

MINUTES
Ford City Borough Council
Regular Meeting
Location: Ford City Public Library
March 9, 2015 6:00pm

CALL TO ORDER

Council President Bartuccio called the meeting to order at 6:03 p.m. and advised the audience that the meeting for Monday, March 9, 2015 will be audio taped by Ford City Borough, Eden Ratliff, and Lisa Bittner. Is anyone audio or video taping the meeting? Jonathan Weaver – Kittanning Paper and Julie Martin – Leader- Times are audio taping too.

PLEDGE OF ALLEGIANCE

Bartuccio led everyone in reciting the Pledge of Allegiance

ROLL CALL

Josh Abernathy Gene Banks, Kathy Bartuccio, Scott Gaiser, Jerry Miklos, and Vicki Schaub were present. Mayor Mantini was absent due to a vacation.

ATTENDANCE

Solicitor Vigilante, Borough Manager Eden Ratliff, Borough Secretary Lisa Bittner, Gary Stivason, Andy Rudosky, Caroline Hassa, Lou Vergari, Mel Marin, Jason Warner, Mr. Habe, John Crawford [the dad], Jonathan Crawford [son], David Milito, Tom Ondrusek, Mike Moyta, Marlene Szymanski, Jabbo Klimkowicz, Ziggy Klimkowicz, and Tyson Klukan – Ford City Borough Planning Commission.

EXECUTIVE SESSION

Bartuccio explained Council held an Executive Session at 5:00 p.m. today, March 9, 2015 at the Ford City Public Library to discuss personnel.

MINUTES

Schaub made a motion to approve Draft #4 of the 12-8-2014 Regular Council Meeting Minutes, this is the Final Draft. Seconded by Abernathy. Motion Carried. 6-0 Unanimous

Schaub made a motion to approve Draft #4 of the 12-29-2014 Special Council Meeting Minutes, this is the Final Draft. Seconded by Banks. Motion Carried. 6-0 Unanimous

FINANCE COMMITTEE REPORT

BM reads, motion to ratify payment in the amount of \$15,878.43 as approved by the Borough Manager.

Schaub questioned if the vehicle the Eagle Tire [Invoice from Flynn Tire in the amount of \$116.24. This invoice is not included on this bill list.] is for has been determined?

BM explained no police officer was on duty to ask.

Borough Secretary stated a call was placed to Mike's Towing and the phone call was not returned. Miklos asked that the vehicle be placed on the Purchase Order.

BM explained the person completing the Purchase Order should place the vehicle information on the Purchase Order.

Schaub added Mike's Towing was to place the mileage on the invoice anytime they work on a vehicle.

BM explained that was only for the unmarked car because we can't get that mileage.

Gaiser made a motion to ratify payment in the amount of \$15,878.43 as approved by the Borough Manager. Seconded by Abernathy. (Attachment)

Motion Carried. 5-1

Miklos is opposed because he does not know what [vehicle] the police tire is for.

BM reads, motion to payment in the amount of \$44,026.45 as approved by the Finance Committee.

There was some discussion concerning the two bill lists being presented for approval. The Flynn Tire invoice appears on the \$44,026.45 bill list.

Solicitor Vigilante explained there was a mistake in terms of what bill list was being looked at. Mr. Miklos wants to reconsider his opposition to that bill.

Miklos made a motion to reopen the ratification of the payment in the amount of \$15,878.43 as approved by the Borough Manager. Seconded by Schaub. Motion Carried. 6-0 Unanimous

Solicitor Vigilante referenced the bill to approve for Eden Ratliff [in the amount \$889.66]. Council approved for Ratliff, along with Councilman Abernathy, to attend the Building Code Academy. Ratliff wrote the check himself to go to the academy, the Borough did not pay directly. This would be to reimburse Ratliff for this expense, mileage and tolls. Is what I understand. Just so there is no confusion.

Miklos asked about the previous motion to pay the tuition for the course.

[Council action taken 1-12-2015... Schaub made a motion to authorize payment in the amount of \$750.00 to the Pennsylvania Construction Codes Academy for Eden Ratliff and Josh Abernathy to attend the Building Code Official Certification Academy. Eden and Josh will both work with codes enforcement for Ford City at least until the cost of the academy is made up in revenues received from their services. Seconded by Miklos. Motion Carried. 6-0 Unanimous].

