

BOROUGH COUNCIL SPECIAL MEETING
JUNE 28, 2017
7:00 PM

The June 2017 the Borough Council Special Meeting was conducted on Tuesday, June 28, 2017 at 7:00 P.M. The Meeting was held in Borough Council Chambers, 2nd Floor, 304 South State Street, Borough of Clarks Summit, County of Lackawanna and Commonwealth of Pennsylvania. Council members in attendance were Gerrie Carey, Mr. Dominic Scott, Mr. David Jenkins, Mr. Frank Besten, Mr. Patrick Williams, Mr. Vincent Cruciani, Borough Manager Virginia Kehoe, Mayor Johnson, and Solicitor Rogan. Absent from the meeting was Bob Bennett.

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| <p>1. WORKSESSION:</p> <p>2. PUBLIC COMMENT</p> | <p>President Carey</p> <p>President Carey</p> |
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- **ARWA Intermunicipal Committee Agreement – Harry Jenkins:** Ms. Kehoe stated that in the beginning of January 2017 she sent a letter to all of the restaurants in the Borough requiring that they supply Ms. Kehoe with a report on the disposal of grease. Ms. Kehoe did receive 5 reports and 2 restaurants that did not need a grease trap and all of the other restaurants ignored the letter. Mr. Jenkins stated that they formed a Liaison Committee. That includes himself, Attorney Dave Rinaldi from Clarks Green and Attorney Don Jensen from South Abington. He discussed managing the EDU's and what they are in each municipality; there should be a uniform way of doing this. No one is following through on the inspection of the grease traps. In a year the borough could get out of this agreement that was drafted. Ms. Kehoe stated that the only obligation is that they nominate somebody for the committee that is what they are agreeing to in signing the agreement. The committees would write the standards and then go back to the municipalities and if they were all on board then we would adopt the standards. Vince Cruciani asked if the authorization under the sewer committee allow for, if funds were available, the hiring of a person to enforce the ordinance as applicable to the sewer committee. Mr. Jenkins stated that he knows the board would prefer that to happen but the municipalities would have pass their authority on to manage that, or they would have to put it in the budget. Herman Johnson stated that if you don't have someone to enforce it then this agreement is no good. Vince Cruciani stated that the director of the plant should also be on the committee because you need to have a person on there who will be able to give some real time answers, or she should be able to come to these meetings. The chair of the committee would be someone from ARWA, they are a neutral group. Pat Williams asked about the director, would she have a vote? Not sure yet. David Jenkins suggested that the name be changed to Regional Cooperation Committee Agreement since it is coming from ARWA. Vince Cruciani stated that this is another reason why we need municipal consolidation. David Jenkins stated that the logical thing for the borough to do would be to review the ordinance then leave it up on the regional wastewater authority to do the initial

investigation and follow through if there are businesses that are not following what the ordinance says. This will be put on the agenda.

Herman Johnson stated that Alexis Cerchione is the new police officer. She is from NJ and went to the U of S, Bach in criminal justice and psychology. She graduated last May. Went to the Police Academy and graduated. She has all of the qualifications and certifications needed. Frank Besten stated that she is very well qualified, very impressed, and she will be a compliment to the borough. Mayor Johnson thanked council the opportunity to hire her as a part time police officer.

- **FEMA flood mapping – Electric St – Don Julian:** Mark Stuenzi stated that since last month's meeting they did a number of calculations to get a better idea on the impact of raising the elevation on a portion of the site under FEMA supervision and make changes in the approach that will minimize any impact. One concern was the aesthetics of the land if one portion was raised. Raising the elevation would improve the looks of this property aesthetically. Vince Cruciani stated that that this will be set back, they agreed it would be 70 feet. Try to minimize the amount of fill in the flood plain. When it comes to velocity, in a 100 year flood event, it will raise that are 2 1/8 inch that would be the immediate impact. Once you go further the velocity dissipates. Vince Cruciani asked if the 2 1/8th inch analysis extend into the channel that runs under the road and onto the north side of electric. With the 100 year estimation it would over top the road by that point anyway. Mayor Johnson stated that the water has already overtapped the road plus a little garage on the side and they are talking about a 100 year storm. The rain that has come down already is less than 100 year flood and it has flooded that area and that was his concern. This is about the rain that is coming down that is flooding the property. The plan changed so that the fill is now just where the house is so that you can build a house without being in the flood plain. He has reduced the fill by a little more than half. The amount of water displaced by raising the elevation is almost nonexistent in comparison to the total runoff in a 100 year flood event. Bob Naegele stated that not based on historical data because he hasn't seen what they have seen. Mr. Naegele stated that this does sound like it has a minimal impact. Mr. Naegele asked why couldn't the structure be moved further back. Mr. Julian stated that the further back from the street you get the higher you need to be so it's almost the same impact. Mr. Naegele asked what the house elevation would have to be back there. Mr. Naegele stated that the further back the house you can keep the same elevation and put less fill in the flood plain, so there is less of an impact. They will go back and look into that. Mr. Stuenzi stated that if you push the house too far back then you have no back yard. That would affect the aesthetics, the value or the usability of the property. Mr. Naegele does not disagree with that. Mr. Cruciani stated that as long as they have enough of a back yard to have a plausible back yard, the houses are not on top of it where the back yards converge. It wouldn't have a detrimental impact to push the house back a little. Mr. Naegele stated that aesthetically they will have one house further back so maybe there is a middle ground. Mr. Stuenzi stated that if they can move it back some without having to all the way to the setback that would still impact the flood plain but minimally it would decrease it. Given all of the information, even in the existing position the impact won't be an impact that could be measured anymore downstream. Mayor Johnson stated that he has heart burn when a resident comes to him and says that they just got flooded again and it's not even a 5 year flood. Bob Naegele stated that there is no solution that is going to get them out of that danger. Mr. Stuenzi stated that he

