

A special meeting of the Bad Axe City Council was called to order at 6:30 p.m. on Monday, October 7, 2013 by Mayor Jim Hicks for the purpose of conducting open discussion on damage claims submitted to Michigan Department of Transportation (MDOT) by several Bad Axe residents.

ROLL CALL

Present: Mayor Hicks; Council members: Cleland, Hall, Particka, Peterson, Rapson and Rochefort.

Absent: None.

Staff Present: City Manager VanDeVusse, City Clerk Goebel and DPW Director Boshart.

Others: City Attorney John Ferris, City Engineer Rob Stiverson.

ORDER OF BUSINESS

Mayor Hicks stated that he called the special meeting and invited the City Attorney and City Engineer to attend to discuss any options that the residents have regarding the damage claims for the sewage backup that occurred early July that have been denied by the contractors insurance company.

Approximately 30 residents that filed claims with MDOT were in attendance.

City Attorney John Ferris stated that withholding payment on the construction project to MDOT is not an option. He stated that the Treasury Department would withhold other revenue money that is owed to the city. He did state that MDOT could possibly withhold funds due the contractor. When questioned by a resident whether the city has liability insurance to cover the claims he stated no, and that the city cannot sue the contractor on behalf of the residents. He stated that the residents that experienced damage can hire an attorney and file a law suit against the contractor, recommending possibly they all join together to share in the cost of hiring an attorney.

City Engineer Rob Stiverson shared his observations regarding the storm events that occurred early July 2013. He stated the first part was the act of God part, referring to the amount of rainfall in a short period of time; and the second part, how the contractor handled the storm water coming onto the site and leaving the site. He indicated that they didn't control the storm water and it got into the sanitary sewer system.

City Manager Dale VanDeVusse stated that he personally visited the site both Sunday and Monday and that his personal opinion, based on the City Engineers report that the contractor is at fault.

It was discussed that Council member Nick Rochefort contacted State Representative Terry Brown's office requesting his assistance at the state level. City Manager VanDeVusse stated that he received insurance complaint forms from the Department of Insurance and Financial Services (DIFS), they were distributed and residents were encouraged to fill out. This would be one avenue for the DIFS to investigate the quality of work performed by the contractor. Rochefort

also questioned whether any money was available from FEMA.

John Ferris advised the residents to check their homeowner's policy to see if they have coverage for water/sewer backup and the dollar amount of coverage stating that this would be the best way to insure coverage for any future damage to their home.

City Manager VanDeVusse stated that the city is committed to continued improvements to the water and sewer lines under the city streets and stated that when a street is considered for resurfacing the condition of the lines are evaluated. He and council expressed compassion to the residents and offered to provide any documentation we have at city hall to assist them in receiving an adequate resolve to their claims.

ADJOURNMENT

Motion by Cleland second by Rapson to adjourn at 7:24 p.m. Voice vote: all voting aye, motion carried.

Jim Hicks, Mayor

Kay M. Goebel, City Clerk