

MINUTES  
 BROOKHAVEN BOROUGH COUNCIL  
 COUNCIL MEETING  
 MONDAY MAY 2, 2011  
 7:30 PM

John J. Wilwert, Jr., Council President, called the regularly scheduled Council meeting to order at 7:30 PM. The meeting was held in the Brookhaven Municipal Center. He led in the Pledge of Allegiance to the American Flag and Ms. Sawicki read the names of the Borough residents who passed away in April. A moment of silence was held in their memory.

SCHOOL BOARD REPORT – Dr. Holly Acosta

Dr. Acosta said there are lots of things on their calendar in May at Coebourn Elementary School. She said she and Pete Donaghy, now the Principal at Sun Valley High School worked together when she was at Northley Middle School. She and he have set up a program where children are coming to Coebourn from Northley every Tuesday and Wednesday. The program is about life skills. The children walk around school looking for things to do. For example, they wipe down desks, shred documents, collate and staple papers and other tasks that they can handle—office type things for job experience. Teacher Appreciation Day is tomorrow, May 3. 5<sup>th</sup> Grade Parent Orientation Day is May 5<sup>th</sup> at Northley. Coebourn’s 5<sup>th</sup> grade students shadow with a 6<sup>th</sup> grader at Northley. The Spring Concert is on the 12<sup>th</sup> at 7:00 PM. This will be at Coebourn. There’s an Art Festival too. They are looking forward to Chief Eller’s visit on May 16, when he will talk about Bike Safety. Coebourn is gearing up to win the District 24 Math Contest, a contest they have won several times in the past, but not last year. Dr. Acosta said she’s confident they’ll do it this year.

FIRE CHIEF’S REPORT – Chief Montella

For the month of April, 2011, Chief Montella reported the following figures:

<u>Type</u>	<u>Month</u>
Fire Incidents	1
Non-Fire Incidents	14
Mutual Aid	10
Drills	4
Total	29
<u>Monthly Calls</u>	
Structures	15
Rescue/MVA	5 – 1
Drills/Training	4
Wires	1
Gas Investigations	1
Carbon Monoxide Detector	1

There were no losses to structures, contents, vehicles. No property endangered. No firefighter or civilian injuries or deaths.

Manpower

Fire—29 calls with 20 participants for 447 hours. 4 Training Sessions with 35 participants for 315 hours.

On Thursday, May 5 at 7:00 PM there will be a Memorial Service for Chris Kangas.

Please watch the mail for the Ambulance Subscriptions and support this service.

#### PUBLIC DISCUSSION

Harry Seth, 3633 North Clearwater Lane gave an update on the Memorial Day Service, May 30 at 8:00 AM. Two guest speakers are lined up—a State Representative and a World War II nurse. Sun Valley ROTC will be the color guard; the old flags will be retired. Ms. Leslie said she has lined up the bugle player and that Mr. Seth had said all that she would have said in her Memorial Day report.

#### MINUTES APPROVAL

The Minutes for the March 28, 2011 Workshop will be on the agenda for approval at the June Council Meeting

Mr. Linowski made the motion and Ms. Leslie the second to approve the Minutes from the April 4, 2011 Council Meeting. Motion approved by unanimous vote.

#### SOLICITOR'S REPORT – Ms. MacKenzie

Ms. MacKenzie said that the Resolution for Municipal Agreement with the County—UCC Board was ready for Council action. Mr. Linowski made the motion and Ms. Sawicki the second to adopt the Resolution. Ms. Sawicki asked if the Borough could opt out if we wanted to. Ms. MacKenzie said yes. Motion carried by unanimous vote. This is Resolution 2011-06.

#### FINANCE COMMITTEE, FIRE COMMITTEE CHAIR, POLICE COMMITTEE CHAIR, CIVIL SERVICE LIAISON AND CLOCK/SIGN COMMITTEE LIAISON – Ms. Sawicki

Ms. Sawicki presented the Bills for Approval List dated 05/02/11. The total is \$203,598.28. She made the motion to approve the bills for payment. Mr. Linowski made the second. Motion carried by unanimous vote.

Ms. Sawicki said that the Borough is in the 3<sup>rd</sup> year of a 3 year contract with Suburban Waste for our trash and recycling. The contract expires December 31, 2011. She made the motion to authorize the Borough Engineer to prepare the bid specs, properly advertise them for the bids to be opened on July 25 at the Workshop and the award made at the August 1, Council Meeting. Mrs. Erickson made the second. Are we going to try to expand recycling? No, we're doing well and there is not anything to expand to. The discussion about bulk trash once a month—first Wednesday—with second collections on the third Wednesday in May and November was discussed. Suburban Waste, our current hauler, would like to see bulk trash collected weekly. This way we won't need the extra pickup in May and November. The number of years for the contract was discussed. It was decided to do 2 years, 3 years, 4 years with a clause for the possibility of extending the contract at a 3% or less increase into a 5<sup>th</sup> year. Motion carried by unanimous vote.

