

**BOROUGH OF CLARKS SUMMIT
BOROUGH COUNCIL MEETING
MARCH 6, 2019**

The February 2019 Borough Council Meeting was conducted on February 6, 2019 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 Ms. Gerrie Carey, Mr. Frank Besten, Mr. Dominic Scott, Mr. Vincent Cruciani, Mr. Patrick Williams, Police Chief Yarns, Mayor Johnson, Solicitor Kevin Hayes, and Borough Manager Virginia Kehoe. Mr. David Jenkins and Mr. Bob Bennett were present by speaker phone.

CALL TO ORDER: **President Carey**

MEDITATION: **Mayor Johnson**

PLEDGE OF ALLEGIANCE: **Mayor Johnson**

1. APPROVAL OF AGENDA:

Dominic Scott made the first motion to approve the agenda, seconded by Frank Besten. On the question, Bob Bennett stated that in no way is he questioning Ms. Carey's authority to do reorganization, but for the record he is both upset and offended by the way this is being done and therefore on the agenda he will vote no. Roll call vote: Vince Cruciani voted no, Frank Besten voted yes, Dominic Scott voted yes, Gerrie Carey voted yes, Pat Williams voted yes, David Jenkins voted no and Bob Bennett voted no. The vote was 4-3 in favor of approving the agenda.

2. APPROVAL OF MINUTES: **President Carey**

- **January 30, 2019 Work Session:** Frank Besten made the first motion to approve the minutes, seconded by Dominic Scott. Roll call vote: Vince Cruciani voted no, Frank Besten voted yes, Dominic Scott voted yes, Gerrie Carey voted yes, Pat Williams voted yes, David Jenkins voted no and Bob Bennett voted yes. The vote was 5-2 in favor of approving the minutes.
- **February 6, 2019 Regular Council Meeting:** Dominic Scott made the first motion to approve the minutes, seconded by Pat Williams. Roll call vote: Vince Cruciani voted no, Frank Besten voted yes, Dominic Scott voted yes, Gerrie Carey voted yes, Pat Williams voted yes, David Jenkins voted no and Bob Bennett voted no. The vote was 4-3 in favor of approving the minutes.

3. PUBLIC COMMENT & INPUT: **President Carey**

Walter Savitts, 404 Haven Lane, was under the impression that the reorganizations usually happen in January. Solicitor Kevin Hayes stated that under borough code, Council is required to have reorganization at the first meeting every two years in January, after the municipal elections. That is when they are required to be done. Mr. Savitts asked why there was reorganization tonight. Solicitor Hayes stated that the borough code says that the president and the vice-president serve at the pleasure of Council. Mr. Cruciani stated that he believes Mr. Savitts is asking why the reorganization is happening and the Solicitor cannot answer why because it is a

political answer. Mr. Savitts was wondering why this was happening so late in the year and Gerrie Carey stated that they would be getting into that later in the meeting.

Gerard Hetman from the Lackawanna County Commissioner's Office addressed Council with information about Lackawanna County.

Betty Horrocks, 624 Sunset Street, asked for clarification on the reorganizational meeting happening. Ms. Horrocks asked if the two Council members not present at the meeting physically get a vote. The answer was yes because they called in on speaker phone and did so from the beginning of the meeting.

National Running Center: Ryan Siebecker and Suzanna Hainey discussed the run which was named the Clarks Summit Patriot Mile. They discussed the details and provided maps for Council. The date is May 25th. They reworded the route to avoid State Street altogether. Pat Williams made the first motion to approve the event, seconded by Frank Besten, vote was 7-0.

4. POLICE REPORT:

Mayor Johnson

Chris Yarns did get in increase in the Aggressive Driving budget. That starts March 18th. They can now be on any street in the borough that they would like. They are going to focus on school bus enforcement also. David Jenkins asked if they could work with South Abington Twp. with the school buses. Chris Yarns said yes they could. Frank Besten complimented Officer Gibbons. The officer reminded a resident to close his garage door, and the man was very thankful.

