

MINUTES

CITY OF BEVERLY

OCTOBER 10, 2006

CALL TO ORDER. The regular meeting of the Common Council of the City of Beverly was called to order at 7:30pm, by President Bancroft on Tuesday, October 10, 2006, under the provisions of the Open Public Meeting Act c. 231 P.C. "Sunshine Law". Notice of this meeting was published in the Burlington County Times and posted on the bulletin board in the Municipal Building. All members present saluted the flag of the United States of America.

ROLL CALL.

PRESENT: Mr. Wolbert, Ms. Kinniebrew, Ms. Setikas, Mr. Newsome, Mrs. Foerster, Dr. Cook, Mr. Krzykalski, Mr. Robertson, Council President Bancroft, Director of Public Safety Mike Morton, Solicitor Ellen Kearns and Barbara Sheipe, clerk/administrator.

ABSENT: Mayor Wetherill.

APPROVAL OF MINUTES. Mr. Wolbert made a motion to approve the minutes, Dr. Cook second the motion. At the call of the roll, the vote was:

AYES: Mr. Wolbert, Ms. Kinniebrew, Ms. Setikas, Mr. Newsome, Mrs. Foerster, Dr. Cook, Mr. Krzykalski, Mr. Robertson and Council President Bancroft.

NAYES: None.

CORRESPONDENCE.

Mr. Wolbert read a letter of commendation for Officer Dean Allen; the letter is attached and made part of the minutes.

OLD BUSINESS.

ORDINANCE ON SECOND READING.

- A. **Ordinance No. 2006-14, An Ordinance of the City of Beverly In Burlington County, State of New Jersey Amending The Revised General Ordinance of the City of Beverly To Prohibit The Discarding or Dumping of any Household or Commercial, Waste, Rubbish, Refuse, Junk Vehicle or Vehicle Parts, Rubber Tires, Appliances Or Furniture or Construction Debris Along Any Street or Road or Right-of-Way or into or along the Delaware River or on Private Property.** The ordinance was read by title. Council President Bancroft opened the ordinance for a public hearing. Mr. Borden-Riverbank discussed if council had the authority to regulate what goes into the river. Mr. Wolbert explained that either the federal or local officials could

enforce the dumping into the actual river. The city would be the first responders and then notify the appropriate agencies, who then in turn would do their own response. Mr. Borden inquired if the state statute would override the city ordinance? Mr. Wolbert explained that ordinances are for the local level to do the enforcement and that the other agencies would provide additional enforcement if they desired. Mrs. Foerster inquired if Mr. Borden was comfortable with the answer. Mr. Borden replied that he is not sure that the answer is correct, but that he will accept the answer. Ms. Kinniebrew discussed that the city as the first responder may impose a fine, as well as the federal or state agencies that respond.

Dileo-Cramer inquired as to who will enforce the ordinance. Dr. Cook explained that if a resident sees the illegal activity occurring they can call the city clerk or the police department.

Dr. Cook inquired about riparian rights that some of the owners along the river have and if the ordinance can be enforced on them? Mrs. Kearns explained that riparian rights only authorize the use of the land to the owner not the ownership of the land or waterways. Mr. Borden discussed that the deeds have reference of ending below water riparian rights and that they had to be purchased back from the state. Ms. Kinniebrew discussed that only 2 properties in Beverly and 2 in Edgewater Park actually have riparian rights. A lot of owners believe that they do, but it has to be stated in their deeds and listed by the state. Also the past deeds must show that the rights were granted previously before rights are granted. Ms. Kinniebrew discussed with Mr. Borden the procedures for the granting of riparian rights.

Public hearing was closed.

Mr. Krzykalski made a motion to adopt Ordinance No. 2006-14 on second and final reading, Mr. Robertson second the motion. At the call of the roll, the vote was:

AYES: Mr. Wolbert, Ms. Kinniebrew, Ms. Setikas, Mr. Newsome, Mrs. Foerster, Dr. Cook, Mr. Krzykalski, Mr. Robertson and Council President Bancroft.

NAYES: None. The ordinance was adopted on second and final reading and will become effective after publication according to law.