#### MAYOR'S REPORT – Mayor Hess

Mayor Hess announced that on Saturday, April 30, 27 individuals took a test because it is necessary for the Borough to establish an eligibility list from which to hire full time police officers as the need arises.

Our web-site is being completely redesigned and should be finished in a couple of weeks.

CHAIR TRAFFIC CALMING, RECREATION COMMITTEE LIAISON AND SCHOOL BOARD LIAISON – Mr. McCray

Babe Ruth Baseball will be having a free movie night in Memorial Park.

The Garzia Tournament for 8-12 year olds will end on May 27.

Girls Softball will be sponsoring a Beef and Beverage at the Municipal Center. \$25 for single ticket and \$45 per couple.

Biddy Basketball will hold a Summer Camp in July. 11-15. It will run from 9:00 AM to 3:00 PM Monday through Thursday and 9:00 AM – 1:00 PM on Friday.

Harry Davidson, a member of the Recreation Committee, has sent a letter of resignation. Mr. McCray made the motion and Ms. Leslie the second to accept his resignation with regret. Motion carried by unanimous vote. Interested individuals to fill this vacancy should send a letter of interest and/or resume to Mr. McCray.

BUSINESS SUPPORT AND DEVELOPMENT, POLICE COMMITTEE, INSPECTORS DIRECTOR, HEALTH INSPECTOR DIRECTOR AND CHAIR HEALTH/PUBLIC SAFETY – Mrs. Erickson

Mrs. Erickson introduced a Resolution of Brookhaven Borough Council, Delaware County, Pennsylvania declaring May 1-7 Children's Mental Health Awareness Week. She made the motion to adopt it. Mr. Donaway made the second. Motion carried by unanimous vote. This is Resolution 2011-07.

The next meeting of the Brookhaven Business and Professional Association is May 11 at 7:00 PM here at the Municipal Center.

COMPREHENSIVE PLANS, PLANNING LIAISON, LONG RANGE DEVELOPMENT, CONDO ASSOCIATION CHAIR AND HOLIDAY PARADE – Mr. Donaway

Messrs. Donaway, Linowski, Feindt and Mr. Walton as well as Mrs. McKinley met with the residents in Hilltop's V, W and Y Building and the townhomes earlier in the month. At that meeting the residents decided they would meet again on Friday, April 29 at 7:00 PM to continue resolving the issues they had with management and conditions in their area. They were offered use of the Council Room for their meeting. They now have a plan to pay and they have filled the vacancies on their board. They are well on the road to "getting their house in order". Mayor Hess asked if their council accepted the two chosen by the residents. Mr. Donaway said they will have a meeting with their council later this month.

Angela Meeley from Chandler Drive has joined the Holiday Parade Committee. The Holiday Parade Committee is working on fund raising. On October 15 they will have October Fest here at the Municipal Center. More information will be provided as it becomes available.

Mr. Donaway said he thinks it is appropriate to thank the team that took out Bin Laden. Please keep our soldiers in your prayers.

He continued his report thanking the people at SWDCMA for answering our questions. He said DELCORA "has an attitude". They have taken us out of the 537 plan instead of working with us to do the plan right the first time. DELCORA is negotiating with Philadelphia to bring them into the Delaware County facility. When

DELCORA reviewed the plan they went back to Philadelphia. They need to make an apology to their constituents. Now it appears they are looking at a monopoly and the state appears to be letting them do it. It's all about power and control. We should be looking at legal options. Mr. Wilwert said we are in the process of looking at the latest Act 537 Plan. He said he intends to have an Executive Session after the Workshop on the 23<sup>rd</sup> of May because of potential legal matters.

ARBOR/SHADE TREE CHAIR, EMERGENCY MANAGEMENT ADMINISTRATION CHAIR,  
RECYCLING CHAIR AND BETERANS' GROUPS – Ms. Leslie

Ms. Leslie introduced A Resolution of Brookhaven Borough Council, Delaware County, Pennsylvania, honoring the memory of Albert Merlino, Commander and founder of the Brookhaven American Legion Post 94 by renaming Post 94 to Albert Merlino Memorial Post 94. She made the motion to adopt the Resolution. Mr. McCray made the second. Motion carried by unanimous vote. This is Resolution 2011-08. Mrs. McKinley said duplicate originals have been made for the Post and the Merlino family. They will be framed and presented on May 12 when the Pennsylvania Department Commander, Pete Wasco will be at the Municipal Center for the ceremony.

