

REGULAR MEETING BADEN BOROUGH COUNCIL NOVEMBER 19, 2014

Council President Judi Montell Michaels called the Regular Meeting of Council to order at 7:00 p.m. in Council Chambers of the Baden Municipal Building, 149 State Street, to conduct business of general purposes.

PLEDGE OF ALLEGIANCE

PRESENT: Mr. Besong, Mr. Kotula, Mrs. Michaels, Mr. Stuban, Mr. Trzcianka and Mrs. Villella and Mrs. Montell

ALSO PRESENT: Solicitor James Amato, Engineer Dan Sell, CEO Jim Napolitan, Chief Christner and Mayor Samuel Gagliardi

Acknowledgement of Recordings

VISITORS

Mr. Eichhorn addressed council in regards to 500 Berry Street as previously addressed at Monday's meeting. He commented that he has no problem to pay for a permit to make it easier on everybody. He doesn't feel that he needs a permit. To get a permit requires him to talk to Joe Luff who Mr. Eichhorn stated is giving him a hard time and asking the he do things that he does not need. Mr. Eichhorn noted that he met with Mike Josapak regarding the curb (sidewalk/road) issue. Mr. Eichhorn said that Mr. Josapak asked that the curbs be five feet so he made them five feet. As for the building permit he has no problem paying for one but Joe Luff won't give him one. He stated that he does not need a permit for renovations. He does understand that he needs one for the deck which he did submit and he didn't know about needing one for the sidewalk and apologized for not doing it.

Mr. Luff first addressed the building permit request. He stated he had documentation that on September 15, 2014 Mr. Luff left a note in the door at 500 Berry Street stating that a permit was needed. Mr. Eichhorn called Mr. Luff on September 16th and 17th. Mr. Luff called him back on the 17th. At this time Mr. Eichhorn stated that he would submit the paperwork for the building permit. Mr. Eichhorn did not submit the paperwork for the permit until October 29th. At this point he answered all the questions regarding what Mr. Eichhorn needed to submit for the permit. Mr. Luff stated that the permit was rejected because plans need to be submitted for review in accordance with the 2009 Code, Section 106. As far as the sidewalk Mr. Luff stated that he never had a permit in Baden regarding the construction of a new sidewalk. Mr. Eichhorn never submitted a permit application for sidewalk. Two weeks ago Mr. Luff stated that the solicitor and engineer should be involved with this matter. Mr. Luff noted that he gave a stop work in accordance with the Uniform Construction Code two Monday's ago and work has continued.

Mr. Stuban asked that the sidewalk be addressed first. Council reviewed pictures. Mr. Eichhorn again stated that he was not aware of the need for a sidewalk permit. Mr. Stuban commented the Borough Ordinance puts the responsibility of enforcement on the Council or Code Enforcement Officer. The concern on the sidewalk was the curbing and the street. Mr. Stuban felt that the borough engineer should be involved. Mr. Eichhorn noted that the only problem is that the weather is an issue. Mr. Stuban felt that the Foreman and Engineer should address the sidewalk/road matter. The engineer Dan Sell only had concern regarding the undermining of the road over time. Mr. Sell stated that he does have guidelines for PennDot standard curbs. Mr. Josapak did note that conversation took place with Mr. Eichhorn's concrete contractor regarding the sidewalk and curb. This included pouring concrete in the voids under the street, pouring the sections separately and widening the sidewalk by 18 inches. Mr. Sell stated that the pouring concrete into the void may work but it does not mean that it won't settle and undermine the road.

Mr. Luff noted that the process that should have been followed was not and it has caused an unnecessary cost to the borough. He has over 10 hours of time into this matter. The road has been undermined and filling the void with concrete does not guarantee that it will not settle and cause the road to crack. Mr. Luff asked what council wishes to do in regards to going to the magistrate.