would like to get this on the agenda for next week. Bob Naegle said to let them consider moving the house back if they can because it helps the cause but he thinks the impact is on a lot of rain events and he doesn't know if that will change or not. Mr. Naegle stated that every little that tops that pond, they have been dealing with this since 2011. The pipes were replaced, but there is so much water there. Pat William's concern is that this will make it worse. Mr. Naegle stated that he doesn't think that it will make it worse. David Jenkins asked to put this on the agenda.

- **Heart & Lung Policy:** Herman Johnson asked if the union was informed of this and Ms. Kehoe said yes she forwarded a copy to them.
- **Florence St – bid review:** Ms. Kehoe stated that we were hoping for a vote next week to get approval for Koberlein to go and jet the three pipes under Florence Street. The pipes are half full; the DPW will work to clear a path for them. We do have the easement from Kane. Koberlein's prices were \$2,500 to \$3,000 and she reached out to a couple of other firms, they were way out there. Ms. Kehoe said if this is approved then we can wait for some dry weather, the Public Safety Committee suggested August. Vince Cruciani suggested being prepared to do this as soon as possible because you might get three dry days in mid-July then 2 weeks of rain. Mr. Cruciani wants them to have the flexibility. Ms. Kehoe stated that Koberlein is waiting on approval from the borough to move forward.
- **Barberry – Stormtree Recommendation:** Ms. Kehoe stated that David Jenkins, Bob Bennett and Bob Naegle and they met with Helene Magnotta and Nettie Goldstein they discussed options and expenses. David Jenkins stated that the borough can put in this storm tree and it would work hand in hand with the system if we needed to put it in at a later date. We have a list of recommended trees for this area. Mr. Jenkins also stated that the roots from these trees will not infiltrate the sewers. The tree would be in the right of way off the road because there are no curbs or sidewalks. This will cost around \$20,000 with the work being done by a contractor. They would like to do this in the fall. Mayor Johnson asked where the water is coming from. David Jenkins said on Barberry. Mayor Johnson asked if it is on private property or Barberry. Mr. Jenkins said that is up for debate, it all depends how you look at it. Mayor Johnson stated that if it is on someone's property, are we spending taxpayer's money to correct someone's private property, if it is in the right of way or in the street then it is the borough's problem and we would have to correct that. As a taxpayer he would like to know where the problem really starts. Frank Besten stated that he thinks the problem started when the roads were laid out and nobody ever put storm drains in that road and it was poorly designed years ago. Mr. Besten completely agrees with Mr. Jenkins that this needs to be corrected. Vince Cruciani asked if there was a One Call to see if there is a gas line in this area. Ms. Kehoe stated that the gas lines are on the other side of the road. Ms. Kehoe stated that this is a drain with a box with a tree and then a detention system so it can hold quite a bit of water. Half of the box will be filled with dirt so the tree can be rooted. It is a 5 x 7 foot box. Ms. Kehoe stated that this underground detention system is now common practice, not the tree part though. Vince Cruciani stated that his only issue is are they going to be able to come up with \$20,000 by October or will they have to wait until April of next year. That needs to be looked into. Mr. Cruciani stated that the money is there in the sewer fund, they need to double check the projections. They would be putting in one tree and this is projected to be done by a contractor not the DPW. Ms. Kehoe stated that if this works we have other areas in the borough that are