5. BIDS & QUOTATIONS:

President Carey

- **Borough Building Bids – open:** Ms. Kehoe stated that we did not receive any bids on the borough building. David Jenkins suggested that this be tabled for 90 days. David Jenkins made the first motion to not take any further action with regard to the borough building for 90 days, seconded by Bob Bennett. On the question Vince Cruciani quoted Highland Associates through AJ Guzzi said that a complete remodeling of the building, which would essentially turn it into a deluxe addition was \$890,000. But what was not quoted was the budget cost for a new building under AJ Guzzi's quote was \$2,000,000 which does not include earth work. We did not get a hard quote on the Convenient Food Mart building, which was soft quoted at around a half of a million dollars not including any upgrades, site work or a full inspection. Roll call vote: Vince Cruciani voted yes, Frank Besten voted yes, Dominic Scott voted no, Gerrie Carey voted yes, Pat Williams voted no. Pat Williams asked why they were doing this, waiting the 90 days. Mr. Cruciani stated that Councilman Williams was out of order and Council was in the middle of a vote. Solicitor Hayes stated that the Councilman's concerns should have been raised during the question. Pat Williams voted no, David Jenkins voted yes and Bob Bennett voted yes. The vote was 5-2 in favor of approving no action for 90 days.

6. BOROUGH TREASURER'S REPORT

President Carey

Frank Besten made the first motion to approve the Treasurer's Report. Virginia Kehoe asked if David Jenkins or Bob Bennett wanted the report read off to them as they were on speaker phone. Mr. Cruciani asked as a point of clarity if the report was emailed to Council. Ms. Kehoe said no. Bob Bennett stated that he is willing to waive the reading of the Treasurer's Report. David Jenkins also is in favor of that. Ms. Kehoe stated that there is a not included stating that the Debt Service is paid off as of February 8th. The motion was seconded by Bob Bennett. On the question Vince Cruciani stated that he will be voting no because he didn't see this report before that evening. Vince Cruciani stated that he thinks any document should be presented to Council at least 24 hours before the meeting. Ms. Kehoe stated that officially she cannot always guarantee that we would have the document 24 hours in advance. The Treasurer works every other day and we have months where the meeting is the first day of the month. Mr. Cruciani stated that is the Treasurer's issue to deal with if she wants her report passed; for his vote. The vote was 6-1 with Vince Cruciani voting no.

7. COMMITTEE REPORTS:

- **Building & Plant**

Pat Williams, Chair

Pat Williams asked Virginia Kehoe about the roof. Ms. Kehoe stated that they can't do much until the weather changes. Mr. Williams stated that Penndot won't be ready until the end of the month. He will be meeting with Tom Carter concerning projects to do for the borough.

- **Finance Committee**

Dominic Scott, Chair

- **Grant Committee**

Dave Jenkins, Chair

- **Recycling Committee**

Bob Bennett, Chair

Shred Fest is April 27th, 9-12 at CSE. Bob Bennett stated that he and David Jenkins absorbed the cost of the additional numbers to add to the signs that advertise for the Shred Fest. It should cost the borough nothing.

- **Insurance Committee**

Vince Cruciani, Chair

- **Personnel Committee**

Gerrie Carey, Chair

- **Public Safety/Safety**

Pat Williams, Chair

Pat Williams stated that there is a lack of lighting at Lackawanna Trail and Winola Road. There are PPL poles there. Ms. Kehoe stated that they need a motion to authorize her to get a new light. David Jenkins made the first motion to authorize Ms. Kehoe to move forward, seconded by Frank Besten. They could have up to 2 lights. The vote was 7-0.

- **Recreation**

Dominic Scott, Chair

Vince Cruciani asked Dominic Scott when the warranty plantings or any additional plantings to occur at Carnation Park for the grant program. Dominic Scott asked Ms. Kehoe if she knew. Mr. Cruciani stated that he was trying to reach the accountable party (Dominic Scott). Mr. Cruciani asked if Mr. Scott knew about the stormwater plantings (part of the conversation was inaudible). Mr. Scott stated that he is not aware. Ms. Carey stated that she is sure that the plants that did go in were warranted. Ms. Kehoe stated that they would have to assess the situation once the weather turns. We can have the DPW and Josh Arp, the arborist there also. Frank Besten stated that what was planted last year should double or triple in size and there are not too many spots that have to be filled in. Vince Cruciani asked Virginia Kehoe asked if the swing set was completely scrapped. The answer was yes. Vince Cruciani made the

first motion to have the Borough Manager explore pricing for a swing set to be put at Lewis Lane Park, a double swing, seconded by Dominic Scott, vote was 7-0.