Mr. Trzcianka commented that he does not like the curb being poured with the sidewalk because if a waterline repair is needed in the future it would require a complete repair of the sidewalk instead of the curb only. Mr. Eichhorn noted that he will pour the two separately. Mr. Sell noted that his concern is the damage to the road. Mr. Eichhorn commented that yes he did jump on the sidewalk/curb early and he didn't destroy everything over there. The road did not collapse and people have been driving on it.

The solicitor was asked if Council lets Mr. Eichhorn do the repair and a year or so from now the road sinks what can council do. Mr. Amato noted that the flaw in the comments is that "if Council lets Mr. Eichhorn". This is not a Council "we" situation. If a permit is required then a permit is required. Council is a legislative body. Then you have enforcement and building inspectors. Now we have a contractor who has already said to council regardless of what has happen in the past I am willing to submit and apply for a building permit. Mr. Amato continue to note that Mr. Luff already commented that the contractor has not submitted the proper paperwork and documentation that his required for the permit. Council has no input into the building permit requirements. The only thing that council has input in is the sidewalk issue. Council can't tell the contractor or Mr. Luff what needs to be done for the permit. The Building Inspector is hired to do his job and council can't tell that position what their obligations are how to proceed. As Council, Mr. Amato stated that he doesn't believe they have any right to do anything regarding this matter. Mr. Amato did note that council may offer the assistance of the engineer.

Mrs. Montell commented that the sidewalks need poured. She emphasized to Mr. Eichhorn that he needs to make sure where permits are needed and that it is done correctly because he is going to cause an unnecessary expense to this borough.

Mr. Eichhorn stated that before he started this project he did kind of let people know what he was doing, but truthfully he doesn't like Joe because he is not working with him. He stated that Mr. Luff is not working with him. Mr. Eichhorn stated that he knows his rights and Mr. Luff is making his work and life harder.

Mr. Trzcianka read directly from the code what a permit is required for which include the words alter, repair, electrical, plumbing... Mr. Eichhorn stated that he is only doing electrical and plumbing. Mr. Trzcianka asked if there are any alterations or repairs being done. Mrs. Villella stated that they are ordinary repairs. Mr. Eichhorn stated that he is putting shingles on the roof and replacing windows. Mr. Trzcianka stated that the paperwork from Mr. Eichhorn stated that there is a cracked beam and asked is this not a repair that needs a permit. Mr. Eichhorn stated that technicality, no. Mr. Trzcianka stated that this is the state uniform construction code. Mr. Eichhorn stated that he does not need a permit if his floor joice cracks and needs repaired. Mr. Eichhorn stated that he is not changing the structure or moving a load bearing wall. He stated that he has no problem getting a permit however Mr. Luff wants full engineered drawings that Mr. Eichhorn feels is not necessary. Mr. Eichhorn stated that he has spoken to architects and engineers who said it is ridiculous to require drawings for these repairs.

Mr. Luff commented that he has been at the construction site many times and he has been trying very hard to get Mr. Eichhorn to comply and get the permit. Mr. Luff stated that Mr. Eichhorn is doing structural alterations to the home and it requires a permit. A permit that requires drawings (showing the electrical wiring, plumbing... with specs). Mr. Luff commented that Mr. Eichhorn is piece milling each step and it can't be done that way. Mr. Luff noted that Mr. Eichhorn has said that he has professional expertise around them and those experts should be able to supply this information. Mr. Luff further commented that in line with what the solicitor said the argument should not be presented to council but the Uniform Construction Appeals Board. Mr. Luff stated that the stop work order was done two weeks ago and Mr. Eichhorn has not stopped. Mr. Luff stated that he is doing his job and Mr. Eichhorns complaint is that he has a problem with him (Mr. Luff). Again Mr. Luff stated that Mr. Eichhorn needs to submit architectural drawings showing that all work being done is in compliance with the UCC.

Mr. Besong addressed his issues with Mr. Luff and all the complaints the he has personally received regarding him. Mr. Besong felt that Mr. Luff should have been fired months ago. Mrs. Montell asked Mr. Besong to stop talking because he is saying things that are not true. Words were exchanged.