Solicitor Vigilante explained contractually, based on my conversation with him, you are obligated to reimburse for mileage and expenses. So, you are obligated to pay him the money anyway.

Schaub makes a motion to payment in the amount of \$44,026.45 as approved by the Finance Committee. Seconded by Banks. (Attachment)

Motion Carried. 4-2

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Miklos and Schaub are opposed. Miklos states he is opposed for the reason previously stated. [Miklos is opposed because he does not know what [vehicle] the police tire is for.]

Miklos asked why there is no Treasurer's Report?

BM explained the accountant was working on things for the auditors. We would be caught up on the Treasurer's Report for the next meeting.

BOROUGH MANAGER REPORT

BM reported submitted a report for the Motion to approve the Borough Manager report for February 2015.

Miklos makes a motion to accept the Borough Manager report for February 2015. Seconded by Banks. Motion Carried. 6-0 Unanimous (Attachment)

WATER REPORT

Abernathy made a motion to accept the Water Reports for samples taken 1-5-2015, 1-12-2015, 1-19-2015, 1-26-2015, 2-2-2015, 2-9-2015, 2-16-2015, 2-24-2015 [from CWM]. All reports passed the Department of Environmental Protection Standards for safe drinking water. Reports are available in the Borough Office. (Attachments)

Seconded by Miklos. Motion Carried. 6-0 Unanimous

POLICE REPORT

Schaub reads the Ford City Police Dept. and the PA State Police reports for February 2015. (Attachments)

Miklos makes a motion to approve the Police Report for February 2015. Seconded by Abernathy.

Schaub asked BM if he would ask Sgt. Atherton [FCPD] to prepare a report from Expediter that will break down the calls responded to by officer. BM will contact Sgt. Atherton.

Motion Carried. 6-0 Unanimous

PLANNING COMMISSION

Tyson Klukan – Ford City Planning Commission explained they were asked by a couple of the Council Members that attended the recent Planning Commission meeting to obtain quotes for creating the web site. (Attachments)

Klukan explained the Planning Commission is proposing the following areas to be included in the PAVING 2015 project: 700 Block 3rd Avenue
12th Street to 14th Street – 3rd Avenue
Ford Street to 12th Street – 4th Avenue

Klukan reminded ADA sidewalks will need to be included in this project. Projecting using all Liquid Fuels money for this project. Maybe using General Fund money for the Engineering fees.

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This would be full street reconstruction. Planning would like an engineer recommendation for the project. Either Gibson-Thomas or another Engineering company. Klukan suggested sending letters to the Gas Company and Sewage Authority inquiring about possible plans for working on their infrastructure in the project areas. Klukan added Planning would like to see the full project completed by the end of May.

Klukan added members of the Planning Commission met with the [Council] Economic Committee. Planning is requesting Council consider having an appraisal done of the Brownfield. It was last assessed in 1997 for the 42.5 acres. The assessed value at that time was \$71,528. Klukan explained Schaub has recommended, William Yoder as an appraiser. A survey map would be helpful. The County does not have a survey of this property. The whole property might have to be surveyed. Klukan explained Mr. Yoder advised him the estimated cost would be \$2500 and would take three (3) to four (4) weeks.

Klukan explained the Planning Commission is recommending this firm be hired at a cost not to exceed \$3000. Klukan explained, Dave Kanis from the Cranberry Area, is highly recommended too.

Klukan asked that the Planning Commission be granted access to the former CDC plans that are stored in the Annex Building. There might be plans already drafted by professionals which will help us with this project.

Klukan explained the Planning Commission would like to introduce the First Phase of the Blight to Life Project. It is a Blighted Property Form which is two (2) pages and the Municipal Effort Form. Klukan would like feedback on this form, from Council and Solicitor. Hoping to implement forms at the first of the year. (Attachments)

CITIZEN COMMENTS – AT THIS TIME AGENDA ITEMS ONLY

Ziggy Klimkowicz began speaking about paving. Mr. Klimkowicz was advised his comments would be heard at the end of the meeting under the Citizen Comments – Open Comment allotted time.