low spots where there is no place to take the water, this is a good experiment for us. Pat Williams stated that he can't believe what he is hearing tonight. Mr. Williams asked why we are paying \$20,000 that is crazy, did anyone see where the water is coming from. What if it is from the house on the corner with a sum pump, that is not our responsibility. Mr. Williams stated that he has dug two dry wells in his yard to take water from his down spouts. Mr. Williams asked if anyone checked with the water company to see if there are any leaks, Ms. Kehoe said yes and there are no leaks. Ms. Kehoe stated that there was a presumption that the water was coming from sump pumps and Nettie Goldstein thought it was from an underground water table. Mr. Williams asked how she knows this. Ms. Kehoe stated that it is her yard; she can't find any place where it is coming from. Mr. Williams stated that somebody ran the pipes out in the street, find out whom and tell them it is their responsibility. There are white pipes. Nettie believes that the problem is not from any water coming from those pipes. Mr. Williams asked why the borough is going to pay that amount of money for someone else's water that is ridiculous. Mr. Cruciani stated that it is sub-terrainian, it is a spring. Pat Williams stated this terrible, we will be spending \$20,000, Mr. Cruciani said \$10,000, and Mr. Williams said we can't do that because the DPW does not have the time. Mr. Cruciani stated that part of their agreement says that they have to work overtime when we tell them to. Mr. Williams stated that they are not going to do that and Mr. Williams commented that on Winola Road the weeds are 4 feet high because they didn't do it this year. Mr. Cruciani said that Winola Road is a state road. Mr. Williams stated that the DPW has always done it. Mr. Williams stated that all of a sudden the DPW has time to do this. Mr. Cruciani stated that Winola Road is a state road and the area in question is private property. Mr. Williams stated that he built dry wells and that solved the water issues on his property. Vince Cruciani stated that Pat's issue was with the rainwater on his property but this is a completely different issue. The issue on Barberry is sub-terrainian water coming up, if the water is up where it is, you can't dig a hole next to it. There is no evidence to show that it is anything other than sub-terrainian water. Pat Williams said that he doesn't understand why another council member was laughing at this. Mr. Cruciani stated that he is laughing at how obstinate Mr. Williams is being. Mr. Williams stated that this should be their (resident on Barberry Street) responsibility not the boroughs. Don't dump this off on the borough, \$10,000 or \$20,000 this is ridiculous. Vince Cruciani asked how it became the borough's responsibility to light Primrose and Bissell, but now that we have water on Barberry, pooling in an area where it is icing, somehow it isn't our responsibility. They are either both the borough's responsibility or there are both not the borough's responsibility. Pat Williams stated that he has no more on that. Mr. Cruciani stated that is because he called Mr. Williams out on his logic. Mr. Williams asked if that made Mr. Cruciani feel better. Mr. Cruciani stated that it did because Mr. Williams was all about lighting Bissell. Bob Naegele stated that when he was on Barberry, it was a wetter time of the year the water was either ground water or sum pump related coming out by the tree and the fence. There was a pipe discharge but he didn't see it kick on. Bob Naegele stated that the white pipe is probably coming out of someone's foundation or basement. Bob Naegele stated that it could be a combination of the two and you would probably spend more time there watching the situation. Vince Cruciani asked if you can legally cap the pipe if it is in the right of way. The pipe is

not in the right of way. David Jenkins asked to move it ahead to the agenda for a vote next week.

Bob Naegele stated that he and Virginia Kehoe were looking through the files to find the latest bridge inspection and they found that they Penndot inspects the bridges every 2 years. The 2016 report shows some cracking underneath, they do not site any weight restrictions so basically it is business as usual on the Knapp Road Bridge. They did address the expansion joints and the cracking and said it is a maintenance issue and they weren't concerned about it. They want the deck sealed and that is something that is cost effective that the borough could do. But he doesn't want the borough out there doing work that they are not responsible for. The borough does own that bridge. He doesn't know if the sub structure is the borough's responsibility, you have to read the agreement. Ms. Kehoe will try to get a copy of the agreement. The railroad may be involved. They discussed the expansion material. Mayor Johnson asked Mr. Naegele if he ever got a punch list for Depot Street. They have not. Pat Williams stated that the one deck on the bridge has lots of chips out of it from the plow hitting it, why is that higher than the other. Mr. Naegele will check on that. There are two decks that are bad now. Pat suggested having the plows just go one way. David Jenkins suggested raising the road paving it. It is in the middle.