Mr. Stuban said to Mr. Besong that a few months ago a complaint policy was adopted that he (Mr. Besong) voted for. Mr. Stuban asked Mr. Besong if he read or followed the policy. Further comments and words were exchanged with Mr. Besong accusing Council of having secret meetings.

Mr. Besong stated that he was asked by a resident if a permit was needed for steps. Mr. Besong told the resident that he probably does and to contact the building inspector. The resident told Mr. Besong that when he called the borough building they told him to talk to Mike Stuban who told him that a permit is most likely needed but he will cut him a break and only charge \$59.60. Mr. Stuban stated that he has no idea what Mr. Besong is talking about. More words were exchanged. Mr. Trzcianka asked who the resident was. Mr. Besong said to Mr. Trzcianka to come up to his house after work tomorrow and he will take him to the resident.

Mr. Trzcianka went back to Mr. Eichhorns situation and stated that the engineer, Mr. Luff and Foreman should get together and do whatever is necessary to get the sidewalk done. Council agreed.

Mr. Eichhorn asked council if he can get a building permit stating that Mr. Luff is telling him what he can and cannot do. Mr. Eichhorn doesn't want to go to court with Mr. Luff but he will do what he has to do. Mr. Eichhorn again stated that he feels he does not need a permit for his repairs but at the same time he will buy one to give peace. Mr. Eichhorn stated that he offered three times to pay for a permit. Mrs. Montell stated that a permit can't be given until the proper paperwork is submitted.

Mrs. Villella asked for Mr. Luff to explain what an ordinary repair is. Mr. Luff commented that the code gives the list as to what needs a permit. Mr. Luff stated that as the building code official he determines what is necessary to have professional designs versus home owner designs. Each situation is different. The alterations of this property are to the extent that a professional design is necessary. Mr. Luff presented pictures of Mr. Eichhorn's home. The engineer saw the photo and commented that by looking at the picture he cannot determine what is needed in regards to the cracked joyce. Mrs. Villella wanted Mr. Luff to state what a permit is needed for. She listed putting up dry wall. Mr. Luff said yes. Painting? Mr. Luff said no. Replacing windows? Mr. Luff said technically yes because Baden adopted the Uniform Construction along with their current ordinances. However, Mr. Luff stated that if it is replacement without structural change he does not require a permit. Mr. Luff agreed with council that replacement windows, roof shingles, water tanks... don't need a permit.

Mr. Eichhorn again addressed his permit needs and stating that the roof and windows do not need a permit.

Discussion took place regarding bringing the police into the permitting process. Chief Christner stated that the police should not be involved in any way unless an altercation occurs.

Mrs. Montell asked Mr. Luff to continue to do his job in accordance with the law and she asked Mr. Eichhorn to comply with the permits.

MOTION by Mr. Trzcianka, second by Mr. Stuban, carried unanimously to authorize the engineer to look at, recommend and approve the sidewalk and curb for 500 Berry Street.

Mr. Stuban told Mr. Eichhorn that if he has an issue with Mr. Luff's decision that he would have to file with the Uniform Construction Appeals Board.

Mr. Eichhorn stated that his issue is with Mr. Luff attitude and making comments that he (Mr. Luff) was going to mess with him.

Mrs. Rakovan explained that when the office receives a question regarding if a permit is needed she has them contact Mr. Luff who will determine if one is needed, document the conversation and address any issues. This includes when someone says they are just replacing windows and then ends up changing the size. Mr. Luff will then have his documentation to proceed with what needs to be done regarding a permit. In the end it was said that any and all questions regarding if a permit is needed should be addressed directly to Mr. Luff for determination.

MINUTES

MOTION by Mrs. Michaels, second by Mr. Kotula, carried unanimously to approve the corrected minutes of October 15th, 16th and November 12 2014

BILLS TO BE PAID

MOTION by Mr. Trzcianka, second by Mrs. Vilella, carried unanimously to pay all bills with two signatures.

