

Minutes
Council Meeting
December 9, 2008

- I. A regular scheduled meeting of the Borough Council was called to order at 7:00 p.m. by President Edward Mitchell. The meeting was held in the Upland Municipal Building.
- A. Present were: President Edward Mitchell, Vice President Christine Peterson, Council members Mrs. Sandy Miazza, Ms. Moira Crawford, Mrs. Georgianna Hicks, Mr. Lee Hunter, Mayor Michael Ciach, and Mr. Charles Catania, Sr. P.E., Mr. Robert O'Connor, Esquire, and Mrs. Shirley Purcival, Borough Manager Treasurer/Secretary were present. Mr. Dennis Walls was absent.
- B. Approximately fifteen residents attended the meeting and Fire Chief Dan Smith.
- II. The Pledge of Allegiance to the American Flag was lead by President Edward Mitchell. The Pledge was followed by a moment of silence.
- III. Moment of Silence
- IV. Roll Call
- V. CDBG HEARING
- VI. **ZONING HEARING**

President Edward Mitchell stated the Zoning Board conducted a hearing on December 1, 2008 at 7:00 p.m. The Solicitor, Mr. Jay Will's conclusion was that the fence erected by Mrs. Flanagan, who resides at 1201 Main Street in Upland, PA. was determined to be a Council matter rather than a zoning issue.

President Edward Mitchell advised the Zoning Board concluded that rather than drag this issue out in the courts, it was decided to refund the money paid by Mrs. Flanagan and send the issue back to Council and invite the property owner and anyone else who would like to speak on the matter to do it before Council at tonight's Council meeting.

President Edward Mitchell advised at this time, Council will see fit to take corrective action or whatever is needed to make this thing whole.

President Edward Mitchell turned the meeting over to the Borough Solicitor, Mr. Robert O'Connor and asked if anyone would like to speak on the issue regarding the fencing at 1201 Main Street.

Mr. O'Connor, Borough Solicitor advised that he spoke with the Zoning Solicitor who

brought Mr. O'Connor up to speed.

Mr. O'Connor referred to the decision and order of the Zoning Board which was entered on December 1, 2008.

Mr. O'Connor advised the reason for referring this issue to Borough Council is due to the fact, this issue is not a zoning issue, rather a building code issue, which comes under the authority of the Borough Council.

Mr. O'Connor advised after speaking to the Zoning Solicitor there are two issues for the Borough Council to consider:

1. The fence that was installed, is facing the wrong way. The finished front portion of the fencing should have been installed to face the street side.

Mrs. Miazza, Council Member commented that a vinyl fence is the same on both sides.

2. The height of the fence is an issue.

Mr. O'Connor advised Council, upon their review, should either issue a permit based upon the installation that has already been completed, even though it does not conform with the ICC Building Code specifications for height requirements, or the alternative would be to refuse to issue the proper permits forcing the applicant to make adjustments to the fence already in place to comply with the corrected height restrictions.

Mr. O'Connor advised Council it is in their purview to grant the permit or grant a waiver.

Mr. O'Connor stated the applicant would then have to comply with the decision made by Borough Council.

President Edward Mitchell advised Mr. O'Connor one of the problems with the already installed fence is that the fence is presently on Our Lady of Charity property which is located in Brookhaven Borough, not Upland Borough.

President Edward Mitchell advised the Borough Building Inspector who, originally advised Council when the applicant had the fence installed incorrectly around a tree on the property line.

President Edward Mitchell's understanding was that a letter of waiver from the Archdiocese was given to the applicant.

President Edward Mitchell advised one issue is the height of the fence in the rear of the property and the issue of the fence around the tree must also be resolved.

Mr. O'Connor advised Council if the fence is located in Brookhaven, the Upland Borough Council would not be authorized to issue a permit not within the municipal boundaries of the Borough.

Mrs. Hicks asked if we are sure the fence is actually on the Brookhaven property line?

President Edward Mitchell advised the Borough Engineer, Mr. Charles Catania, Sr. advised Council the side yard portion of the fence is geographically in Brookhaven.

President Edward Mitchell stated "People have fought wars over boundaries," but this is not necessary to have a war over boundaries." "You do, however, have to stay within your boundaries."

Public Comment

Margaret Flanagan - 1201 Main Street, Upland, PA.