B. Ordinance No. 2006-15, An Ordinance of the City of Beverly In Burlington County, State of New Jersey Amending The Revised General Ordinance of the City of Beverly Establishing Penalties for Violation of any Provision of the Revised General Ordinances or Any Ordinance of the City of Beverly for which no other specific Penalty is provided. The ordinance was read by title. Mr.

Wolbert requested that on section 1-7.4 the word vine be changed to fine. Council President Bancroft opened the ordinance for a public hearing.

Mr. Thibault-Wheatley inquired as to exactly what the ordinance means? Mrs. Sheipe explained that the ordinance increases the maximum for the judge to impose from \$1,000 to \$2,000 per state statute.

Public Hearing was closed.

Mr. Wolbert made a motion to adopt the ordinance on second and final reading. Mrs. Foerster second the motion. At the call of the roll, the vote was:

AYES: Mr. Wolbert, Ms. Kinniebrew, Ms. Setikas, Mr. Newsome, Mrs. Foerster, Dr. Cook, Mr. Krzykalski, Mr. Robertson and Council President Bancroft.

NAYES: None. The ordinance was adopted on second and final reading. It will become effective after publication according to law.

NEW BUSINESS.

Item A through E will be enacted as a single motion needing no discussion. Any item requiring discussion will be removed from the Consent Agenda. All Consent Agenda items will be reflected in full in the official minutes. Ms. Kinniebrew requested that Item D and E be pulled for discussion. Mr. Newsome requested that Item C be held for discussion. Mr. Wolbert requested that Resolution No. 2006-98, be added to the agenda.

A. Resolution No. 2006-95, Resolution Authorizing A Handicapped Space. (217 Laurel).

B. Resolution No. 2006-96, Resolution Extending Grace Period for November 2006 Taxes.

Mr. Wolbert made a motion to approve Resolution No. 2006-95, Resolution No. 2006-96 and Resolution No. 2006-98, Mr. Newsome second the motion. At the call of the roll, the vote was:

AYES: Mr. Wolbert, Ms. Kinniebrew, Ms. Setikas, Mr. Newsome, Mrs. Foerster, Dr. Cook, Mr. Krzykalski, Mr. Robertson and Council President Bancroft.

NAYES: None.

C. Resolution No. 2006-97, Resolution of the City of Beverly To Establish A Dedicated Trust By Rider For Recreational Facilities. The resolution was read by title.

Mr. Newsome discussed that this resolution was to have the funds collected from people building new homes in the city to go towards a recreation trust fund in the amount of \$750. per home. Mr. Newsome made a motion to approve Resolution No. 2006-97, Mr. Wolbert second the motion. At the call of the roll, the vote was:

AYES: Mr. Wolbert, Ms. Kinniebrew, Ms. Setikas, Mr. Newsome, Mrs. Foerster, Dr. Cook, Mr. Krzykalski, Mr. Robertson and Council President Bancroft.

NAYES: None.

D. Request for Waiver of Fee.

E. Approval of Application; Ladies Auxiliary Beverly Fire Company #1 for Chinese Auction.

Ms. Kinniebrew inquired if the City waives the fees for any other organizations? Mrs. Sheipe replied that she is not aware of any organization having their fees waived. Ms. Kinniebrew discussed that the reason they are requesting a waiver to the fee is due to the

limit amount of profit that they received from the Chinese Auction. Dr. Cook recommends that the fee be waived as a sign of good will. Mr. Newsome made a motion to approve Items D and E, Dr. Cook second the motion. At the call of the roll, the vote was:

AYES: Mr. Wolbert, Ms. Kinniebrew, Ms. Setikas, Mr. Newsome, Mrs. Foerster, Dr. Cook, Mr. Krzykalski, Mr. Robertson and Council President Bancroft.

NAYES: None.

F. Resolution No. 2006-98, Resolution of the City of Beverly For Relief From The Cap Law.

G. Treasurer's Report. Mr. Wolbert made a motion to approve the treasurer's report, Mr. Newsome second the motion. At the call of the roll, the vote was:

AYES: Mr. Wolbert, Ms. Kinniebrew, Ms. Setikas, Mr. Newsome, Mrs. Foerster, Dr. Cook, Mr. Krzykalski, Mr. Robertson and Council President Bancroft.

NAYES: None.