- **DPW staffing:** Ms. Kehoe put a posting on Career Links. David Jenkins asked what we were looking for. Ms. Kehoe said a permanent part timer with a CDL for the DPW.
- **Ordinance 2017-01 – zoning amendment – ad not run:** Ms. Kehoe stated that this will be on the agenda for August for a hearing and a vote.
- **Ordinance 2017-02 – smoke free zones:** Ms. Kehoe stated that this is for all parks and playgrounds. Vince Cruciani stated that the factual discrepancy was if we had an ordinance already. Ms. Kehoe stated that we do not have an ordinance; we have a policy that we have adopted. The Young Lungs at Play policy. Ordinance 2017-02 if approved would make it a law. Herman Johnson stated that Veteran's Park is singled out because when they did this policy Veteran's Park wasn't even started. Vince Cruciani stated that he doesn't think this can be enforced. Mr. Cruciani stated that he thinks in open public places, outside of school zones that can be enforced. Gerrie Carey stated that they haven't seen residents come and complain about any smoking in the parks. Mayor Johnson stated that they don't come because it is too hard to enforce. Have the Solicitor check on this. Ms. Kehoe stated that if we don't want to consider this then why have the Solicitor look into it. David Jenkins stated that he thinks it is a good idea to adopt it because then it would stop some of the juvenile delinquency that is going on in the parks. Mr. Cruciani stated that state law has changed where you used to not be able to arrest a juvenile for smoking under age, just purchasing. State law now says you can arrest them. David Jenkins stated that this would add a little bit of teeth to it. Mayor Johnson stated that there have not been any calls to the police department about smoking or through comm center. Vince Cruciani stated that he doesn't understand the issue with chewing tobacco. David Jenkins said when they remove the chewing tobacco that is littering. Mr. Cruciani stated that he would be fine with making a heavy fine for cigarette and cigar butt littering. Mr. Jenkins stated that there is a \$300 fine for littering in PA. Mr. Jenkins stated that this ordinance would go a long way to show that we are a smoke free town in our parks. Mr. Jenkins stated the he knows that the Mayor doesn't agree but they

are the ones who make the legislation not the Mayor. He can have his input. Frank Besten stated that what he is worried about is that in some of the parks, parents and kids are there and there are also the people smoking. This produces second hand smoke. He agrees with David Jenkins. Mr. Jenkins would like it on the agenda. Ms. Kehoe stated that they should have Solicitor Rogan look into this and if he thinks this is something enforceable then they can vote to put it on the August agenda because we would have to advertise first. Mayor Johnson stated that Mr. Jenkins is wrong because he does have a say in this and for all times for one simple reason, the Mayor has to break any council vote that is a tie. Mayor Johnson stated that as Mayor he does have a say in every conversation for the safety of our residents. Mayor Johnson stated that they should get a copy of the duties of the Mayor stating that they don't even know the duties of a councilman. David Jenkins stated that he doesn't want to know Mayor Johnson's duties; it is none of his business stating that the Mayor has to comment on everything said here. Mayor Johnson said that you better believe it. Vince Cruciani stated that this is pretty broad stuff, this is not a school, and we are not children. Mr. Cruciani stated that he is going to vote no on passing this no matter what. He'll buy the logic of the argument for second hand smoke and for littering. For someone chewing tobacco and spitting it in a cup, you can't construe that in any way of hurting somebody else and for the e-cigarette's where there isn't tar for going into a second hand person's lung how can you construe that as hurting someone. This will be on the worksession, wait for Solicitor Rogan's opinion.

- **Resolution 2017-13 re: adopting MS 4 procedures:** Ms. Kehoe stated that Council has never formally adopted the MS4 procedures.
- **Resolution 2017-14 PPL Conversion:** PP & L wants a Resolution for the conversion to LED lights.
- **Senior Center Windows – sharing of costs:** Ms. Kehoe stated that there are two windows where trim around the window was lost and the wood underneath is rotted. The cost comes out to \$2,700 and it would be 4 to 6 week order waiting for all the parts to do the repairs. It would be \$1,350 if we split it with them.
- **Tree Maintenance Responsibility:** Mr. Cruciani stated that if you have a paper alley one of two things exist. If the borough has a stormwater easement over a paper alley, does the borough essentially take ownership because the stormwater easement was put over the paper alley? There is one on his paper alley that has ½ dozen ash trees and they are going to die. Mr. Cruciani wants to talk to Solicitor Rogan about this. Who in this area bares this responsibility? This is tabled for now.
- **MS4 update:** Ms. Kehoe stated that the MS4 report is due by the end of July. It is 99% done. The Engineers did do the entire mapping of our storm water system. We do have to have a 45 day comment period that we advertise for residents to review and provide comment to our plans. That has to be completed by the middle of September so we will have to place an advertisement to have the 45 day period. The engineer has written the advertisement and after review that can go in the paper. Frank Besten said he would like to get the information on what the borough has already done and intends to do.

Mayor Johnson discussed Knapp Road saying that the police have spent 27.5 hours of traffic watch on Knapp Road, they have issued 6 regular citations and they issued 20 warning citations. They will keep up with the patrols.

3. REVIEW OF JULY 5, 2017 AGENDA

4. ADJOURN: **President Carey**
Council went into executive session.