

**Red Lion Borough Council
Meeting Minutes
Monday, November 11, 2019**

Members

Cindy Barley
Tina Frutiger
Dennis Klinedinst
Chris Minnich
Stephanie Weaver
Tony Musso

Others

Dianne Price, Borough Manager
Dan Shaw, Codes/Zoning
Jeff Shue, Engineer
Mike Craley, Solicitor
Brett Patterson, Public Works
Stacy Myers, Recording Sec'y

Visitors

James Winkler
Bob Frutiger
Rita Mitchum
Mike Poff
Muriel Slenker

Ruth Gardner
Cpl. Spencer, PSP
Laura Kirk
Jeff McKee
Nick Rhoads

Kristin Sweitzer
Rev. Kathy Kuehl
Melanie Thompson
Bryan Scott

1. The meeting was called to order @ 7:00p.m. Pastor Kathy Kuehl (from St. James Church, Brogue & St. Paul's Church, Felton) offered a prayer, followed by the pledge to the flag.
2. Mrs. Frutiger made a motion to approve the October 7th, 2019 Work Session Minutes; Mr. Minnich seconded. All were in favor; motion carried.
Mrs. Frutiger made a motion to approve the October 14th, 2019 Regular Meeting Minutes; Mr. Minnich seconded. All were in favor; motion carried.
3. **POLICE REPORT**—Cpl. Spencer from PA State Police was present to distribute a report of Police calls in Red Lion Borough covering May 1st thru October 28th. There were 1,696 calls in the borough, which included anything from welfare checks to drug-related issues. Most of the calls were traffic stops which totaled 436 and 230 security/school checks. Cpl. Spencer reported that, during their shift, each State Trooper is required to drive through the Red Lion School campuses, most often at the high school & junior high to make a visible Police presence. Council President Musso said Red Lion appreciates the State Police and believes they're doing a great job within the borough!
4. **VISITORS AND PUBLIC COMMENTS**—the following were present to address Council:
 - Ruth Gardner, who resided at 39 Boundary Avenue before the July fire destroyed hers & 3 of her neighbor's homes. She had read in the Borough's Codes Enforcement (Section 116- Unsafe Structures) that a building official must file a report on unsafe conditions/structures and to date, she stated no notice has been posted at the home, nor has she received any such notice. She would like the property demolished so she can rebuild & move back in. She has a limited amount of funds from her insurance company towards living expenses. Demolition got held up in September due to EPA requirements. When she has called the Borough Office about her property, she was told she must call the Fire Marshall or Fire Chief to condemn it. She had called & left a message for the Fire Marshall but has not received a return phone call. Mrs. Price had a conference call with DEP, who told her the Fire Marshall or Fire Chief must condemn the building, but they're not willing to do so or to enter the Boundary Avenue properties. Ms. Gardner doesn't believe that 37 & 39 Boundary have any asbestos; everything was burned. She said 37 Boundary, where the fire started, was visited by the insurance company & had an excavator remove most of what was left of the property & moved it to her property at 39 Boundary.
 - Mayor Hughes had spoken to Ms. Gardner on the phone regarding this situation. He also spoke to Kelley Matty, Operational Chief of PA DEP trying to gather information about this

issue. Mayor Hughes said DEP adopted the 40CFR which involves protection of environmental rules & regulations, in particular, the section of the 40CFR covering standards for demolition & renovation. Ms. Matty said there are only two reasons PADEP accepts as deeming a building “unsafe”; that is, when the Fire Department burns it & the Fire Chief rules it unsafe, or if an engineer enters the property and determines that the load-bearing wall is unsafe.

Mayor Hughes read from Section C3 of the 40CFR which states “*if the facility is being demolished under the order of the state or local governmental agency, issued because the facility or structure is unsound & in danger of imminent collapse*”, the key word being “if”, not “shall”. Mayor said no one on Borough staff is certified to deem the facility unsound or in danger of collapse; however, a structural engineer can be hired to do so. In addition, someone certified in asbestos removal must be present during demolition to ensure the safe removal of hazardous material. This is private property & the Mayor doesn’t know why everyone is expecting the Borough to get involved.