Payment of Bills. Mr. Newsome informed council that the bill for ACCENT was around \$850. and they only requested that the city contribute \$250. of that amount. Mr. Newsome made a motion to approve the bill list, Mrs. Foerster second the motion. At the call of the roll, the vote was:

AYES: Mr. Wolbert, Ms. Kinniebrew, Ms. Setikas, Mr. Newsome, Mrs. Foerster, Dr. Cook, Mr. Krzykalski, Mr. Robertson and Council President Bancroft.

NAYES: None.

SOLICITOR REPORT

MAYOR'S REPORT.

PUBLIC SAFETY.

Mr. Thibault-Wheatley inquired if Director Morton thought that there was gang activity in the school? Director Morton explained that he had met with the vice-principal and that he does not feel that there is any gang activity in the schools. Director Morton explained that the gangs usually attempt to mark or tag their territory with their colors or symbols.

Ms. Marshall-Cooper inquired if the symbol and the Beverly City wording in the back of the property on the corner of Cooper and Railroad was gang related. Director Morton will have an officer look at the symbol, but usually if there is a gang related symbol or writing the officers have them removed as soon as possible. Mr. Crespo-Broad discussed that over the weekend there were reports of a person screaming at the lot of Beaunit Mills and that he heard that they were jumped on the way to the police station. Director Morton advised Mr. Crespo that he will review all of the reports from the weekend but was not aware of anyone being jumped. Mrs. Foerster explained that she answers the squad call and that it was actually a person from out of town and that this person was transport to the SKIP psychiatric unit at the hospital.

COUNCIL REPORTS.

Mr. Wolbert reported that 67 letters were sent out to the business owners in the City of Beverly and that the seminar was scheduled for October 19 at 7pm. Mr. Wolbert recommended that anyone wishing to attend from a business preregister.

Ms. Kinniebrew reported that several more street lights that are constantly staying on have been reported to PSE & G. Ms. Kinniebrew discussed that if anyone sees a problem with a street light to please write down the pole and location and report it to the police department or to the city clerk.

Mr. Newsome discussed that the budget is due on February 10 and that he would like to schedule some budget meetings in preparation. Mr. Newsome also thanked everyone for attending the charrette on the River Line on Saturday.

Mr. Krzykalski reviewed the leaf schedule from public works and that the public works department will stop picking up brush at the end of October. The brush schedule will be published in the November Beverly Bee.

Mr. Robertson discussed that the JIF insurance has issued a safety bulletin about brush and leaf pick up and the need for extreme safety precautions when running the machines.

WORK SESSION. Discussion on Abandoned Properties. Mr. Wolbert discussed that he is requesting the following changes to the draft ordinance:

1. **PUBLIC SESSION.** Page 1 under Definitions "Public Officer" I would like to see the definition changed to: "Public Officer" shall mean the officer, officers, board or body who is or are authorized by ordinances adopted hereunder to exercise the powers prescribed by such ordinances and by P.L.1942, c.112 (C.40: 48-2.3 et seq.). Notwithstanding any provision of law to the contrary, nothing shall prevent a municipality from designating more than one public officer for different purposes as provided by law. (Copied from P.L.2003, c. 112 (C.40: 48-2.4 Terms Defined))
2. Page 3 the second to the last sentence "No rehabilitation or repair work shall be commenced, however, until proof of adequate liability insurance and an indemnification agreement holding the City of Beverly harmless is filed with the **public officer.**" Change from public officer to City Clerk.
3. Page 13 under section "**The City of Beverly, exercise of rights...**" first paragraph second to the last and last sentence remove any reference to the Mayor.
4. Page 16 under section "**Procedure of City of Beverly seeking to gain title...**" after the phrase "fair market value" add **pursuant to P.L.2003 c.112 (C.55: 19-102)** This section establishes the fair market value of a property and takes into account the rehabilitation costs of the property, amongst other things