Volunteers from Williamson Free School of Trades spent several hours at the Butterfly Garden last Friday cleaning it up and weeding it. They did an excellent job. Planting will be done when the weather breaks.

Ms. Leslie said she participated in the latest CERT Class held at Delaware County Community College. She said the instructor, Ed Kline, told her he needs space for training. Can he use the Municipal Center and Fire House? Mr. Wilwert told Ms. Leslie to check with Mr. Swayngim to see what dates are available at the Municipal and Chief Montella said he is OK with Mr. Kline using the Fire House.

The American Red Cross has asked to designate the Brookhaven Municipal Center as an Emergency Shelter. They have sent us a Shelter Agreement and Shelter Facility Survey. These two documents will be reviewed by Ms. MacKenzie. Mr. Wilwert asked if they would use our building even if Brookhaven "is not part of the problem?" He felt if Brookhaven is involved, it is OK but there are other facilities in Delaware County that are probably more equipped than we are, e.g., showers. Ms. Sawicki thought it was OK as long as they can get by with no showers. There are showers in the Police Department but because of the confidential nature of police department activity, we can't use them. Mrs. McKinley was asked to put this matter on the May 23 Workshop Agenda for further discussion.

CHAIR ORDINANCE COMMITTEE, CONDO ASSOCIATION, ZONING OFFICER DIRECTOR, ZONING HEARING BOARD LIAISON AND ASSISTANT SCHOOL BOARD LIAISON – Mr. Linowski

Mr. Linowski said that on May 10, the Zoning Hearing Board will meet to hear the appeal of the owners of 296 Coebourn Boulevard. This is a corner property and they would like to erect a fence.

Mr. Linowski asked Mr. Hampton about the status of a Zoning Hearing Board Secretary. Mr. Hampton said he has heard nothing from the Board. Mr. Linowski said someone has to be retained for this position. Right now Mrs. McKinley is doing everything except covering the hearings. Mr. Linowski made the motion and Mr. Donaway the second to advertise this vacancy. Motion carried by unanimous vote.

Mr. Linowski said he knows that some people think that DELCORA is a "big bad boy". The Borough has had a copy of the plan since early February. The Executive Director and Business Director of DELCORA met with Mr. Wilwert last Friday. Yes, the Act 537 Plan will be submitted on May 18 without Brookhaven. Now

Brookhaven must file its own Act 537 Plan. He said he doesn't want to see Brookhaven having to do a lot of work on a 537 plan. We should have agreed to the Act 537 Plan as it stands now. We can always opt out. Mr. Linowski made the motion and Mr. McCray the second to approve the DELCORA Act 537 Plan. Mr. Linowski said he doesn't know where the Borough will get the money to do our own plan. Mr. Wilwert said he told them we did not have time to review the documentation. Please give us this chance and we'll discuss it again at the next Workshop. DELCORA denied that their engineer made the comments she did. They told Mr. Wilwert the same thing as Mr. Linowski said but no decision will be made tonight—not enough time. DEP hasn't received anything yet. We must wait until May 23. Mayor Hess said they gave us a deadline. The revision removed us. Mr. Wilwert said the meeting was cordial. Mr. Donaway asked if we still had a tape of the meeting. Yes. Mayor Hess said if we go along with the plan then DELCORA would not be against us. Mr. McCray said we have a lot of citizens that go to SWDCMA. He spoke about a "tapping fee" of \$1,000. Mrs. Mulvena spoke about EDU's. Mr. Linowski said Brookhaven has a certain amount of EDU's. Mr. Wilwert said we need to do some more research on the information SWDCMA gave us. We need time to do that. Mr. Donaway said we should wait until the 23<sup>rd</sup> of May. Mayor Hess asked if SWDCMA and DELCORA were talking to each other. Mr. Linowski said they talk all the time. The comments to DELCORA were discussed. The question of does SWDCMA have legal responsibility was asked. No answer given. Brookhaven could continue to proceed on a 537 Plan. Is it "cheaper" to keep SWDCMA open? Mr. Donaway said it seems like DELCORA is hiding something. Mr. Wilwert said there was never any agreement between Brookhaven and SWDCMA. The agreements were between the developers and SWDCMA. Maybe SWDCMA wants to get out of the sewage business. Mr. Donaway said it really seems that they want out and are not telling us what the impact on Brookhaven residents on that line will be. Mr. Wilwert said when representatives from Brookhaven went to the meeting at SWDCMA they acted as if they were hearing our questions for the first time. Make sure whatever we do is the right plan for Brookhaven. He does not understand why and how 8 other municipalities adopted the plan. Mr. Donaway agreed. Mr. Wilwert said we are asking for 4 more weeks. Mr. McCray said it looks like DELCORA is going to get SWDCMA. Mr. Linowski said the only reason now for the \$1,000 is because Brookhaven is not in the plan. Can we re-vote on the plan? Mayor Hess asked Mr. Linowski if DELCORA will wait until May 23. Will you withdraw your motion? No. Mr. Wilwert said "this is not a dead issue yet". Mr. Linowski explained that there is a \$1,000 tap in fee for any new EDU's in the system—new residences coming in. 240 EDU's is considered normal activity. For example, every one of those units at Franklin Mint should pay \$1,000. When Brookhaven opts out, they no longer belong to the system. Mr. Wilwert said that hopefully by the end of this month we will already have this whole matter resolved. Mrs. Mulvena will have her comments on May 14. Motion defeated by a 5-2 Roll Call Vote of Council as follows:

