

MINUTES
BROOKHAVEN BOROUGH COUNCIL WORKSHOP MEETING
MONDAY, JULY 22, 2019

At 7:00 PM Council President Vawn Donaway called the regularly scheduled Workshop Session of Brookhaven Borough Council to Order. Mr. Donaway led in the Pledge of Allegiance to the American Flag.

The record shows the meeting was held in Council Chambers at the Brookhaven Municipal Center, 2 Cambridge Road, Brookhaven, PA 19015 and the following people were seated at the Council Table. Councilpersons Mr. Donaway, Ms. Sawicki, Mr. Heller, Mr. LaPera, Mrs. Fooks, Ms. Leslie, Mayor Hess, Mr. Pappas, Engineer Mrs. Mulvena and Solicitor Mr. Stone. Planning Commission Secretary Mrs. Boyle recorded the minutes.

PUBLIC DISCUSSION

Mr. Tom Kennedy, the Project Manager for Hilltop “C” Building, was present to ask Council for a waiver of the Borough Storm Water Management Ordinance. 18 families were displaced out of their homes from the fire in December, 2017. They are replacing the buildings with the same footprint . Mr. Kennedy said that even though the Ordinance does not consider financial reasons a reason for a waiver, insurance policies only have so many funds available for code upgrade. Mr. Kennedy said they have pretty much exhausted these funds while being compliant to all the codes, etc. This will be a burden on the residents if they have to comply with the Ordinance and it will also have an impact on all 155 property owners of this section. They do not have the real estate to comply with this Ordinance. If you take a look at the structure, in order to comply with this Ordinance, you need a lot of real estate and with the calculations we have, we do not the space to put a 24-inch pipe through the development. We are dealing with infrastructure, we are dealing with electric lines, sanitary lines, etc. Mr. Kennedy said that the original plan is not marked out clearly where the lines are. He said that they can spend thousands of dollars chasing after utilities to find out about the lines. This new construction will only impact the section that had the fire.

Mrs. Mulvena commented that the Ordinance does require storm water management for all new construction. She said that she does not have a copy of the drawings, but it looks like even though the footprint may be the same, they did reconstruct the foundation so therefore it triggers the Ordinance. Mrs. Mulvena has not been sent anything from their Engineer so she cannot give an opinion.

The concept of putting a 24-inch pipe in and carrying the storm water is not in compliance with the Ordinance. This would not be an option for the Ordinance. The intent is not to move the water away; the intent is to infiltrate the water. She does not think this would be something that their Engineers would propose. She asked that they send her the drawings for her to review and then she can come back with her opinion. She said that a lot of engineers would go straight toward structural development. She said you can do a lot with trees, landscaping and things like that to reduce that impact. Mr. Kennedy told Mrs. Mulvena that they did send information to Mrs. Mulvena; she said that the email she received from them indicated that they did not understand why they had to comply with the Ordinance. She commented that she replied that every applicant has to follow the Ordinance and that the Ordinance is very clear and specific; this is the same Ordinance that is used in almost every community. The Ordinance has very straight forward calculations; it is very clear and it spells out what needs to be done for each section. Mr. Kennedy thought that the Engineer would visit the site and have a walk through; Mrs. Mulvena said that if she visited the site, it would only be if the applicant asked for a visit since it involves an expense. If the Engineers had specific questions about the Ordinance, Mrs. Mulvena would answer them but they would have to ask her to come out. The Ordinance permits the use of the whole watershed; it does not just have to be around “C” building. Mrs. Mulvena said that if money is an issue, we can always phase it. The applicant can sign a paper that they will comply with the Ordinance and they will have time to make payment.

