Rick Nordenson, from the property management company.

Kentucky Fried Chicken/Taco Bell has paid all of the citations issued to them for false alarms.

Mr. Leslie spoke about 3929 Edgmont Avenue—the Shell Gas Station and their Remedial Action Program.

Mr. Leslie did a “walk through” at Dollar Tree in the Cambridge Square Shopping Center. Dollar Tree will be installing a Knox Box.

The home at 33 East Brookhaven Road will be demolished very soon.

At 6417 Hilltop Drive there was a fire a few months ago. Mr. Leslie said he went to the home and did an inspection. The gas is now back on.

Bob Grant, Plumbing Inspector went to Traditions at Ridley Creek to inspect two leaking boilers. There are some repairs to be made.

Mr. Leslie announced that he has some Child Finder Stickers. Please contact him if you need one.

EMERGENCY MANAGEMENT – Mr. Cornog’s report was given by Ms. Leslie

No other inspectors, present or absent, had reports to give except Plumbing Inspector, Bob Grant, who gave his report to Mr. McCray to read.

PRESIDENT OF COUNCIL, CHAIR RECREATION COMMITTEE, CO-CHAIR VACANCY REVIEW COMMITTEE, CHAIR INSPECTORS AND FIRE MARSHAL, CHAIR TRASH/RECYCLING PERFORMANCE COMMITTEE AND MEMBER CONDO ASSOCIATION – Mr. McCray

Mr. McCray read the Plumbing Inspector’s Report for permits and licenses issued year to date. There were 5 Plumbing Licenses issued, 3 Mechanical Licenses issued, 5 Plumbing Permits issued and 7 Mechanical Permits issued.

Mr. McCray announced that Building Inspector, Nick Sanbe is attending classes and could not be present this evening.

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Mr. McCray said there were some permit fees to be waived. Mr. Linowski made the motion and Mr. Wilwert the second to waive the permit fee for the Penn Delco Girl Scout Troops' cookie sales from January 19 through March 3 at various locations in the Borough. Motion carried by unanimous vote.

Ms. Leslie made the motion and Mr. Wilwert the second to waive the permit fee for Girl Scout Troop 541 to sell cookies outside of Ro Lynn Deli on January 26 and 28 and February 2. Motion carried by unanimous vote.

Ms. Truesdale made the motion and Mr. Wilwert the second to waive the permit fee for the LuLu Shriners to solicit donations at Pathmark June 8 & 9, 2012. Motion carried by unanimous vote.

Because Ms. Sawicki was Primary Voting Delegate from the Borough for the EIT Collection Committee and she is no longer on Council, it is necessary to appoint a new primary voting delegate and alternate voting delegates via Resolution. Mr. Linowski made the motion to appoint Susan Truesdale Primary Voting Delegate, John J. Wilwert, Jr., First Alternate Voting Delegate and Donna M. Erickson, Second Alternate Voting Delegate. Motion carried by unanimous vote with Ms. Truesdale abstaining because this is a County Committee and she is an employee of Delaware County. This is Resolution 2012-04.

State Representative, Joe Hackett, and the County have been discussing swapping some space with each other. The County rents the District Court area and Representative Hackett rents space in the Municipal Center. Both have leases with the Borough. The County and Representative Hackett have agreed with each other to do this with no rental fee adjustment to either lease. Mr. Linowski made the motion and Ms. Truesdale the second to authorize Mr. Maddren amend both leases to bring about this change in space. Motion carried by unanimous vote.

Mr. McCray said that Babe Ruth Ball and Girls Softball are having sign ups at the Municipal Center this weekend.

Mr. McCray made the following announcements:

The Easter Egg Hunt will be held on Sunday, April 1 – Pictures with the Easter Bunny will be from 12:00-1:00 PM with the Easter Egg Hunt starting promptly at 1:00 PM

The Theatre in the Park will be held on July 20.

PUBLIC DISCUSSION – None

Mr. Linowski made the motion and Mr. McCray the second to adjourn the meeting. Motion carried by unanimous vote.

Respectfully Submitted,

Mary Ellen McKinley  
Borough Secretary