Mrs. Flanagan stated on Scott Avenue, the four foot fence was installed. Mrs. Flanagan stated her neighbor's fence is a six foot high.

Mrs. Flanagan stated her property was surveyed before she had the fence installed and as far as she is concerned, the six foot fence that is there facing Our Lady of Charity is her property.

Mrs. Flanagan stated the four foot fence that she put continuing from that point out to the driveway or the walkway is on Our Lady of Charity's property. She then found out the complaint on the six foot portion is on the side of her neighbor.

Mrs. Flanagan stated she would have never had a six foot fence installed. Mrs. Flanagan stated she took the word of Mr. Ferguson, the Borough Building Inspector. Mrs. Flanagan stated that Mr. Ferguson showed her where the four foot and six foot could be installed. Mrs. Flanagan stated she, as the homeowner, did not know she had to get a permit the day she spoke to Mr. Ferguson. Mrs. Flanagan assumed the contractor would get the necessary permit. Mrs. Flanagan stated it was an honest mistake.

Mrs. Flanagan stated when she found out this information, she secured the necessary permit and apologized.

Mrs. Flanagan stated at that time is when Mr. Ferguson told her she had to take the six foot fence down. Mrs. Flanagan stated she would have never had the six foot fence installed if she had known the information.

President Edward Mitchell responded to Mrs. Flanagan as follows, "Mrs. Flanagan when you were here a few months ago with a similar discussion it was established then that you needed a permit, and immediately after that, you put a four foot fence on Our Lady of Charity's property without a permit."

President Edward Mitchell stated every resident in Upland has to apply for the necessary permits, before any work is done.

Mrs. Flanagan responded she never received her permit that she paid for!

Mrs. Purcival, Borough Manager stated there were several things that we requested that were not included in Mrs. Flanagan's permit application, such as a plot plan, one was a setback issue.

Mrs. Purcival, Borough Manager stated that although Mrs. Flanagan submitted an application for a building permit, no permit was ever issued to her by the Borough.

Mrs. Purcival stated within this same time frame, Mrs. Flanagan had an additional section of fence installed without the proper application for a permit.

Mrs. Purcival is not aware of monies paid with the first permit application, however, she will look into it.

Mrs. Hicks asked Mrs. Flanagan if anyone from the Borough contacted her in regard to providing a plot plan after you turned in your money for the application. Mrs. Flanagan responded, "No".

Mrs. Purcival stated her office contacted Mrs. Flanagan requesting the additional requirements.

President Edward Mitchell stated this is the first time that we've had a situation that someone didn't understand that they needed a permit.

President Edward Mitchell stated that once a permit is issued by the Borough, it is to be displayed in the window of the property so the building inspector,

Mrs. Flanagan interrupts President Mitchell stating, "She never got a permit".

President Edward Mitchell responded, "because you never received it from the Borough."

President Edward Mitchell stated the issue right now before Council is we have a twenty foot setback on the six foot fence from the sidewalk back which is one issue and the other issue is bringing the rail fence back into Upland boundaries.

President Edward Mitchell stated that Mrs. Flanagan just admitted this portion of the fence was installed on Our Lady of Charity's property.

Mrs. Flanagan responded, "She had permission from the Monsignor of Our Lady of Charity."

President Edward Mitchell stated that Bear Gulley Survey Company is not affiliated with Upland Borough, so they should have come into the Borough to register if they are doing business in Upland.

President Edward Mitchell asked Mrs. Flanagan if there was anything else further she would like to bring before Council on this issue?

Mrs. Flanagan responded, "No, however, what had been done, had been done in all honesty."

President Edward Mitchell responded there was no doubt in his mind there had been a great misunderstanding here, but it has to be corrected.

Joseph Stephano- 11th and Church Street

Mr. Stephano stated if Margaret Flanagan wasn't being compliant and did not have a permit, why wasn't the job stopped by Code Enforcement? Mr. Stephano stated he had a similar situation, however, the contractor was stopped from working.

President Edward Mitchell responded the side fence going down Our Lady of Charity side, we had a meeting on a Wednesday and the following Monday it was installed before anyone had a chance to see it and know it was there.

Mr. Stephano asked why Brookhaven is an issue with Upland? The fact that part of the fence is dislocated, why is that an issue?