RESOLUTIONS

None

ORDINANCES

None

BIDS

None

CORRESPONDENCE

1. Crown Castle email regarding lease expansion for additional antenna.

MOTION by Mr. Stuban, second by Mr. Trzcianka, carried unanimously to permit Crown Castle's lease expansion.

2. Letter from Anderson's Candies regarding storm sewer on her property.

Mr. Stuban explained that this involves a drain on private property that receives water runoff from the North Avenue Franklin Area. The storm sewer drain is not functioning and there is dispute over who is responsible for storm sewer.

MOTION by Mr. Stuban, second by Mr. Trzcianka, carried unanimously to authorize the solicitor and engineer to get involved and determine what needs to be done and who is responsible for the repair.

3. Complaint about condition of 251 State Street

Mr. Stuban commented that the property does look bad (pictures were given to council) and felt that building inspector and/or code enforcement officer should look into this home. Conversation took place regarding safety issues and an open well in the back yard that is only covered by plywood.

COMMITTEE REPORTS

Administration & Finance - (Michael Stuban)

- General Fund Balance \$213,274.72
- Water Fund Balance \$152,492.90
- 2013 Audit -

MOTION by Mr. Stuban, second by Mr. Trzcianka, carried unanimously to approve the 2013 Audit.

- 2015 Water Fund Budget –

MOTION by Mr. Stuban, second by Mr. Trzcianka, carried unanimously to advertise the 2015 Water Budget of \$789,900 for a ten day review period. This does reflect a water rate increase which has not yet been determined.

- 2015 General Fund Budget - Mr. Stuban noted some changes that were made. Healthcare account 405156 has been changed from \$24,000 to \$26,000. Account 410156 goes to \$44,500. 430156 will be \$44,000 instead of \$50,000. Account 491820 will be increased by \$1,500.

MOTION by Mr. Stuban, second by Mr. Trzcianka, carried unanimously to advertise the 2015 General Fund Budget of \$2,082,590. This represents no tax increase. However, changes may be made prior to adoption.

- General Code – The code book needs updated and organized.

MOTION by Mr. Stuban, second by Mrs. Michaels, carried unanimously to put \$15,000 into a special account to update the borough code book.

- Act 205 –

MOTION by Mr. Stuban, second by Mr. Trzcianka, carried unanimously to sign the Act 205 Pension Form.

- 330 State Street –

MOTION by Mr. Stuban, second by Mrs. Villella, carried unanimously to get prices to tear the building down.

- Unison Cell Towers - Discussion regarding Unison being interested in purchasing the cell tower.

- **MOTION** by Mr. Stuban, second by Mr. Trzcianka, carried unanimously to not accept Unison's interest purchasing the towers.

- Mr. Stephens - Mr. Stuban explained that Mr. Stephens owns property on Kellinger Drive that is deplorable condition. There is a problem with tracking down the owner. The most recent information says that Mr. Stephens is in a nursing home. Mr. Stuban asked the solicitor what the options would be. Mr. Amato stated that research needs to be done regarding if there is a power of attorney for Mr. Stephens.

MOTION by Mr. Stuban, second by Mr. Trzcianka, carried unanimously to authorize the solicitor to check into the power of attorney for Mr. Stephens as well as the property owner of 251 State Street.

- CDBG Funding – Mr. Stuban stated that it was asked during previous meetings to get ideas for CDBG projects. The Street Foreman gave input regarding fixing streets on Schiller, Steel, Straube, Wolfe and Camilla. Looping waterlines on Crest and Russell, Berry and State, Oak and Center. The grants are based upon income surveys so this first needs to be looked at prior to moving forward. Discussion took place regarding other project ideas, like the generator and Christmas lights.

Building, Property & Grounds (Bob Besong)

Mr. Besong addressed preventing people from parking on the 330 State Street property. Discussion took place and it was determined that there has not been any recent issues regarding this matter.