Lou Vergari asked that since Eden Ratliff [Borough Manager] attended the Building Code [Official] Academy, are you now certified to be a Codes Officer?

BM answered he is now a licensed Building Code Official. Ratliff explained he has not been appointed by the Borough [to perform this work for the Borough]. Ratliff stated he is licensed and certified by the State. Ratliff added Mr. Abernathy is too.

Vergari stated he could understand Ratliff because he is a Borough Employee, but did not understand sending Mr. Abernathy too. Vergari stated there may be a lot of other people, citizens of the town, they may have been interested. Vergari suggested the Council maybe should have advertised this. Since Mr. Abernathy will be leaving.

BM explained this was discussed at the last Council Meeting.

Vergari asked advertising for someone else in the Borough?

BM answered all the circumstances surrounding the Building Code Official Academy.

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Vergari asked Mr. Miklos about voting against the tire invoice? Miklos explained he has previously complained about the bill lists information not containing enough information to know what is being approved.

LION'S CLUB

Miklos makes a motion to authorize the Lion's Club to reserve and utilize the Ford City Park on May 24th for their Memorial Day Candle Light Service. Seconded by Gaiser.

Motion Carried. 6-0 Unanimous

BUSINESS LICENSE ORDINANCE #681

Abernathy made a motion to authorize the Solicitor, Borough Manager, and Economic Development Committee to make recommendations to amend the Business License Ordinance #681 to reflect that the revenues received from the Business License monies received be used to develop Ford City Businesses. Seconded by Banks.

Solicitor Vigilante explained the money received from the Businesses will be used to promote Businesses. The question is from an accounting standpoint, is that going to be easily done, is the accountant going to be ok with having a separate fund, is it going to be ok with the auditor. There are other things to consider. The understanding is there.

BM explained this motion is authorizing everyone to work on this to move it forward.

Motion Carried. 6-0 Unanimous

PART-TIME PARKING & ORDINANCE ENFORCEMENT PERSONNEL

Abernathy made a motion to appoint Michele Meixelberger as the Parking and Ordinance Enforcement Officer and to work at the discretion of the Borough Manager at the rate of \$8.25 an hour, not to exceed 32 hours per week, effective March 23, 2015 contingent upon successful background check, drug testing, and physical and a 90 day probationary period.

Abernathy explained she was the most qualified for the position.

Seconded by Schaub. Motion Carried. 6-0 Unanimous

BM explained this will be for the entire Borough, all over town. To begin there will be a strict focus on Parking Meters and Ford Street.

Miklos added the primary focus will be Parking Enforcement in the Business District and the secondary duties will include other enforcement throughout the Borough.

Klukan asked if there will be any type of uniform, so they will stand out? BM answered yes.

SYMPATHY RECOGNITION POLICY

BM reads, motion to adopt the Sympathy Recognition Policy #030915. Then reads the following:

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Ford City Borough will donate \$25.00 to the Ford City Library in memory of any current or former employee, current or former elected official, in the event that they pass away. This will be taken care of by the borough secretaries when it is learned that someone meeting the above qualifiers has passed away.

Schaub made a motion to adopt the Sympathy Recognition Policy #030915. Seconded by Banks. Miklos explained he had a discussion with someone, who works for the Borough, and expressed concern about knowing when former elected officials pass away.

Schaub added it is when learned. If they don't learn about it, so be it.

Motion Carried. 6-0 Unanimous

SUMMER LUNCH PROGRAM

Abernathy made a motion to participate in the Summer Lunch program through the Armstrong [County] Community Action program. Seconded by Schaub. Motion Carried. 6-0 Unanimous

BOROUGH WORKER

Abernathy made a motion to recall currently furloughed Street Department employee James Cogley on March 30, 2015. Seconded by Banks.

Miklos asked what do we see happening that we need to pull....?

BM explained the warmer months are a busier time of year in the Street, Cutting Grass, Pot Holes, Hot Patching some of the holes, it is naturally going to be busier. There is more work to do.

Schaub suggested to make sure the pot holes are being patched properly and done right. Not like they have been done in the past. Because it has been a very poor job. I would rather see a few minutes longer spent doing it right and make it stick.