- Bryan Scott from CZ Construction is waiting to demolish the Boundary Avenue homes but said he couldn’t touch the properties according to Federal Law until they’re condemned, which he believes is the Borough’s responsibility. Mr. Scott said he has an email from Ms. Matty stating it’s the Borough’s responsibility to condemn a building within their municipality. He gave this information to Mayor Hughes. The paperwork he had stated he can be charged criminally if he touches the building.

Mr. Scott said the Borough must do inspections & issue building permits when he rebuilds the property, so why wouldn’t they be involved in the demolition of or condemnation of a property? He had an independent engineer come to the property to deem his evaluation for the insurance company. Since the Borough has a 3rd-party codes official, Mr. Scott stated that official could make the determination on these homes. The Borough has adopted the 2009 Universal Fire Code & so the Fire Chief should also be able to make that determination.

- Jeff McKee, who has been a codes official for 26 years, spoke to Council & said the section on “Unsafe Structures” in the UCC (Uniform Construction Code) states “the Borough Building Code Official shall serve notice upon an unsafe structure” and sections of the Fire Code state “the Fire Chief also has the authority”. The Borough has adopted this UCC.
- Solicitor Mike Craley said Mr. Scott obtained a demolition permit. Section 61 of the 40CFR deals with asbestos; he stated Mr. Scott would not be present tonight or so concerned with this situation if the property had no asbestos. Mr. Scott stated he has disposed of asbestos numerous times before, but he cannot do so without the property being deemed unsafe. Mr. Craley said that is not true; however, Mr. Scott said his contingency plan for asbestos removal has already been approved by the EPA.

Because there is asbestos in the burned homes, Mr. Scott maintains he cannot touch them before they’re deemed unsafe. He said the Borough only needs to post a letter on the property which states it’s unsafe. Had the EPA not been called (it’s believed they were called by a neighboring property) and gotten involved, Mr. Scott said he could enter the home, begin demolition & remove/dispose of the asbestos properly. But now he’s been told (by EPA) he could be charged if he does so.

After reading the paperwork provided by the Mayor & what the requirements are in the case of demolition, Mr. Craley said it seems that Mr. Scott is only choosing to meet some of the requirements, not all. Mr. Scott said that is not true.

Mr. Craley also stated the word “condemnation” means that Borough Council is exercising their right of eminent domain to take the property & that is NOT what Borough Council wants. This is an issue between the insurance company & the property owners.

- Jeff Shue stated, if the Borough hired an engineer to inspect the building, the Borough could review the engineer’s findings & possibly agree that it’s an unsafe building. If the Borough

directed Jeff to review the information, he will, but the “unsafe” issue here has not quite been resolved yet.