Community Relations (Ted Kotula)

- New Utility Billing Software (Ubility) \$786 per month

MOTION by Mr. Kotula, second by Mr. Trzcianka carried unanimously to purchase the Ubility Software at a monthly cost of \$789.

- Banner (Advertise Facebook and Website Page) Mr. Kotula got a price of \$200 for a 4'x10' banner. Discussion took place as to where place the banner. It was concluded to wait until the spring to put the sign up.

MOTION by Mr. Kotula, second by Mr. Michaels carried unanimously to purchase the banner.

Mr. Kotula thanked Mrs. Michaels for the great job she did with the Applefest.

Mrs. Villella made stated that she received a complement today regarding how well Baden Communicates with their residents.

Library – (Kimberly Villella)

Mrs. Villella gave an overview of the number of children that attended the many monthly activities. The Library submitted a poverty grant. IPSCO in Ambridge is also giving a donation to the Library. They received their Laughlin Library Foundation Funding. Last month the library had 42 new members sign up for library cards. 162 new items have been added to the circulation. On December 20th there will be lunch with Santa in the Community Room.

Public Safety – (Kimberly Villella)

- Prevention Network –

MOTION by Mrs. Villella, second by Mrs. Michaels carried unanimously to have the Public Safety Committee, Solicitor and Chief set up a meeting to write a service contract/agreement for Prevention.

Mr. Amato asked if the Payment In Lieu Of Tax agreement was up for negotiation.

Chief Christner mentioned to Council that the website could be placed on the police cars. Discussion took place regarding the police website. The borough website was set up separate from the police site. Mrs. Rakovan told Chief Christner to get her the information for the police department and she will forward it onto the website company.

Public Works – (Dave Trzcianka)

Mr. Trzcianka reported that the street sweep is down and pricing/research is being done regarding repairs.

Recreation & Communications - (Donna Michaels)

Mrs. Michaels reported that there were around 75 kids for the Halloween parade and it went very well. The extra pumpkins and candies were taken to the New Horizon School.

Santa will be on the fire truck December 19th from 6:00PM to 8:00PM.

Mr. Besong thanked the Fire and Police Department for being out on Halloween night.

Sanitation, Recycling & Municipal Authority - (Donna Michaels)

Leaf pick-up dates are November 22nd and December 6th.

SOLICITOR'S REPORT

Mr. Amato had nothing at this time.

ENGINEER'S REPORT

Mr. Sells stated that the paving projects have been completed up on North and Collins. The paperwork is being finalized for closeout.

MAYOR'S REPORT

Mayor Gagliardi stated that the police manual is now complete.

Total fines collected: \$728.01

155 Service Calls.

Old Business Not on the Agenda, New Business or Unfinished Business

Mrs. Rakovan asked council to consider putting money into a separate account and have it set up as a debit/credit card. She explained how she has used her personal credit and mostly Mr. Stubans credit card to make online purchases for the borough as well hold hotel rooms for council members. Because of the excessive discussion during recent months about this matter she felt it would be to the best interest of the borough to do this. Discussion followed and Mrs. Rakovan assured Council that purchases would have council approval first.

MOTION by Mr. Stuban, second by Mrs. Michael carried unanimously to place \$10,000 from the general fund to a separate account for credit/debit purpose with the secretary as the authorized user.

Mrs. Villella stated that all of council, police and fire department are invited to participate in the Ambridge Chamber of Commerce Christmas parade on December 13th. A letter should be following in the mail. Parade time is 11:00 AM.

Mr. Stuban reported that the Anniversary Committee met last night. The Committee is officially dissolved. There will be a written report and treasurers for next council meeting.

PRESIDENTS REPORT

Mrs. Montell wished everyone a very happy Thanksgiving.

ADJOURNMENT

MOTION by Mr. Stuban, second by Mr. Kotula carried unanimously to adjourn the meeting at 8:35 PM.

Respectfully Submitted by,



Elaine K. Rakovan
Secretary