Miklos added we need to see production. I think we have all received some complaints that people don't feel that we are getting enough production out of the work force that we have. I know we have a limited work force. This is a small Borough with limited resources. I think it is incumbent of the BM to make sure that we maximize our potential.

Abernathy added there are eyes everywhere.

Marlene Szymanski added the alley paving guy [outside contractor] did a poor job, it was never patched. Her Son-in-Law said the edges were not finished and it won't last.

Motion Carried. 6-0 Unanimous

PLANNING COMMISSION

Miklos made a motion to appoint Mel Marin to the Ford City Planning Commission for a term to expire on December 31, 2018. Seconded by Schaub.

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Schaub asked if Jim Solak, Planning Commission term expires 12-31-2015, is allowed the opportunity to extend his term before it is opened up to others?

BM answer more than three (3) are permitted on this Commission.

Motion Carried. 6-0 Unanimous

DONATION

Abernathy made a motion to accept a cash donation from the Slovak Katolik Union in the amount of \$450.00. Seconded by Miklos. Motion Carried. 6-0 Unanimous

NEXT PUBLIC WORK SESSION Monday, March 23, 2015 at 5:00 p.m. in the Ford City Public Library.

NEXT COUNCIL MEETING Monday, April 13, 2015 at 6:00 p.m. in the Ford City Public Library.

CITIZENS COMMENTS

Ziggy Klimkowicz informed everyone a few years ago there was a water break near his residence, 500 Block of 4th Avenue. The road was patched and now there is a dip. This was repaved about 10 years ago. There are old trolley car track and the ties are disintegrating causing ruts in the road. When a car goes past my house and Floryan's the whole house shakes. A regular car doesn't make is shake, but a heavier vehicle causes it to shake. Klimkowicz asked that something be done to fix the shaking. Previously this has been brought to the attention of Council.

Marlene Szymanski added the side street, 5th Street, has big holes. They haven't been patched.

Miklos asked if the Planning Commission completed a thorough review of the entire town?

Klukan answered they only looked at certain areas and only get so much Liquid Fuels money each year to use for paving.

Abernathy stated he would like to see the focus be outside of the Business District. We can obtain grant money for the Business District.

Schaub stated there are two businesses in this area [500 Block of 4th Avenue].

Miklos explained in the Business District income surveys are not required. It is difficult to get income surveys back from people [Residential Areas]. Miklos stated we need to compile a master list of all the Streets and Avenues in town. Miklos asked if the Planning Commission could do that? Miklos explained there is a sink hole at the corner of 6th Street and 6th Avenue. It has been there for years. Nobody has addressed that.

Schaub explained that Penndot paved 5th Avenue last year. Her house continues to shake as does her neighbors.

The discussion continues about the condition of the road.

Miklos asked the Planning Commission to take another review of the some of these situations?

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Jabbo Klimkowicz explained there is not a curb in front of his house. Klimkowicz stated he didn't know why Council never invested in a tar buggy. That would probably have save a lot of money in the long run. Klimkowicz asked how many years has he been paying the Occupancy Fee? Klimkowicz asked if that about \$20,000 per year? Did you get a letter from the Armstrong County Occupancy? Klimkowicz asked if the names of the delinquent people could be published?

Solicitor Vigilante stated he would look in to if the Council directs him to do so.

Klimkowicz stated a fee can't go in the General Fund.

Szymanski stated this is the best Council we ever had. Szymanski explained it is her business if she does not rent her place. In 2014 she did not have a renter. She received a Landlord invoice and refused to pay. Now they sent her a notice. She is not paying the \$50, she did not have a renter. She feels she should not have to pay if it was empty. She paid the fee for this year. She is willing to pay when it is rented. Szymanski stated the fee should be \$50 per unit and it should not matter how many units you have.

Miklos stated they are planning to discuss that issue.

Abernathy stated the problem with the fees, is they cannot be used as a revenue generator.

Miklos stated this should be placed on the work session.

Abernathy explained there is also a problem with someone preparing their rental unit to pass inspection and a person is able to purchase a house and move right in. They don't have to have an occupancy inspection. Get rid of the Landlord License and make it an occupancy permit for across the board, so that everybody has to maintain their property.

Jonathan Crawford asked what experience did Michele obtain that was the best fitting, especially with enforcement?