Mr. Kennedy said that the rebuilding has happened because of the fire; no one wanted the rebuilding. Mrs. Mulvena said that to waive the Ordinance would be a Council issue. Mr. Donaway asked Mr. Stone for his legal opinion. Mr. Stone said that Council could waive it but the issue is that the applicant has to comply with the Storm Water Management Ordinance. That is the rule. If someone’s tree falls and punctures the whole driveway, they have to comply with the Ordinance. Mr. Stone said his concern to waive it is that it sets a precedent that every time the property owner has to replace something that they did not choose to do, because of an act of nature, etc., they could ask for a waiver since one was given to Hilltop. Mrs. Mulvena said that our permit issued by EPA has a mandate that nothing can be waived; it would be a violation of our Storm Water Management. Mrs. Mulvena said we can work with them; we try to be flexible. Mr. Donaway asked what would be the consequence if we gave a waiver. Mrs. Mulvena said we would be violating the Clean Water Act and we would be fined \$37,000 a day. There was discussion between Mr. Kennedy and Mrs. Mulvena as to why Mrs. Mulvena did not reach out to him about permits; Mrs. Mulvena said she did not see the papers until it was discussed in the Inspector’s meetings.

That is when she wrote to the Engineer the first time. There was additional discussion between Mr. Kennedy and Mrs. Mulvena about a letter sent to the 18 residents threatening their use of occupancy. Mrs. Mulvena said she wrote that they have to demonstrate compliance with the use of occupancy. Mrs. Mulvena explained that the letter meant the residents have to have an agreement to do the improvements in order to occupy the residence. Mrs. Mulvena said we are required to have a signed agreement that they will comply and we do not have any signed agreements. We have to have something in place that they will show compliance to what has to be done. In continuing discussion, Mrs. Mulvena said that this is not handled by the Borough Engineer's office and she was not aware of this. Mr. LaPera asked if the applicant's Engineer has addressed this. Council and our Engineer cannot make any opinions until we have something to look at. Mr. Kennedy said that he can have his Engineer forward the calculations to her. Mr. Kennedy commented that if we cannot do a waiver, he would like to see the minimum requirements. Mrs. Mulvena said that is all we ask for; the minimum requirement and that is what we will do. Mrs. Mulvena said she will be happy to come out to the site anytime, but their Engineer has to ask her to come.

Mr. Tom Dykes, W. Brookhaven Road, gave Council a copy of the email from Dr. George Steinhoff, Superintendent, Penn Delco School District. Mr. Dykes has been communicating with Dr. Steinhoff about permitting the Coeburn School playground to be unlocked during the day light on weekends so that the Borough residents can use the playground, and especially the basketball courts. This will be done on a five-week trial. When the school is not in session or being used, it will be unlocked for use. The playgrounds at Parkside and Pennell schools are locked up at dusk. Mr. Donaway said that he appreciated Mr. Dykes following up on this.

SOLICITOR REPORT

Mr. Stone reported that the retail site at the new shopping center has requested the release of their security deposit for the seepage bed that they installed. We are going back for an inspection.

The other item Mr. Stone wanted to discuss is the property at 123 E. Brookhaven Road, which we are calling the "junk yard" and the Carmen property on Edgemont Avenue. He had some options and wanted to ask Council how they wanted to proceed. 123 E. Brookhaven Road is an occupied property and they are not complying with repeated citations. We can file a complaint in Media asking the Judge to order them to comply with the citations.

If we are successful, they will be given five days to comply and if they do not comply within five days, the Borough has the opportunity to go in and clean the place up and then bill the owner and place a lien on the property. There is lot of up-front expenses to do this, such as attorney fees, court fees, etc.

Regarding Carmen's, there is a 2008 Act 135 Pennsylvania Blight Act for abandoned properties that allows us to petition the court to have a conservator appointed alleging that the current owner is not taking care of it. If that is approved, then a conservator is appointed to stand in for the owner . Mr. Donaway asked if we have a right to do this. Mr. Stone said we have a right and any adjoining property owner has the right to file a petition to do this. It does not mean that it will be granted. There is a risk that the Judge will say No. This act was passed in 2008 and is not frequently used. Mr. Stone said the risk is that you are spending money up front and the Judge may say NO and often you ruffle the feathers of the property owners. This is a good tool to try to get improvements done. The expenses depend on how much opposition we would receive. It could be hundreds of dollars or thousands of dollars. Regarding E. Brookhaven Road, it would require sending citations; we need a paper trail and to be more aggressive. If they have been cited every day and ignored them, then the Judge might be more willing to order something.