President Edward Mitchell responded, "Boundary lines are an issue on any property when you sell. God forbid, something should happen to Mrs. Flanagan and the property is sold. The person purchasing the property, a portion of which is now a portion of Brookhaven. Where is your boundary at? The Archdiocese may then not be in favor of the new owner as much as the present owner and demand the fence be moved back and then there is another situation."

Mr. Stephano asked why wouldn't that then be a Brookhaven issue?

President Edward Mitchell responded, "Because we've never had this discussion before."

President Edward Mitchell stated, “You can’t build something in somebody else’s town because you can’t go to Brookhaven and ask permission to install a fence in Upland, so it’s kind of safe to say, you got to bring what’s yours back.”

Dave Thompson - 12 Scott Avenue, Brookhaven, PA.

Mr. Thompson stated when you get passed Our Lady of Charity School, the first thing you see is a beautiful fence. It really doesn’t seem to bother anyone.

Mr. Thomson stated that different administrators came to her residence over the course of the installation, however, no one ever stopped the work from being completed.

Mr. Thompson stated that even the Upland Police were there when the men were out there working and questioned “who had the permit”?

Mr. Thompson stated this was prior to the additional work being completed.

President Edward Mitchell responded that this has been going on for several months now.

President Edward Mitchell stated “There is no one trying to force anybody do anything. It’s just trying to get what is fair, and what is right.”

Janice Tyler - Scott Avenue, Brookhaven, PA.

Mrs. Tyler also agrees the fence looks beautiful.

Joanne Thompson - 12 Scott Avenue, Brookhaven, PA.

Mrs. Thompson stated the fence has beautified the property, and is not obstructing any views of traffic.

Mrs. Thompson felt, in all honesty, Mrs. Flanagan did not know.

Mrs. Thompson stated that Mrs. Flanagan is a sweet person who would help anybody, so that is why she is here tonight to help Mrs. Flanagan.

Mrs. Thompson hoped the Upland Borough Council is nice to her tonight.

Joseph Stefano - 11th and Church Street

Mr. Stefano was under the impression they attended tonight’s meeting so a variance could be issued.

President Edward Mitchell responded, “We as Borough Council can only legislate what is on the books of past Council.” “Past Council has already set the policies and already set the rules and it is a relatively new law, I think, when it comes to construction for Upland for fencing with a six foot fence and what has been going on, we had not done and changed anything in the law to stop Margaret from having a fence had she put it there properly. The mere fact that it has been going on for three to four months now and the four foot fence did show up overnight after Margaret knew that she needed a permit application.”

Mr. Stephano interrupted President Mitchell. Mr. Stephano asked Mrs. Flanagan how long it took to install the fence?

Mrs. Flanagan responded, “Three days.”

Mrs. Flanagan continued to say when they did the four foot and around the house itself, when they got that done, that's when they finished up on the other part.

President Edward Mitchell stated that it was done on a Friday, Saturday and Sunday.

Mr. Stephano asked President Mitchell if Council is going to grant a variance?

President Edward Mitchell responded that Council can't grant a variance. Council can only vote yes or no and make a property owner be in compliance with the rules and regulations set forth in the Borough Code. We have to take a vote on this. Zoning couldn't handle this because it was not under the jurisdiction of the Zoning Board.

Ray Peden - 901 Mulberry Street, Upland, PA.

Mr. Peden stated that however you decide this issue and he is not trying to dissuade it, Mr. Peden asks Council to consider one other aspect of this issue and it goes to the root of why Mrs. Flanagan is here in the first place.

Mr. Peden stated that most of the citizens of the Borough of Upland not having worked on the construction codes in the past, don't know when they need permits. They don't understand the subtleties of when they have to get a permit or not. We hold them accountable because they are the property owner, but in this particular case as well as in other cases, they are really victims of the contractor. This contractor came into Upland and offered Mrs. Flanagan a price to do a fence. He neglected to tell her about a permit thinking he could probably save himself some money. He did exactly what she wanted him to do and we end up having this situation that Council is stuck with right now and I would bet my own \$25 bucks that he is not registered in the Borough of Upland, and if he was, he would have not done this. I don't know how we can go back on the contractor, but somehow I would like to be able to see you, as a Council, perhaps in the future come up with some type of legislation that will allow us to take a smack at these contractors when they come into Upland and do this to our residents.