Ms. Kinniebrew inquired if Mr. Wolbert could explain the ordinance. Mr. Wolbert explained that the ordinance allows the city to create a list of abandon properties using criteria set by state statute. The form would be filled out for each abandon property and reviewed by the properties committee to see if it met the criteria. The city or a rehabilitation company can then take the property using the requirements of the ordinance. This will allow abandon properties to be handled quicker. It gives the city the ability to get rid of eyesores faster and more efficiently. Mrs. Dreher inquired how the vacant landlords are notified that their property is on the list. Mr. Wolbert explained that they are notified by regular mail and certified mail. Also it is published in the local newspaper and the notice must be posted on the property. Mr. Krzykalski discussed that he is concern about the city taking someone's property. Mr. Krzykalski inquired as to what happens to a serviceman who is deployed overseas and cannot maintain his property. He will be gone more than the six months allowed and should not lose his home over property maintenance issues. Mr. Krzykalski also discussed that if the home of the serviceman was broken into while overseas, he could not be held responsible to fix the home while on active duty. Mr. Wolbert explained that the list does not seize anyone property. Mr. Krzykalski discussed that he would like language to protect the active military. Ms. Kinniebrew discussed that there is already language in the state to protect someone who is in active duty and that there is no need for the city to repeat a state order. Mr. Wolbert explained that the military is cover under several statues in the state as well as federal and that the city is not looking to take anyone's property especially active military. Mr. Krzykalski inquired if the ordinance can be used on a mix of residential and commercial units. Mr. Wolbert explained that the ordinance reads that so long as two-thirds or more of the total net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six months at the time of determination of abandonment by the public officer and the property meets the criteria of either subsection a or subsection d of this section it maybe included. Mr. Krzykalski inquired if vacant land can be acquire under this ordinance as well. Mr. Wolbert explained that the ordinance was to help get rid of blighted properties and that vacant land does not qualify. Mr. Krzykalski inquired as to when the tax sale for the properties can be held? Mr. Wolbert explained that the properties can be held until the next sale or if there is enough properties a special sale can be held. Also the properties can be grouped together to make them a more attractive offer. Ms. Kinniebrew inquired if there was any fiscal responsible to the city? Mr. Wolbert discussed that there is always a fiscal risk with any project but that the city would fund the ordinance by a dedication of trust fund with a ryder and that the money would be a revolving fund. The start up money would come from the city's surplus with an amount to be determined by the council. All of the charges would be tagged onto the property as a lien that would have to be paid by the new owners. Ms. Kinniebrew inquired if the money was in the budget? Mr. Wolbert explained that the funds are in the budget and just need to be designate for this fund. Ms. Dreher inquired if a home could be occupied and still be in need of repair and be added to the list. Mr. Wolbert explained that it is more of a code enforcement issue if someone is living there. Mr. Wolbert also discussed that some

residents cannot physically take care of their homes and need help with just everyday maintenance. The city will work with that person to locate someone who can do the repairs for them. Mr. Haaf commends council for taking the steps to control these properties. It has taken a long time to have an ordinance to help with abandoned properties. Mr. Haaf also discussed that the properties owned by the military still need to be maintained and that someone is watching or monitoring the property. Mr. Crespo discussed that the property at 625 Cooper Street should be listed. Mr. Crespo also inquired if the person purchasing the properties will have to pay the liens? Mr. Wolbert replied that the liens have to be paid off just like back taxes. Ms. Kinniebrew discussed that many times a property such as 625 Cooper Street is held up with repairs by HUD or First Preston who represents HUD. There is a time line for cleaning up the property but HUD is slow to respond and attempts to resell before doing the maintenance. Mr. Crespo discussed that if the property is boarded up and the grass is not cut and no one lives there and HUD owns it does it go on the list? Mr. Wolbert explained that it is still causing blight and qualifies. Ms. Kinniebrew explained that there is neglect of the property because the owners did not pay the mortgage and that clear title is needed for the new owners. Council President Bancroft explained that the Cooper Street property is a thorn in the city side. The owner has disappeared and HUD is not willing to cooperate. Council President Bancroft discussed that previously the city had contact Senator Diane Allen when attempting to have the BCCAP property repaired and that perhaps the city should contact the local representatives again about the HUD properties. Mr. Wolbert explained that this property was a prime example of why the abandoned properties ordinance was needed. Mr. Robertson inquired as to why did it take so long to adopt an ordinance like this. Mr. Wolbert explained that the Governor had just signed into law the ordinance in 2003 and that very few towns are aware of the ordinance. Mrs. Foerster inquired how the taxes on a property can be paid if no one is living in the property and it is abandoned? Mrs. Sheipe explained that many times the bank or finance company will continue to pay the taxes while the property is going into foreclosure, so that there are no tax liens placed on the property. Mrs. Foerster inquired if the foreclosure process would go faster if the property is placed on the list. Mr. Wolbert explained that the person wishing to purchase the property could go to Superior Court and request to purchase the home. They have to go in with a plan for repairs to the home and also a timetable. Mrs. Marshall inquired if the information and form were the same as on the Internet. Mr. Wolbert explained that the state statute is on the Internet and that he created the form according to the ordinance that was prepared. Mrs. Marshall inquired if it had to be a redeveloper or could a citizen purchase the property. Mr. Wolbert explained that it does not matter who purchases the property they must be approved with the time line and repair schedule and proof that they can rehab the property to the superior court. Mrs. Marshall discussed that this is an excellent ordinance if enacted and followed properly. Mr. Krzykalski discussed that council hears all the time that certain properties are a problem and that this is an important part of legislation. City Council needs to pass this on first reading tonight. Mr. Krzykalski discussed that he was concerned about the abuse of the ordinance, but with all of the checks and balances it should not be a problem. Mr. Wolbert explained that council would also