With Carmen's, it is more a condition of the property. Mr. Stone said that the Inspectors have to be heavily involved with us for both of these properties. Sandy Fuller, from the Police Department, has copies of all the citations that have been sent. The Fire Department has never been called to 123 E. Brookhaven Road or to Carmen's. Mr. Hampton said that the owner of Carmen's has not complied to many of the things he has been asked to do. He does pay his taxes on the property. Ms. Sawicki suggested that a conservator should be appointed from the family to handle this. There was a consensus from most of the Council members that we should move forward in this direction. This situation has been going on long enough. Mr. LaPera said that we still have to file papers in the courts and do everything in order. Mr. Stone said that he is not advocating this but just wanted to look at all of our options. He said he would look further into both of these properties; now he feels he is going in the right direction to fix the problems. Ms. Sawicki said maybe Mr. Hampton could contact a family member to let them know about this.

MAYOR HESS

Mayor Hess had no report.

PLANNING COMMISSION LIAISON, CONDO ASSOCIATION CHAIR, MEMBER FIRE COMMITTEE AND MEMBER HISTORICAL COMMITTEE – MR. PAPPAS

Mr. Pappas had no report.

BUSINESS AND REVITALIZATION COORDINATOR, CHAIR ORDINANCE COMMITTEE, MEMBER CONDO ASSOCIATION, MEMBER LONG TERM AND COMPREHENSIVE PLANS, SCHOOL BOARD LIAISON, CHAIR TECHNOLOGY COMMITTEE, CHAIR GRANT COMMITTEE – MRS. FOOKS

Mrs. Fooks said that the Ordinance Committee did not meet on July 18th. The next meeting is Thursday, August 15th. She has requested Mrs. McKinley to include the following additional ordinances in the Borough Welcome Packets for new residents: Fireworks, Snow, and Animal Control. Mrs. Fooks feels this is needed so that new residents have this important information at their disposal. Mr. Donaway said that they are included in the packet.

Mrs. Fooks said that the owner of the Brookhaven Chick-fil-A also owns the restaurant on Route 1 and he has done a great job with the existing restaurant.

The Tech Committee is still in the process of Website planning and she is working with Jim Cadden to get all the information needed to move forward. It's all about coordination and timing. We have to be able to turn off one switch and turn on another switch simultaneously without costing the borough more money than what is required.

She asked Mr. Donaway if someone could contact PECO about the frequent power outages we have been experiencing on the Dutton's Mill side of the Borough. She is concerned that when Chili's and Chick-Fil-A opens, the outages might occur more frequently. Ms. Leslie said that Mr. Steve Schultz will look into this.

VICE PRESIDENT OF COUNCIL, CHAIR LONG RANGE AND COMPREHENSIVE PLANS, MEMBER GRANT COMMITTEE, LIAISON TO ZONING EARING BOARD, LIAISON TO RECREATION COMMITTEE AND CHAIR INSPECTORS – MR. LA PERA

Mr. LaPera said that there was no Zoning Meeting in June. The Recreation Board meeting will be on July 27th at 7 pm; there will be a meeting at 6:15 pm for Family Day.

~ We had the Theatre In The Park on July 16th; it was held inside because of the extreme heat. About 75 to 100 people attended, which was a good turnout.

~ At the last Workshop meeting, a resident had asked about opening our Gym for recreational basketball. The concern was for the insurance waiver and who would be coming in. We do have the insurance waiver and we are going to open the Gym on Wednesdays, from 7 to 9 pm. It will be for ages 14 through 18. Mrs. Fooks asked if they look older than 18, do we ask for ID. It was decided that we will just go for trial and error and we can revamp it. We can only do this until Basketball season begins.