President Edward Mitchell responded that he agrees with Mr. Peden one hundred percent. Ignorance of the law is no excuse. We have spent thousands of dollars setting up a website and doing communications and prior to the fence ever, when it was just a thought in Mrs. Flanagan's mind, years ago, she had spoken with our Building Inspector, Joseph Ferguson and had this conversation and she wasn't under the impression way back then before the fence, that she needed a permit and she openly admitted that in our first meeting we had.

Mr. Peden continues that he is not trying to sway this issue, however, there are other extenuating circumstances here and I feel really unhappy that Council has to make a decision.

President Edward Mitchell responds that he cannot stress enough that if anyone sees a contractor in the neighborhood, call the Borough Hall. Once we go down there and you have the necessary permit and something goes wrong, like now, that contractor is liable to go back and correct it, because he was not in the guidelines of the Borough Code. Had he had a permit, unfortunately, whatever the vote is here, it has to be right because we're not going to change the law just because somebody didn't do what they were supposed to do.

Solicitor, Mr. O'Connor stated he thought he may understand what Mr. Jay Wills was trying to explain to him about the wrong side of the fence facing out. Regardless of whether it looks the same on both sides, and I'm reading language here from this decision. Mr. Wills indicated in his decision that the exposed support structure, post, pole and/or frame is facing outward.

Mrs. Hicks, Council Member asked if the fence being on Our Lady of Charity property, no matter

whose boundary line it is, does Brookhaven have an issue with it being there?

President Edward Mitchell responded, "They don't know it yet."

Mrs. Hicks stated "If Brookhaven doesn't have a problem with it, then maybe we shouldn't have a problem with it."

President Edward Mitchell responded, "Well then the next person who wants to put their fence where it shouldn't be, because we let Mrs. Flanagan do it, then we will have to allow them to do it."

"The Borough Engineer is very clear on the fact that it's over the boundary line and I'm sure there are a lot of boundaries where there is nothing on the property." "Delaware County Housing could add footage in the park and nobody would every know, but you can't encroach on someone else's boundaries."

Mrs. Miazza, Council member suggested Mrs. Flanagan gets written permission from the neighbor?

President Edward Mitchell responded, "Mrs. Flanagan didn't even do that."

Ms. Crawford, Council member asked Mrs. Flanagan who her contractor was?

Mrs. Flanagan responded the contractor is now licensed at Upland Borough.

President Edward Mitchell stated, "If you look at the short run when you come around the radius of the property, there needs to be a twenty foot setback because of the safety issue."

Mrs. Flanagan stated she had no idea about a setback issue.

President Edward Mitchell asked the Council if they have any further questions on this issue.

The Council members reply, No.

President Edward Mitchell stated there are two issues for the Council to vote on.

President Edward Mitchell requested information from Mrs. Purcival, Borough Manager on past practices.

Mrs. Purcival stated the resident should secure a letter from the adjoining property.

President Edward Mitchell stated Mr. Catania, Borough Engineer has raised an additional issue regarding the entire six foot fence, because of its location, may not be on the correct boundary.

Mrs. Hicks, Council Member asked Mrs. Flanagan if the new fence was positioned exactly where the old fence was?

Mrs. Flanagan responded, " No, the fence was moved because of water problems and I didn't want to have to move it. I decided that I had it and I wanted to put my fence up and after talking to Mr. Ferguson I went and did it the way he told me."

President Edward Mitchell responded, "Mrs. Flanagan, I don't mean to belabor this, after talking to the Building Inspector, who did speak to you, and that you could do it, but you needed a permit to do it."

Mrs. Flanagan responded, "I thought the contractor was going to get the permit." "Every job that I've ever had done, had gotten the necessary permits." "I did not ask them the day they started to do this job." "I asked them on the second day if they had a permit for this job and they responded

that I was supposed to get it.” “I then saw the piece of paper that was left at my house and I went down to the Borough, apologized and got a permit application and paid \$209.00 for the permit and that was for a contractor license and permit.”

Mrs. Purcival stated the job was stopped on several occasions by written and physical appearance by the police, however, the contractor was never around.

Mrs. Purcival stated that she and Mr. Ferguson would check the property the following day and another portion of fence was installed.

Mrs. Purcival stated at least three attempts were made by the Borough to stop the work on this job.

Mrs. Flanagan stated she never saw anyone, nor did she see the police.

Vice President, Christine Peterson asked Mrs. Flanagan if she ever contacted the Borough to ask if the permit was completed?