- Mr. Donaway – No, don't accept DELCORA's Act 537 Plan
- Mrs. Erickson – No, don't accept DELCORA's Act 537 Plan
- Ms. Leslie – No, don't accept DELCORA's Act 537 Plan
- Mr. Linowski – Yes, accept DELCORA's Act 537 Plan
- Mr. McCray – Yes, accept DELCORA's Act 537 Plan
- Ms. Sawicki – No, don't accept DELCORA's Act 537 Plan
- Mr. Wilwert – No, don't accept DELCORA's Act 537 Plan

#### ENGINEER'S REPORT – Mrs. Mulvena

Mrs. Mulvena read her "Stormwater Management Tip of the Month". It concerned our places of work and how they can contribute to stormwater pollution. Activities at restaurants, building and construction sites, and at businesses of all types can have negative impacts on our streams and waterways. She listed 10 steps that can be taken at the work place to minimize stormwater pollution.

#### INSPECTORS' REPORTS

BUILDING INSPECTOR – Mr. Feindt was absent because of illness

FIRE MARSHAL – Mr. Leslie

Mr. Leslie reported that there is a day care facility opening at the First Church of God on Radio Park Lane.

A Knox Box has been installed at 3605 Edgmont Avenue, now occupied by Liberty Tax Service.

Auto Werx is opening again but Mr. Leslie didn't say where.

At 5000 Hilltop Drive there is a Drug and Alcohol Counseling Center open. Mrs. Erickson said this is a Behavioral Health Clinic associated with the Crozer-Keystone Health System. Mr. Hampton said this facility is strictly for counseling.

On April 16, Mr. Leslie received a call from Spectra Energy (Texas Eastern) about work being done on Meadowbrook Lane.

Mr. Leslie said with so many cell phone companies coming in, 9.1.1. calls from cell phones are often misdirected to the wrong municipality, county or even state.

The ceiling at 4000 Edgmont Avenue (Brookside Labs) collapsed and the building has been closed until the cause of the collapse is corrected and the building is up to code.

A quotation from Rick's Tree Service has been received. This was to remove three sirens with brackets and just the brackets from two other locations (total of 5 locations) in Springfield. Their quote was \$2,500. Ms. Sawicki would like to get other quotes too. Mr. Leslie said Rick's Tree Service was the only one that would come out. They need a bucket truck that goes 60' high. At Baltimore Pike and West Avenue they need wires covered. Ms. Sawicki asked Mr. Leslie to contact Higgins Electric for a quote. Ms. Sawicki made the motion and Mr. Linowski the second to accept the \$2,500 bid of Rick's Tree Service if Higgins Electric's quote comes in higher. Motion carried by unanimous vote.

BOARD OF HEALTH – Mrs. Warfield

Mrs. Warfield said she and Board of Health Secretary, Mrs. Elmer, investigated 18 high grass complaints today. Four of the locations will be taken care of by a service. Letter are costing \$6.00. Can the Board of Health give notice of the violations on door tags? Mrs. Warfield suggested that if a response is not received from the door knob notice then send the letters out. 7 of the 18 homes are empty. She is also getting calls on swimming pools being emptied. For any certified letter for violations, it takes 6 weeks to get any action. Ms. MacKenzie said the order should be: Tag, Certified and Regular Letter mailed at the same time, Borough or Sub-Contractor Cut and then Lien the property. Mr. Wilwert said the Borough Maintenance Staff cutting grass puts a burden on our guys. Mr. McCray said "don't hit people on the head; we've had lots of rain".