- Rita Mitchum lives at 41 Boundary Avenue and is very concerned about the condition of the structures neighboring her property. There is approx. 15-20’ between her home & Ms. Gardner’s and there is a 3-story brick wall in which bricks have already fallen into her (41 Boundary) yard. She gets constant debris blowing into her yard & into the street from the burned properties. She said this property is unsafe for the neighboring properties.
 - Mr. Musso said Council understands about the danger that these properties pose & they want to do what is in the best interest of the community; however, the Borough has never had to sign off on a structure as being “unsafe”. They’ve never dealt with this situation before. Jeff McKee said the structure should’ve been deemed unsafe right after the structures burned. The asbestos abatement can come later, but the buildings are dangerous & should be posted as such.
 - Mayor Hughes believes there are two issues needing addressed here; 1) the property is unsafe, and 2) asbestos/hazardous material removal. The UCC is a Federal Law that the Borough adopted, and 40 CFR is a Federal law that seems to contradict the UCC. He’s told by Ms. Matty that the EPA turned these issues over to DEP in 1990 and if someone is not on the premises at the time of the asbestos removal, a fine of \$25,000 can be charged. The Mayor understands that it’s agreeable to have a Certified Engineer inspect the premises, write a letter to PADEP & move forward with the asbestos removal. Mr. McKee said the Building Code Official should issue orders for the building to come down or the property owner would need an engineer show cause why it was NOT unsafe & why it did NOT come down.
 - Council President Musso requested Jeff Shue to work with Solicitor Craley and review the paperwork to make a determination on the Boundary Avenue properties. Ms. Weaver made a motion authorizing Mrs. Price to issue an Order of Determination to allow the Boundary Avenue properties to be demolished if Jeff Shue & Attorney Craley conclude that it meets the legal requirements. Mrs. Frutiger seconded. All were in favor; motion carried.
 - James Winkler gave a status update on his Lancaster Street properties. He didn’t make as much progress as he wanted to but has been working for the past 20 days to clear out the buildings. There is a lot of material he must get rid of, but he expects to begin demolishing the buildings within the next two weeks. All commercial properties are required to contact PADEP prior to demolition, so Dan Shaw will get the proper paperwork to Mr. Winkler for that.
 - After reading the paperwork given to him by Bryan Scott, in which Bryan Scott said the EPA & DEP’s Kelley Matty **ordered** the Borough to issue an unsafe structure for Boundary Avenue properties, Mayor Hughes reported the paperwork says “the structure **may** be deemed structurally unsound & condemned by the local municipality”. Mrs. Price said the Borough’s third-party inspector was on site on Boundary Avenue immediately after the fire & the Borough was told only to secure the structure with fencing, which they did. Jeff Shue said an engineer can enter a structure at the request of the municipality & deem whether it’s structurally stable, unstable, etc. Once that determination is made, the municipality must act on it. The other option is that the property owner can have an engineer do the same thing. A third-party inspector can go into the structure, but typically when it’s a structural stability issue, it’s best to have a professional engineer make that determination. Jeff believes Mr. Scott could take the initiative & provide the Borough with an engineer’s (that he obtained) determination, but he is asking the Borough to take that initiative.
5. **MAYOR HUGHES REMARKS & RECOMMENDATIONS**—He would like to suspend parking meters on November 30th for Small Business Saturday & also for the holiday season from

December 15th thru January 2nd, 2020. Mr. Klinedinst made this motion; Mrs. Frutiger seconded. All were in favor; motion carried.

6. **PUBLIC SAFETY**—Mr. Minnich reported:

- **Fire Company** meeting was held Wednesday, November 6th where a vote was held on the merger. Vote was 17-2 in favor of Red Lion becoming Alliance Fire & Rescue. Felton Fire Company voted in favor; we're waiting on Windsor's vote. Some updates on new/old officers will take place in December.
- **Fire Company Banquet**—Mr. Musso recognized two award recipients from that night. Cory Yahnke received Firefighter of the Year and Joe Yahnke received Member of the Year & the Medal of Honor for an incident where he saved the life of another firefighter years ago.
- **EMA Report**—Laura Kirk distributed her report & had no further updates.

7. **SOLICITOR'S REPORT**—Mr. Craley had no report

8. **ENGINEER'S REPORT**—Jeff Shue had no report.

9. **PARKS AND RECREATION**—Mrs. Barley & Kristin Sweitzer reported:

- Basketball signups for kindergarten thru 2nd grade—November 13th & 14th from 5:30-7pm
- Basketball tryouts for EYC teams—November 22nd at Mazie Gable Elementary. The schools are allowing teams in earlier this year for practice.
- Cheerleading camp going on now.
- Classes available in sign making, flower arrangements, & kids' baking are going on now.
- December 3rd @ 10am—Polar Express reading
- Halloween Parade was a huge success—the Laurel Fire Police did a great job of crowd control. They shut down & cleared the streets quickly also.
- October 31st—Trick or Treat went well despite receiving many calls requesting a schedule change due to weather.
- November 30th—Small Business Saturday—events throughout the Borough all day.
- November 30th—Christmas tree lighting in the park. Crafts, pictures with Santa, hot chocolate enjoyed from 6-7pm in the Community Building; 7-8pm tree lighting & singing carols. Volunteers are needed, especially from 6-7pm!
- December 7th—Breakfast with Santa from 8:30-10:30am—volunteers are welcome!
- New Year's Eve celebration—bands, venues & fireworks are scheduled!