Mrs. Purcival stated she spoke with Mrs. Flanagan several times on the phone while they were working at her residence and requested she come to the Borough to discuss the permit application with myself and the Building Inspector, Mr. Ferguson, upon which, Mrs. Flanagan refused and advised me she would meet with Mr. Ferguson at her residence, however, I suggested at the request of Mr. Ferguson, that Mrs. Flanagan come to the Borough Office so there would be no misunderstanding of information.

Mrs. Purcival stated that Mrs. Flanagan never came to the Borough Office at the requested appointment date and time.

One additional person spoke but did not state her name and address.

President Edward Mitchell requested a five minute recess.

The zoning hearing resumes at 8:15 p.m.

President Edward Mitchell offered a motion to have the side yard on Scott Avenue - six foot fence comply with the 20 feet setback, which is seconded by Mrs. Hicks.

Council unanimously voted aye on the motion.

President Edward Mitchell offered a motion dealing with the fence out of the Borough boundary to bring the fence back into the Borough boundaries, which is seconded by Mrs. Miazza.

Council unanimously voted aye on the motion.

President Edward Mitchell asked Mrs. Flanagan if she understood the votes that were approved by Council.

Mrs. Flanagan responded, “No, not really.”

President Edward Mitchell explained to Mrs. Flanagan that the six foot fence now has to be setback by twenty feet.

President Edward Mitchell explained to Mrs. Flanagan that the fence outside the Upland Borough boundaries must be moved from the Brookhaven boundary back into the Upland boundary line.

President Edward Mitchell requested that Mrs. Flanagan go to the Borough Hall on December 10th and make an application for the necessary permit to do this work to protect her as a taxpayer and a homeowner because the Borough would have gone after the contractor if this had been done properly before any work was done on your property.

President Edward Mitchell stated that Mrs. Flanagan is going to have a rough time getting this contractor to come back to make these changes, plus, the contractor will now have to register at Upland Borough.

President Edward Mitchell stated this is the first time in his eleven month tenure on Council this type of situation occurred and he apologized that it had to be Mrs. Flanagan because the fence does look nice, however, we have to adhere to the Building Code of Upland Borough.

The normal business resumed at 8:30 p.m.

VII. Approval of Previous Minutes

- A.1 President Mitchell asks for a motion to accept the Minutes of the Council Meeting of November 12, 2008.

Ms. Crawford offered a motion to accept the Minutes of Council Meeting of November 12, 2008, which is seconded by Vice President, Christine Peterson.

Council unanimously voted aye on the motion.

VIII. Treasurer/Manager's Report - Mrs. Shirley Purcival

- A.1 Mrs. Miazza made a motion to accept the Treasurer/Manager's Report, Items A-1. Ms. Crawford seconded the motion.

Council unanimously voted aye on the motion.

A-1 a Income Statements:

Mrs. Hicks offered a motion to accept the Income Statements, which is seconded by Mrs. Miazza.

Council unanimously voted aye on the motion.

A-2 Manager's Report:

Mrs. Hicks offered a motion to accept the Manager's Report, which is seconded by Mrs. Miazza.

Council unanimously voted aye on the motion.

A.-3 Proofs of Publication

Mrs. Hicks offered a motion to accept the proofs of publication, which is seconded by Mrs. Miazza.

Council unanimously voted aye on the motion.

IX. Auburn Village Report - Mr. Dennis Walls

Mr. Walls is absent due to illness. No report is given.

X. Public Safety - Mr. Leland Hunter

- A. 1 Mr. Hunter offered a motion, which is seconded by Vice President, Christine Peterson to accept the Fire Marshall's Report.

Council unanimously voted aye on the motion.

Mr. Hunter stated he has a request from the Upland Fire Company #1 to update their vehicles with LED lights for their apparatus.

Mr. Hunter recommends, when funds become available that the Public Safety Committee will suggest a 60-40 match of funds on this purchase.

President Edward Mitchell recommends the purchase be turned over to Ms. Crawford on the Finance Committee who will advise Council when funds become available.

- A. 2 Fire Chief Dan Smith reported the following for November 2008:

Fire Incidents: 0, Non-Fire Incidents: 11, Mutual Aid: 22 for a total of 33.
There were 3 drills for a total of 36. Assists for Fire: 15, Cover Assignment: 5
Motor Vehicle Accidents: 2 and 3 Ambulance Assists, 1 gas leak, 1 light fixture,
Fire Alarms: 2, Good Intent: 2. There were a total of 26 3/4 hours of service, 17 day time, 19 night time with an average runner of 9.