Solicitor Vigilante explained that was a statement made by Councilman Abernathy. We will not discuss perspective or current employees at a Public Meeting. The answer is she was selected, unfortunately for you that is the answer.

Mel Marin referred to a letter (attachment) he sent to Borough Council regarding the DEP Civil Penalties in the amount of \$63,000. Marin explained in the letter he asked Council to agree, if he is able to eliminate most or all of the \$63,000, to using the savings hire policemen to patrol on the weekends. Marin explained he sent a letter to the Acting Secretary of DEP regarding this amount and explained it is unconstitutional and **unltra** to access it to begin with. There are two basis for assessing a Civil Penalty, which Council agreed to in the Consent Order, the first citation is 721.12 and the second is 635. The Supreme Court of the United States ruled a long time ago punitive penalties cannot be assessed against a Borough for judgement. Judgements cannot be enforced against any municipality. Any General Statute allowing any State or Federal office to make those kind of assessments or courts to enforce them. They ruled very plainly it is unconstitutional and they gave an immunity to all municipalities. It is still possible to assess a Civil Penalty against a municipality if the statute says very plainly we are assessing this against municipalities flat. For the general statute all municipalities are immune.

Solicitor Vigilante stated he doesn't understand why Marin is sending letters to the DEP on behalf of the Borough. A lot of the things you don't seem to be considering, we [Council] entered into a Consent Order with them. We gave them the authority to fine us. We didn't do certain things.

Abernathy added it was not this Council. It was a past Council that gave them that authority.

Marin stated he understands that. He was provided a copy of the Consent Order from DEP. Marin explained he sent the notice to the [DEP] secretary on the basis of my standing as a tax payer. Not on behalf of the Borough. That makes me the virtual representative of 1500 people. The Borough may not be able to make these objections at all. The Borough may be able to negotiate, but if you signed a waiver, because it is in the Consent Order, initially any judge will say, you have no standing, you waived the right years ago. However, there is also another judicial rule. That is you cannot waive a challenge to jurisdiction. The reason why the DEP is able to make all these assessments is because it says in the enabling statutes in Pennsylvania, the DEP Orders are considered as judgements of courts. You cannot waive a lack of jurisdiction. If it was illegal for them to say here is a Consent Order, we can slam you with these punitive penalties, sign this and the parties agree to give them jurisdiction to do that it's void. Because the parties cannot agree to give them jurisdiction to a tribunal that doesn't have it. It says very plainly the statute the DEP may assess a punitive penalty against municipalities when they are involved in mining operations. It doesn't say other things. It doesn't say water problems. The whole thing is a big puff. It's just an effort by that agency to collect money from poor Borough's by assessing these penalties that they don't have the power to assess. Marin asks Council if he succeeds in getting that money cut off, would Council agree to hire policemen on the weekends? So the Mayor and everybody is happy.

Solicitor Vigilante stated he does not agree.

Schaub stated nobody on Council can agree at this point.

SOLICITOR COMMENTS

Solicitor Vigilante stated tonight was generally a nice meeting compared to some of the ones we've had recently. So, I'm happy about that. I'm not happy that we still have a lot of talking back and forth during the meetings. It doesn't present for an orderly meeting. If somebody has a problem with something that is on the agenda, take a look at it before the meeting starts, say what your problem is. You are also equally to blame [directed at Councilman Miklos] you talk back and forth. I'm just trying to keep things, it's not always going to be so cordial. It's not always going to be a nice conversation.

BOROUGH MANAGER COMMENTS

Ratliff made comments that required no action.

MAYOR COMMENTS -- Mayor Mantini was not in attendance at the meeting.

COUNCIL COMMENTS

Gaiser and Banks had no comment at this time.

Abernathy, Schaub, Bartuccio made comments that required no action.

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Miklos made comments that required no action. Miklos asked to go on the record that this Council has had no, absolutely no discussion about purchasing property and/or building a new Borough Building. That needs to get cleared up.

ADJOURNMENT

Miklos made a motion at 7:24 p.m. to adjourn. Seconded by Abernathy.

Motion Carried. 6-0 Unanimous

Kathy Bartuccio
Council President

Lisa Bittner
Borough Secretary