There was a sewer problem at 4100 Edgmont Avenue. The stores in that shopping center were told to close. The Wonderful Chinese Restaurant did open against our orders. Mrs. Warfield said she can find no code to cover this type of situation. DEP was called about the sewer problem. When excavation began by a private contractor at 4100 Edgmont Avenue, they discovered an 8" gas main in the way. Rather than have the Borough's Emergency Street Opening Permit, the contractor needs to get their own permit. Mr. Jon Grant said that this situation falls under the Property Maintenance Code. Mr. Wilwert said every business in that shopping center

feeds into one lateral. There is an issue with PennDOT issuing a permit to the contractor. Mr. Grant will tell them to shut down and start issuing citations. Ms. MacKenzie said “fine them every day”. This should be a non-traffic citation.

Mrs. Warfield said she was in the Brookside Labs today having blood work done when the ceiling collapsed. The building is shut down until Mr. Leslie gets there. Mr. Donaway asked if that included the doctor’s office. Yes.

Mrs. Warfield spoke about an ice cream vendor in a truck that was doing business in Brookhaven. He did not have a permit to be here. The police were called. The operator had no driver’s license and there was a warrant out for his arrest too. He was hauled off in a police car and his truck was impounded. Ms. Leslie said she sent one out of town on Saturday.

Mr. Wilwert will put something on Channel 10 about the codes governing proper storage of firewood, grass and other helpful information.

Mrs. Warfield said all inspectors should make arrangements to go back to 133 Charles Avenue. There are grass issues as well as other property maintenance issues.

3408 Victor Avenue’s grass is high. Ms. MacKenzie will follow up with the attorney the buyer has retained.

Mr. Wilwert said he doesn’t want our Maintenance Department Employees to have to wait 6 weeks before they go in to cut an abandoned property. He doesn’t want us to go into the grass cutting business. Extremely high grass is hard to cut. Mr. Wilwert asked how others on Council feel about the problem. Mr. Linowski said we should follow the legal process. Ms. Sawicki agreed. Mr. Donaway said it’s like putting the cart before the horse—we should do it legally. Mr. Wilwert said he would not like to live beside a mess.

Mr. Linowski thanked Mrs. Warfield for her diligence with the house on Creek Road. It’s a lot better than it had been.

#### ZONING OFFICER – Mr. Hampton

Mr. Hampton said he has issued 15 permits during the past month or so and he has 6 more pending.

As discussed at Workshop, Yong Hong and Judy Jeong, owners of the 352 Diner has requested permission to place two small tables with two chairs each in front of their diner. The tables and chairs will be away from the handicapped ramp and from the entrance. The tables will be used for waiting customers or customers who would like to have coffee or a smoke break. They would also like to serve food. The 352 Diner is celebrating their first anniversary in Brookhaven on May 10. Mr. Donaway made the motion and Ms. Leslie the second to permit the tables and chairs in front of the diner. Motion carried by unanimous vote. Mrs. McKinley will notify Mr. Hong and Ms. Jeong in writing of Council’s decision.

#### PRESIDENT’S REPORT – Mr. Wilwert

Mr. Wilwert asked for a motion to waive the permit fee for the Tall Cedars of Lebanon to solicit donations for Muscular Dystrophy outside of Pathmark on July 14, 14 and 16. Motion carried by unanimous vote.

Mr. Wilwert announced that there is street paving being done now. Signs are posted and letters to the affected homes have been sent.

Students from The Christian Academy cleaned up Eaton Park. They did an excellent job and a thank you letter has been sent.

Town Watch is out patrolling. Please don't hesitate to call 9.1.1. if you see anything suspicious.

#### PUBLIC DISCUSSION

Harry Seth from 3633 North Clearwater Lane feels that the Act 537 issue discussed earlier in this meeting and in previous meetings is a major impact issue for Brookhaven. We should have had a public hearing. Mrs. Mulvena said the advertisement that DELCORA posted is sufficient. Mr. Seth said that a \$1,000 tapping fee is extortion. Mr. Wilwert said it is his intention that the Workshop Meeting and Executive Session on May 23 will resolve the issue. Mr. Donaway said this is why we asked for the information. DELCORA, not the Borough, should have a public hearing. We will vote publicly. Mr. Linowski said 620 people need to go to SWDCMA and DELCORA.

Mr. Wilwert said that the 3<sup>rd</sup> Precinct Polling Place has been changed from Slavic Evangelical Baptist Church to Full Gospel Assembly Church on Edwards Drive.

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

Respectfully Submitted,

Mary Ellen McKinley  
Borough Secretary