have to decide on the size of the initial fund amount. Mr. Robertson inquired if other towns have this ordinance. Mr. Wolbert explained that since it is a new piece of legislature only a few towns have passed the ordinance.

Mr. Wolbert made a motion to pass the ordinance on first reading, Mr. Krzykalski second the motion. At the call of the roll, the vote was:

AYES: Mr. Wolbert, Ms. Kinniebrew, Ms. Setikas, Mr. Newsome, Mrs. Foerster, Dr. Cook, Mr. Krzykalski, Mr. Robertson and Council President Bancroft.

NAYES: None. The ordinance will be heard on second and final reading at the council meeting of October 24, 2006.

PUBLIC SESSION.

Mr. Thibault –Wheatley discussed that the ordinance will be good for the city, but that he thinks that it is an extreme end for the solution. Mr. Thibault discussed that the housing inspector is paid by city council and that the job needs to get done. Mr. Thibault discussed that city council needs to make sure that the inspector is checking for code violations and that if the job is not being performed than council is at fault. Mr. Wolbert discussed that council is working on the issue of code enforcement and that future plans are to make the zoning officer/housing inspector/code enforcement a full time position combined into one. Mr. Thibault inquired as to what judiciary responsibility means form Mrs. Kearns? Mrs. Kearns inquired as to what context was Mr. Thibault inquiring about. Mr. Thibault replied that he was talking about spending other people’s money. Mrs. Kearns explained that it means that the person is responsible to spend someone money according to the law or agreement. Mr. Thibault inquired about the special audit that council had discussed having done. Mr. Wolbert replied that Robert Stewart the city auditor reviewed the school budget and audit. Council President Bancroft explained that the council had discussed with the school board and Dr. Grey about not spending money and that Dr. Grey had presented a plan to use the textbooks to get out of debt when he presented the budget to the council. Mr. Robertson explained to Mr. Thibault that he needed to go to the school board meetings with his concerns and that city council did not have control over Dr. Grey. The board of education is Dr. Grey’s employer and they are charge with making sure that he follows the budget. Mr. Thibault discussed that he just wanted council to be aware of the school issues and that the school is behind in the tuition payments to Palmyra. Council President Bancroft explained that he or someone from council attends every school board meeting and that the city is aware of what is going on. Council President Bancroft explained that he has contacted Superintendent Keiss from the county to alert him of on goings problems still at the school. Mr. Entwistle inquired as to what the board is doing about the situation? Mr. Robertson explained that council and a few of the board members requested that the school board attorney be present at the meetings, but that the board president Mr. Miller is not in favor of the attorney being at the meetings. Mr. Robertson discussed that it takes a vote of four (4) of the board to complete any action. Mr. Robertson discussed that residents need to go to the school board and express their concerns to them so that they work on the issues.

Mr. Thibault requested that council send a letter to Dr. Grey about council being concerned about the overspending and the school. Mr. Wolbert explained that by state statute which was read at a previous meeting when Dr. Gray attend only the county superintendent can remove Dr. Grey from his position since he has tenure with the support of the school board.