~ There will be a Concert in the Park this Saturday, July 27 at Eaton Park beginning at 5 pm. The concert was postponed from July 20 because of the heat. Dennis Palma and Mike Lancaster will be performing.

CHAIR EMERGENCY MANAGEMENT ADMINISTRATION, CHAIR RECYCLING/TRASH COMMITTEE, CHAIR FIRE COMMITTEE, CHAIR VETERANS' COMMITTEE AND CHAIR POLICE COMMITTEE – MS. LESLIE

Ms. Leslie had no report other than to say there are about 5000 customers without power this evening. We will have the community center open this evening for anyone who wants to come up to stay cool or to charge their phones. Most of the power should be restored by 3 pm on July 23rd.

PRESIDENT PRO-TEM, CHAIR ARBOR/SHADE TREE COMMISSION, CHAIR FINANCE AND INSURANCE, COMMITTEE, MEMBER LONG RANGE DEVELOPMENT AND COMPRENSIVE PLANS, MEMBER FIRE COMMITTEE AND CHAIRMAN GRANT COMMITTEE – MS. SAWICKI

Ms. Sawicki reported that she needs all budget inputs from Council members by Friday, August 16th. Please submit them to Delilah McDade. All articles for the next Newsletter are due by Friday, August 30th. Please submit all information to Pat Natale. We want to get the newsletter out by October 1st.

CHAIR TECHNOLOGY AND COMMUNICATION COMMITTEE, CHAIR BOARD OF HEALTH, LIAISON TO CIVIL SERVICE COMMISSION, CHAIR HISTORICAL COMMITTEE AND MEMBER POLICE COMMITTEE – MR. HELLER

Mr. Heller had no report.

ENGINEER'S REPORT – MRS. MULVENA

Mrs. Mulvena reported the following:

~ Another problem was reported today at 3715 Arlington Avenue. This is a sanitary problem. Edgewater and Deepwater Lanes have storm water problems.

~ Mrs. Mulvena talked about the tragedy that occurred recently in Aldan where the two workers from A to U Services were killed when they were in the manhole. She said that she did not know the youngest worker but that she knew the older one and that he was one of the finest people you could ever meet. He was the son of the owner of A to U Services. The families are devastated. The company was scheduled to begin work with us this week; Mrs. Mulvena asked Council for permission to wait until next week before she contacted them about starting work for us. Council agreed that we should wait.

~ Regarding Traffic Control on Edgemont Avenue and Cambridge Road, the person from Lenni Equipment released all the equipment. The project should be completed by the middle of August.

~ Mrs. Mulvena asked all the Code Inspectors to keep her advised on all the plans.

~ Regarding Chandler Drive, we will stripe it. We have gone out for bids to have it striped and the price was too high. We are going out for bids or possibility buying a machine and doing it ourselves.

~ There is a problem on 403 Camelot Drive; their back yard is flooded with storm water. 405 Camelot has an inlet in their back yard and now 403 wants an inlet. Mrs. Mulvena said that the inlet will not solve the problem. Mrs. Mulvena said that we need to know where the pipe is going in their yard. Mr. Donaway said that the home owner wants the Borough to fix the problem; however, it is not the Borough's responsibility so it was agreed that the Borough will not fix the problem.

PRESIDENT OF COUNCIL, CHAIRMAN PUBLIC WORKS AND BUILDING,
HOLIDAY PARADE LIAISON, MEMBER POLICE COMMITTEE – MR.
DONAWAY

Mr. Donaway asked what the Council members think about the proposed self-storage building. Mr. LaPera, Mr. Heller and Ms. Leslie said they are all for it. Ms. Sawicki feels that the residents of Traditions will not want to look at this building. Ms. Sawicki said she also feels that there might be a problem with PennDOT allowing an access to Brookhaven Road. Some of the Council members said that is not our problem; we do not own the land and the developer can propose to put this building there and will have to go through all the steps to get approval. Mr. Donaway asked about Council's consensus; he feels that the developer wants to get our input before he proceeds. Ms. Sawicki said she feels he will be coming back with his plans.