President, Edward Mitchell stated that Council asks that he get a message back to the guys about the Christmas activities and that they did a good job, and that we really appreciated their efforts.

XI. Building and Grounds Report - Mrs. Sandra Miazza

- A.1 Mrs. Miazza offered the MacQueen Hall Rental Agreement, which is seconded by Vice President, Christine Peterson.

Council unanimously voted aye on the motion.

- A.2 Mrs. Miazza made a recommendation for the purchase of a security window at the Borough Hall in the amount of \$350.00, and
A.3 the expenditure of electrical work performed at Borough Hall in the amount of \$500.00.

XII. Finance and Insurance Report - Ms. Moira Crawford

- A. 1 Ms. Crawford stated the invoices for approval from the General Fund were in the amount of \$65,651.35. Mrs. Miazza offered a motion for approval of payment of these invoices, which is seconded by Mr. Hunter.

Council unanimously voted aye on the motion.

- A-2 Ms. Crawford stated the invoices for approval for the Auburn Village were in the amount of \$13,918.44. Mrs. Miazza offered a motion for approval of payment of these invoices, which is

seconded by Ms. Crawford.

Council unanimously voted aye on the motion.

- A- 3 a) Ms. Crawford offered a motion to adopt the Proposed 2009 Budget for Auburn Village Income in the amount of \$713,520.00, which is seconded by both Mrs. Hicks and Mrs. Miazza.

Council unanimously voted aye on the motion.

- b) Ms. Crawford offered a motion to adopt the Proposed 2009 Budget for the General Fund in the amount of \$2,387,133.00, which is seconded by Mrs. Miazza.

Council unanimously voted aye on the motion.

XIII. Ordinances and Resolutions - Mrs. Georgianna Hicks

- A-1 Mrs. Hicks offered a motion to adopt Ordinance #7 of 2008 - Tax Levy or Rate Ordinance of the Borough of Upland, which is seconded by Ms. Crawford.

Council unanimously voted aye on the motion.

- A-3 Mrs. Hicks offered a motion to adopt Resolution #357 of 2008 - Agreement with Berkheimer to collect Local Services Taxes, which is seconded by Mrs. Miazza.

Council unanimously voted aye on the motion.

- A-4 Mrs. Miazza offered a motion to adopt Resolution # 38 of 2008 - Appointment of the Borough Manager as the Authorized Contact with Berkheimer, which is seconded by Mrs. Hicks.

Council unanimously voted aye on the motion.

- A-5 Vice President, Christine Peterson offered a motion to adopt Resolution #39 of 2008 - Appointment of Berkheimer for Local Services Tax, which is seconded by Mrs. Hicks.

Council unanimously voted aye on the motion.

- A-6 Mrs. Miazza offered a motion to adopt Resolution #40 of 2008 - the Cost of Collection Schedule, which is seconded by Mrs. Miazza.

Council unanimously voted aye on the motion.

- A-7 Mrs. Hicks offered a motion to adopt Resolution #41 of 2008- Compensations for 2009, which is seconded by Mrs. Miazza.

On roll call vote: Mrs. Hicks, Aye. Ms. Crawford, Aye. Mrs. Miazza, Aye. Mr. Hunter, Aye. Mr. Mitchell, Aye. Mrs. Peterson, Abstains.

- A-8 Mrs. Hicks offered a motion to adopt Resolution #42 of 2008 0 Appointments, which is seconded by Mrs. Miazza.

Council unanimously voted aye on the motion.

A-9 Mrs. Hicks offered a motion to adopt Resolution #43 of 2008 - Verizon Right of Way, which is seconded by Mrs. Miazza.

Council unanimously voted aye on the motion.

XIV. Research and Development Report - Ms. Moira Crawford

Ms. Crawford stated the Upland Borough website is up running.

Ms. Crawford stated all of the photos for the holiday celebration are on the photo site.

Ms. Crawford stated additional information is needed by Fire Chief, Dan Smith to update that portion of the site.

XV. Streets and Equipment Report - Mrs. Christine Peterson

A.1 Vice President, Christine Peterson offered a motion to repair the inlet as emergency, which is seconded by Ms. Crawford.