Mrs. Esaia-Lee discussed that when she had a problem she went over someone to the CEO and that perhaps the board or council should contact someone at the Dept. of Education in Trenton. Mrs. Foerster discussed if the citizens could do a petition and have it sent to Superintendent Keiss requesting that Dr. Grey be removed. Mr. Wolbert discussed that with the new school board members, the board is more involved in the activities of Dr. Grey. Mrs. Foerster discussed that she is frustrated by the schools actions and feels that council is running into a wall with Dr. Grey.

Mr. Germer-Pine requested that council pass a resolution to ask Superintendent Keiss to take action. Council President Bancroft explained that he talks to the county all the time and keeps them informed of the city councils concerns. Mr. Germer discussed that the city needs to get to the state level and demand action. There is a law about no child left behind.

Mrs. Dileo-Cramer discussed that the Department of Education said that it was the school board's responsibility.

Mr. Dileo-Cramer inquired if there is back up to the voting machines. Mrs. Sheipe explained that the machines are electronic and that at the close of the polls several tapes are run from the machine with the exact count. One of the tapes goes to the city clerk, one tape goes to the county clerk and a tape also goes to the Board of Election.

Mr. Thibault discussed that the school budget talks about the accounting principles and that the audit could not report everything due to the lack of information. There is not a system in place for purchasing and that the elected officials need to do something. Council President explained that the school was suppose to start an encumbrance system this year and also to do monthly reports to the county. Mrs. Foerster inquired as to what could council legally do about the school spending the money. Council President Bancroft discussed that the council told Dr. Grey not to spend any money this year and that it is the school boards responsibility. Mrs. Foerster inquired if Mr. Keiss could be requested to do something about Dr. Grey and is his continuing to spend money. Mr. Wolbert read into the record a fax sent to Superintendent Keiss from Barbara Sheipe, Administrator/Clerk;

Superintendent Keiss,

Dr. Grey is having new playground equipment installed at the school located at Saint Josephs. The City Council's understanding was that this school was slated to be closed and combined with the elementary school. Also that Dr. Grey was not to spend any additional funds for this school. The elementary school could not afford new playground equipment so the city applied for a grant and it was received for them to get new equipment last year. Council is concerned about the spending continually going on at Saint Joseph's school when it should be closed by the end of the 2007 school year.

Mr. Borden-Riverbank inquired if a grant was given for the playground equipment being installed at Saint Josephs? Council President Bancroft explained that if Dr.

Grey installs the playground equipment at Saint Josephs it will be installed on church property and the church can also be held liable for insurance.

Mr. Thibault-Wheatley inquired from Mr. Wolbert as to the staffing level of the police department? Mr. Wolbert explained that there are five (5) full time officers and that overtime is assigned as needed. Mr. Wolbert also explained that the city is looking for two additional officers.

Mr. Thibault-Wheatley discussed that some of the comments from the last meeting were not included in the minutes in detail. Mrs. Sheipe explained that the minutes do not have to be done verbatim and that they are only required to contain what is done in the meeting and not what is said. They are to include sufficient detail so that a person reading the minutes at some point in the future can understand what took place. All motions and votes are to be record in the minutes.

Mr. Thibault-Wheatley discussed COAH and that for every 8 homes built one affordable must be done. Mr. Wolbert explained that the city council is working on an ordinance called development fees and one called share growth to address the issue of the COAH requirements. One affordable home is required also for every 25 jobs created in the city. The development fee ordinance will require developers and homebuilders to place a percentage of the cost of the affordable need in a trust fund.

Mr. Thibault inquired if current construction adds onto the COAH requirements and how is the city meeting the COAH. Mr. Wolbert explained that the city submitted their Third Round of COAH plan and is waiting for the state to recalculate the number of low-moderate units that the city will be required to have. Mr. Thibault discussed that at the last planning board meeting Habitat did not want to do their part of the COAH. Mrs. Sheipe explained that was incorrect and that Habitat was given approval over the summer and the September meeting was to approve the resolution of the intent of the planning board. The resolution was discussed at the planning board about Habitat because there was some confusion among the members of the board if Habitat qualifies for COAH. Habitat is required to complete forms and reports to COAH, but did not want it stated in the resolution that they would also do the forms required by the city.

No one else from the public wish to be heard, the public portion was closed.

ADJOURNMENT. Mr. Wolbert made a motion to adjourn, Mr. Robertson second the motion. All members voted in favor.

Submitted by,

Barbara A. Sheipe RMC
Municipal Clerk