Ms. Sawicki said that the developer only needs four votes from Council and she does not know how she will vote until she sees the plans and how much opposition they receive from the residents. It was discussed that the reason PennDOT would not approve the previous request for proposed townhouses was due to the traffic. With the proposed self-storage building, there would only be an average of 15 cars per week accessing the property. Mr. Donaway said he feels the self-storage unit is the perfect fit for this piece of property. Mr. Donaway said he feels that if we do not indicate to the developer that we are interested in the building, the developer will not come back. Mr. Hess said that we should wait until the Council meeting to see if he will come back. The property for this is zoned for town houses and the zoning would have to be changed. After much discussion, it was agreed to move on to the next topic.

~ Mr. Donaway asked when Sunoco would be finished with their work along Coebourn Blvd. Mr. Leslie said that they should have finished today and then they will seed the hay.

~ The motors for the cell tower have been delivered.

~ We had to replace the Air Conditioner in the State Representative's Office.

~ The Parade Committee will meet on July 24 at 7:30 pm.

~ Mr. Donaway asked Mr. Jon Grant about the pool problem at 3421 Victor Avenue. Mr. Grant said he informed the residents what they have to do. Ms. Leslie said that it has not been done.

INSPECTORS' REPORTS

BOARD OF HEALTH – MR. BOB GRANT

There was no report.

ELECTRICAL – MR. JON GRANT

Mr. Grant sent four citations to 123 E. Brookhaven Road and he sent citations to Carmen's. There is a water problem all over Brookhaven and many residents are complaining about problems with the water. When it rains as hard as it has been doing, there is nothing that can be done. There is no place for the water to run.

FIRE MARSHAL – MR. LESLIE

Mr. Leslie commented about the tragedy in Aldan. He said that Brookhaven Borough has the right and should get a copy of all the certifications of contractors they hire to do work in the Borough. Everyone should have a minimum of OSHA 30 certificate. Mrs. Mulvena said it is in our contract that everyone meets all of OSHA requirements. The contractors sign that they are certified but we will get copies of all certifications.

Chili's is getting all of their hoods inspected.

Freddy's is moving along and is out of the ground.

5005 Hilltop Drive started repair on their pipe. The pipe had a dimple in it in about seven places – one was in Brookhaven. The hole is still open.

The Beer Barn plans to open the first week of August.

ZONING OFFICER – MR. HAMPTON

Mr. Hampton said the next Zoning Meeting will be on Tuesday, August 13th.

A resident at 4401 Chandler wants to install a fence. The residence is on Chandler Drive and Mt. Vernon Avenue and he wants to put a post and rail fence on the Mt. Vernon side of property. Since it is a corner property, he needs setbacks. Mr. Hampton will advertise this. It was discussed that post and rail fences are more preferable than the vinyl fences.

Regarding the proposed self-storage unit, Mr. Hampton said that the zoning was changed to R4 for the townhouses that were proposed at that site. He said he talked to the developer of the self-storage units and told him how much back taxes were owed on the property. Mr. Hampton will contact the developer to see if he is going to proceed.

FIRE CHIEF – CHIEF MONTELLA. There was no report.

PUBLIC DISCUSSION. There was no further public discussion.

It was discussed that a letter will be sent to PECO from Mayor Hess and Council President Donaway voicing their concerns about how often there are power outages. In Brookhaven and asking why it happens.

ADJOURMENT

There was no other business to come before Council. Mr. LaPera made the motion and Ms. Leslie made the second motion to adjourn. Motion carried by unanimous vote. The meeting was adjourned at 8:15 pm.

Respectfully Submitted,

Mrs. Joan Boyle
Brookhaven Planning Commission Secretary