Council unanimously voted aye on the motion.

XVI. Community Affairs Report - Mrs. Sandra Miazza

Mrs. Miazza stated the Christmas tree lighting ceremony was very nice.

Mrs. Miazza thanked Mr. Peden for his participation along with the fire house because this was a joint effort from everyone.

Mrs. Miazza asked if anyone has ideas for 2009, they should contact her.

President, Edward Mitchell commented, "It did our town proud."

Mrs. Miazza stated, "Every year the Upland Athletic Club has a dinner every year for the senior citizens at the Baptist Church. Every year they put an envelope on the tables and when we started doing it, it was a tip for us, although we never accepted it and we always gave it back to them to give to someone who needed it, and this year they called me up and gave it to the Community Affairs Committee in the amount of \$135.00, which will go into our account."

XVII. Use and Occupancy Report - Mrs. Shirley Purcival

Borough Manager, Mrs. Purcival stated in the month of November 2008 there were 9 inspections that received Use and Occupancy Certificates. 0 units failed the inspections and 0 units received a Temporary Use and Occupancy Certificates. Mrs. Purcival stated a total of \$675.00 was deposited into the General Fund.

Ms. Crawford offered a motion to approve the Use and Occupancy Report, which is seconded by Mrs. Miazza.

Council unanimously voted aye on the motion.

XVIII. Mayor's Report - Michael Ciach

Mayor Ciach stated the Town Watch Program and the Youth ID badges of 97 are progressing very well. We hope to do another one in early January.

Mayor Ciach reports there are ten Town Watch Applications in various capacities.

Mayor Ciach stated he will meet with Chief Easton to start pursuing that.

Mayor Ciach stated he has drafted a template for a letter to go to the businesses in Upland to make them aware of safety programs.

Mayor Ciach stated the following: 142 Total Citations were issued of which 128 were traffic and 14 Non-Traffic. Total Citation fines were \$13,940.00 one half of which \$6,970.00 is the Borough's share. Parking Tickets issued were 8. Amount of tickets paid was \$120.00 with 5 going to DJ. There were 11 motor vehicle accidents, 5 accident reports. The total amount received from the DJ Court last month was \$1,487.33. There were a total of 145 calls answered and 8 assists. There were (3) assaults, (9) thefts and (2) disorderly conducts.

Mayor Ciach reported a message from Chief John Easton as follows: "The Holiday season is upon us once again, however, with a major twist. With respect to the conditions of the economy, many people are out of work. That leaves many people with the opportunity to prey upon you. Therefore, please be diligent in securing your home, your vehicle, and your personal possessions, especially in the evening hours. Additionally, please report all suspicious activity to 911." "Have a Happy and Safe Holiday."

President Edward Mitchell directs the Borough Manager, Mrs. Purcival to get a phone message out to all of the Upland residents concerning their safety and taking precautions over the holiday season and to wish everyone a happy and healthy holiday.

Vice President, Christine Peterson commented the positive feedback to the calling system.

Mayor Ciach stated the Christmas Decorating Contest should be decided by the various committees between this Saturday, December 13th and Christmas Day, we'll be out an about viewing the various areas and the winners will be announced at the January meeting.

XIX. Solicitor's Report - Mr. Robert O'Connor

Mr. O'Connor stated he the final resolution was adopted to refer the Delinquent Local Service Tax to Berkheimer for collections.

Mr. O'Connor stated the final rental agreement for MacQueen Hall was adopted this evening.

Mr. O'Connor stated he is working with Ms. Crawford for disclaimers for the website, and

Mr. O'Connor he has finalized the Verizon right-of-way plan for the T-Mobile Antenna site.

President, Edward Mitchell stated that Mr. O'Connor made a request to Mr. Hunter and Vice President, Christine Peterson to look into the LED lights for the fire equipment.

XX. Engineer's Report - Mr. Charles Catania, Sr.

Mr. Catania stated the Upland Municipal Park Improvements contractor has yet to receive the delivery of the pads and the playground equipment to be installed.

Mr. Catania stated the final design for the new police station is being worked on and hopefully by the middle of January this will be completed and bring it to the January Council meeting for approval and authorization to take bids probably the month of February and then get started in the spring.

Mr. Catania stated the Flood Control Project the Commonwealth Funding Authority will issue the regulations for the loan and grant of the \$1.2 billion dollar program.

