

Board of Public Works and Safety
Berne City Building, 158 W Franklin Street
Wednesday January 15, 2020 8:00 p.m.
Minutes

Mayor Sprunger-Present
Ron Dull- Present

Curtis Wurster-Present

The Board of Public Works and Safety met on Wednesday, January 15, 2020 in council chambers along with City Attorney Dave Baumgartner and recording secretary Becky Sprunger according to the posted notice.

In attendance from the City; Chief Taylor, John Crider, Kurt Dailey and Shannon Smitley. Others present, Clint Anderson from the Berne Witness.

Mayor Sprunger called the meeting to order and verified a quorum.

First order of business was Clerk-Treasurer Gwen Maller administering the oaths of office to board members Mayor Gregg Sprunger, Ron Dull and Curtis Wurster.

Approval of Minutes On a motion by Ron Dull and a second by Curtis Wurster, the minutes of December 9, 2019 were unanimously approved on a vote of 3-0.

Hearings for Unsafe Buildings City Attorney Dave Baumgartner gave an update to the board on several houses that are in violation of the Unsafe Building Code, and the steps that have to be taken to address the violations. Dave confirmed that all parties were sent an Order of Enforcement via Certified Mail, Signed Receipt. When considering the Finding of the Facts in each case, the board can affirm, modify or rescind. The property owners will then be sent the Finding of the Facts with a 10 day appeal period after which time, the process will go to the Adams County Courts.

Hearing One 405 Maple Street.

ORDER OF HEARING AUTHORITY
UNDER THE UNSAFE BUILDING ORDINANCE OF THE
CITY OF BERNE, INDIANA

Date of Hearing: January 15, 2020 at 8:00 a.m. EST

Address of Property upon which the Enforcement Authority's Order was made:

405 Maple Street
Berne, IN 46711

Legal Description of Property: 34th Add EX N 49' Lot 331 & Tri Pt Vacated Jackson St Extension Ex N 49' Sect 33.

Owner of Property: Amelot Properties LLC
4016 Gosnold Avenue
Norfolk, VA 23508

**Service to Owner of Property: By Certified Mail, Return Receipt Requested,
Signed for on 12/6/2019**

Description of Violation as Set Forth in Enforcement Authority's Order:

Upstairs windows are broken; Probability of water in basement since electricity is off; Front door is open frequently; Police have had to have children removed from the property (attractive nuisance); Vermin and pests have easy access; City was forced to have the property cleared due to grass in excess of ordinance; City has had pest control remove bees from going through broken windows upstairs and attacking people passing by; Water has been off since September 11, 2014, and due to this, the house is not inhabitable and has been condemned by the Adams County Health Department on May 22, 2019.

Enforcement Authority's Order of Required Action:

The front door must be in working order and locked; Water needs to be turned on or it is not habitable; Windows need fixed; Yard needs to be maintained; If there is water in basement, it needs to be pumped and any mold issues resolved; Electricity turned back on to pump basement if there is a sump pump required.

Date Upon which the Required Action is to be Completed: On or Before February 4, 2020.

Dave stated that the property at 405 E Maple had been purchased by AMELOT as a foreclosure. Shannon Smitley confirmed that he did his inspection visually and did not enter the house. Clerk Treasurer Gwen Maller did say they have been delinquent on their water bill and there are liens on the property. When asked by Ron Dull if we can proceed, Shannon and Dave both reported that AMELOT had not contacted either Dave or Shannon after receiving the letter.

With no comments from the public, the board went through the Finding of the Facts for 405 Maple Street as follows:

FINDINGS OF FACT

1. It is the finding of the Hearing Authority that there **is** a violation of the City of Berne's Unsafe Building Ordinance as set forth in the Description of Violation in the Enforcement Authority's Order. If the Hearing Authority finds that the Description of Violations in the Enforcement Authority's Order shall be corrected by additions or reductions, these corrections are as follows:
2. It is the finding of the Hearing Authority that the Enforcement Authority's Order shall be **affirmed**. If the Hearing Authority finds that the Enforcement Authority's Order shall be modified, the modification of the Order is as follows:
3. If the Enforcement Authority's Order is either affirmed or modified, the Hearing Authority **does/does not** include a civil penalty for the willful failure to comply, and if so, the civil penalty is in the sum of \$ N/A (not to exceed \$5,000).
4. If the Enforcement Authority's Order is either affirmed or modified, the Hearing Authority **does not** require the owner to furnish a performance bond as a condition to receiving an

extension of time (only if the Hearing Authority had previously adopted a schedule at a public hearing).