10. **MUNICIPAL SERVICES**—Ms. Weaver reported:

- November 13th—water shut offs for delinquent bills
- November 19th (Tuesday)—Red Lion Municipal Authority meeting @ 7pm
- November 20th—Source Water Protection Meeting @ Windsor Borough office @ 6:30pm
- Mike Poff presented a letter from RLMA requesting Borough Council reappoint Eric Immel to the Municipal Authority. This will be done at Council's Reorganization Meeting in January 2020.

11. **PUBLIC WORKS**—Mr. Klinedinst reported:

- Mr. Klinedinst made a motion to remove both flashing signal lights at Gay & North Main Streets. Mrs. Barley seconded. All were in favor; motion carried.
- A handicapped parking space request was received from Crystal Hobbs at 54 S. Pine Street. Mr. Klinedinst said this will be the only handicapped space in that block and he made a motion to allow this request; Mr. Minnich seconded. All were in favor; motion carried.
- Ordinance 2019-11-3—Street Opening Ordinance has been advertised & is before Council for action. Mr. Klinedinst made a motion to approve this Ordinance; Mrs. Frutiger seconded. All were in favor; motion carried.
- Subdivision Plan/cross easement for Kaltreider-Benfer Library has been tabled for now until all Solicitors have reviewed & resolved some issues. Dan Shaw said the library is uncertain of what they want to do with the building.

- 506, 512, 524 Cottage Place—there are old cuts in the street; are there permits for these street cuts? And who applied for them?
 - Boundary Avenue sidewalks—bid opening (online) & review on November 26th
12. **PLANNING, ZONING & REDEVELOPMENT**—Mr. Horne was not present tonight. The following was reported:
- No Planning Commission Meeting in November.
 - No Zoning Hearing in November or December.
 - Entries for the holiday decorating contest are due by November 15th. Contest winners will be announced December 15th @ 6pm. Of note, 15 entries have been received to date.
 - Melanie Thompson inquired whether a determination was made regarding her neighbor advertising her home on AirBNB & renting it out when the owner doesn't live there. Currently, there is nothing in the Borough Ordinances against rentals, but this property owner has it advertised two different ways. Her AirBNB advertises a “whole unit available to rent”, but she also lists “individual rooms available to rent”. Mr. Craley stated zoning regulates use not ownership. If someone moves in & out every week of a property being defined as a “single-family unit”, the use of a single-family dwelling in the Zoning Ordinance is not being changed. But if someone is renting individual rooms, then it would be defined as a rooming house & would be a violation of the Zoning Ordinance. If the property owner is not registering the tenants with the Borough, she would be in violation. Borough staff can ask the property owner for a tenant registration, short-term. Long-term, Planning Commission will need to address the definition & difference between a Rooming House & Boardinghouse.
13. **ADMINISTRATION**—Mrs. Frutiger reported:
- The 2020 Budget is before Council for advertising. Mrs. Frutiger made a motion to advertise the 2020 Budget; Mrs. Barley seconded. All were in favor; motion carried. Of note, there is no proposed tax increase for Red Lion Borough in 2020.
 - The speaker system at the Community Building needs fixed before next year.
 - Mr. Klinedinst would like Nick Rhoads to be considered for a backup EMA employee. John Brownlee's paperwork/application was sent to the Governor for appointment as EMA Coordinator, but Laura & Mrs. Price said EMA can always use help, if Nick Rhoads wishes to serve.
 - A few exclusions/corrections of the Borough Appreciation Dinner program were mentioned.
14. **COMMUNICATION**—On this Veterans Day, Mr. Musso thanked Mr. Klinedinst, Mr. Minnich & Mayor Hughes for their service and thank you to the families of those who served, as well.
15. **Approval of bills**—Mrs. Barley made a motion to approve the bills; Mrs. Frutiger seconded. All were in favor; motion carried.
16. **Adjournment**—Mrs. Barley made a motion to adjourn the meeting @ 8:26pm. Motion carried; meeting adjourned.

Respectfully submitted by:

Stacy Myers, Recording Secretary