Mr. Catania will secure an application close to the amount of \$2 million dollars for grant money to complete the project down at Kerlin Street.

Mr. Catania stated he will keep his eyes on that and we may have to get some papers signed and ratify whatever action we will need and we will be prepared to respond.

XXI. Old Business

A.1 Mrs. Hicks offered a motion to cancel the 2nd Council meeting of the month, which is seconded by Mrs. Miazaa.

Council unanimously voted aye on the motion.

President Mitchell asks if there is any other Old Business to report.

Mrs. Purcival stated that she received a telephone call from a company by the name of The Prestigious Group out of Devon, PA. during the middle of November asking if the Council was interested in selling Auburn Village.

Mrs. Purcival stated that she asked them to put it into writing and I'd like to read their response, which was addressed to me, which I copied Council:

As per our conversation I have arranged to determine if there may be any interest in selling Auburn Village as I have an interest to purchase these apartment buildings.

We have over twenty-five years of experience in selling and buying all types of family buildings, and our network of buyers is extensive.

Please let me know if there is any interest in selling.

Very truly yours,
Virginia Hart, Vice President
Prestigious Group

President Edward Mitchell entertained a motion, which is made by Mrs. Miazza to reject the offer to sell Auburn Village, which is seconded by Mrs. Hicks.

Council unanimously voted aye on the motion.
the issue of selling Auburn Village

XXII. New Business

None

XXIII. Floor Open to the Public:

Dana Dudek - 1106 Church Street

Mrs. Dudek wanted to alert Council to a situation that occurred while replacing a vanity in her bathroom, which she didn't know she needed a permit to do that, as it was not changing the plumbing in any way.

Mrs. Dudek explained that the Upland Borough Plumbing Inspector, Mr. Kennedy arrived at her front door, not knowing who he was, because she did not know that Upland had changed Plumbing Inspectors.

Mrs. Dudek stated Mr. Kennedy was rude, arrogant, and condescending who entered her house like a "storm trooper" flew up her steps, harassed her plumber and from what she knew of plumbing, misquoted the ICC Code.

Mrs. Dudek continued to state Mr. Kennedy refused to talk to her or look at her. Upon completion of harassing her plumber, he exited her house and she heard him say he was helping her out just by letting her plumber finish the job he started.

President Edward Mitchell asked Ms. Dudek if Mr. Kennedy showed her any form of identification?

Ms. Dudek stated, "No."

Mrs. Dudek stated this is not how an Upland resident should be treated.

Mrs. Dudek stated she asked Mr. Kennedy specifically if she needed a permit to replace a vanity and he did not reply to her and she experienced the most embarrassing and worst experiences ever.

Mrs. Dudek requests from Council a copy of the entire ICC Code relating to the work being done in her home regarding the vanity.

Mrs. Dudek requests from Council that Mr. Kennedy apologize for his behavior.

President Edward Mitchell advised Mrs. Dudek that all borough codes are on the borough website.

President Edward Mitchell advised Mrs. Purcival, the Borough Manager to look into what happened as this is not the image that Upland we are trying to create here.

President Edward Mitchell advised Mrs. Purcival to relay to Mr. Kennedy this is not the image that Council wants portrayed by any employee and Mr. Kennedy can work someplace else, because this type of behavior will not be tolerated by Council.

President Edward Mitchell stated, "Our residents do not deserve that kind of crap. He's here to protect the residents, not embarrass them."

President Edward Mitchell stated that all Borough employees have identification badges as Mayor Ciach insisted on identification for all Borough employees.

President Edward Mitchell apologized to Mrs. Dudek.

President Mitchell stated this is the end of this Council's first twelve months and Mrs. Dudek is the first complaint.

President Edward Mitchell asked if there was any further public comment.

Fire Chief, Dan Smith stated the annual Santa Claus tour will be Saturday, December 20th starting around 11:00 a.m. and a night time tour at dusk.

Fire Chief, Dan Smith wished Council and everyone a happy and safe holiday season.

XXIV. Adjournment:

There being no further business before Council, Vice President, Christine Peterson offered a motion to adjourn the meeting at 8:45 P.M, which was seconded by Mr. Hunter.

Council unanimously voted aye on the motion.

Respectfully submitted,

Shirley Purcival
Borough Manager/Secretary/Treasurer

Virginia M. Sentyz
Recording Secretary