5. If the Hearing Authority finds that the Enforcement Authority's Order shall be either affirmed or modified, the Hearing Authority does hereby issue a Continuous Enforcement Order.

It is therefore the decision of the Hearing Authority Under the Unsafe Building Ordinance of the City of Berne as set forth above.

Dated: January 15, 2020.

CITY OF BERNE UNSAFE BUILDING HEARING AUTHORITY

Gregg A. Sprunger

Ronald N. Dull

Curtis L. Wurster

Hearing Number Two: 755 S Harrison Street. Dave advised the board that the City has been working with Mr. Snyder at his 755 S Harrison residence to resolve the problem of a large water leak. Water had been shut off at the property for lack payment, but Gwen Maller reported that Mr. Snyder is no longer past due, but because there was still a big leak after Mr. Snyder thought repairs and been made, water was turned off at his request and it is still off and he has not asked for it to be turned back on. Dave explained to the board that because there is no potable water available to Mr. Snyder at his residence, it is considered uninhabitable and the same rules of enforcement apply. The Adams County Health Department made several attempts to speak with Mr. Snyder at his residence, but there was no response at the front door.

**ORDER OF HEARING AUTHORITY
UNDER THE UNSAFE BUILDING ORDINANCE OF THE
CITY OF BERNE, INDIANA**

Date of Hearing: January 15, 2020 at 8:00 a.m. EST

Address of Property upon which the Enforcement Authority's Order was made:

755 S. Harrison Street

Berne, IN 46711

Legal Description of Property: Lot 830 in the 34th Addition to the City of Berne, Indiana.

Owner of Property:

Clay Snyder

755 S. Harrison Street

Berne, IN 46711

***Service to Owner of Property: By Certified Mail, Return Receipt Requested,
Signed for on 12/11/2019***

Description of Violation as Set Forth in Enforcement Authority's Order:

Water has been turned off since December 21, 2018. The house is not inhabitable without water service.

*Enforcement Authority's Order of Required Action:
Water must be turned back on in order for the house to be habitable.*

Date Upon which the Required Action is to be Completed: On or Before February 4, 2020.

With no comments from the public, the Finding of the Facts were considered for 755 S. Harrison as follows:

FINDINGS OF FACT

- 1 It is the finding of the Hearing Authority that there **is** a violation of the City of Berne's Unsafe Building Ordinance as set forth in the Description of Violation in the Enforcement Authority's Order. If the Hearing Authority finds that the Description of Violations in the Enforcement Authority's Order shall be corrected by additions or reductions, these corrections are as follows:
 2. It is the finding of the Hearing Authority that the Enforcement Authority's Order shall be **affirmed**. If the Hearing Authority finds that the Enforcement Authority's Order shall be modified, the modification of the Order is as follows:
 3. If the Enforcement Authority's Order is either affirmed or modified, the Hearing Authority **does/does not** include a civil penalty for the willful failure to comply, and if so, the civil penalty is in the sum of \$ N/A (not to exceed \$5,000).
 4. If the Enforcement Authority's Order is either affirmed or modified, the Hearing Authority **does not** require the owner to furnish a performance bond as a condition to receiving an extension of time (only if the Hearing Authority had previously adopted a schedule at a public hearing).
 5. If the Hearing Authority finds that the Enforcement Authority's Order shall be either affirmed or modified, the Hearing Authority does hereby issue a Continuous Enforcement Order.

It is therefore the decision of the Hearing Authority Under the Unsafe Building Ordinance of the City of Berne as set forth above.

Dated: January 15, 2020.

CITY OF BERNE UNSAFE BUILDING HEARING AUTHORITY

*Gregg A. Sprunger
Ronald N. Dull
Curtis L. Wurster*

2020 Regular Meeting Schedule On a motion by Ron Dull and a second by Curtis Wurster, the board unanimously approved to continue to meet on the third Wednesday of each month at 8:00 am on a vote

of 3-0.

Communications Mayor Sprunger updated the board that he is currently looking into other internet providers to improve service to City Hall, update to our current website and publishing software. Mayor Sprunger said that once costs and additional information is available, including enhanced cyber security options, he will bring this back to the Board of Works.

With nothing further to discuss and on a motion by Ron and a second by Curtis, the meeting was adjourned on a vote of 3-0.