- **Sewer Billing** Dominic Scott, Chair
Jenn Basalyga provided a report for sewer billing. Ms. Kehoe stated that there are 10 shutoffs currently. We notified the water company of another 7 that may need to be shut off.
- **ACOG Representative** Frank Besten/Gerrie Carey/Dom Scott – COSTARS salt contract: Ms. Kehoe stated that the delivery of the salt has been a continuous problem. She has a letter prepared for this. They can bring it to the ACOG meeting. Ms. Kehoe stated that the DPW doesn't have adequate storage to warehouse 3 weeks' worth. We could end up with too much salt to store, depending on the weather. Gerrie Carey stated that she and the DPW discussed putting in the budget for a new salt storage shed at the DPW.
- **Building plans committee** Gerrie Carey/Frank Besten/Pat Williams
- **LCAB - COSTARS salt contract** Patrick Williams
- **SAPA** Dave Jenkins
- **Additional comments from Council**

8. VENDOR PAYMENTS TO BE RATIFIED: **President Carey**
Dominic Scott made the first motion to ratify the vendor payments, seconded by Frank Besten, on the question Vince Cruciani asked if this was emailed, the answer was yes. The vote was 7-0.

9. OLD BUSINESS: **President Carey**

- **National Running Center – Susanna Haines**

10. NEW BUSINESS: **President Carey**

Ordinance 2019-01 Handicapped Parking: Frank Besten made the first motion to accept Ordinance 2019-01, seconded by Pat Williams. Bob Bennett thanked Frank Besten and Pat Williams for working on this, he appreciates their effort. Vince Cruciani asked how many parking spots we have in the borough. Virginia Kehoe believes it is about 140, but she was not positive. Mr. Cruciani stated that it was his understanding with 5 years on Council that we have a major parking shortage in the Borough and he thinks that is generally accepted. What Mr. Cruciani sees is a very strong example of government finding its way to involve itself in private citizen's lives in a way that it doesn't need to. Mr. Cruciani stated that in the last 5 years we have had no one come in and ask for additional handicapped parking spaces from the elderly or groups that would advocate for handicapped spaces. They have received particular requests which were addressed on a case by case basis after there was a safety evaluation and an economy evaluation. What he sees is an example of people in government finding a way to further take away a shortage of parking spaces that could be accessible to handicapped and non-handicapped people, but with no demand from the public, from individuals from the public. Therefore he will be voting no. Roll call vote: Vince Cruciani voted no, Frank Besten voted yes, Dominic Scott voted yes, Gerrie Carey voted yes, Pat Williams voted yes, David Jenkins voted yes and Bob Bennett voted yes. The vote was 6-1 in favor of approving motion.

- **Resolution 2019-05 CDBG Agreement:** Solicitor Kevin Hayes stated the issues that he had raised with the agreement, namely that there is language in the proposed agreement that said if there was ever a cost over the contracted amount, the borough would be responsible for that. He stated that there wasn't clear enough language to his satisfaction that if there was ever a claim by the contractor that the county would indemnify the borough to protect us. The county has not agreed to make those changes so he is going to request a meeting with their solicitor. The borough solicitor recommends that this be tabled. Bob Bennett tabled this until the April meeting, seconded by David Jenkins. Vince Cruciani stated that this doesn't need to be tabled because there was no action taken on it. It can simply be moved to the next agenda. Solicitor Hayes agreed.
- **2019 CDBG Monies:**
- **Resolution 2019-06 JAG Resolution:** Ms. Kehoe stated that the Chief is looking to apply for a JAG Grant to purchase two more speed sentries. The applications are due by March 28th. The Chief is asking that Council vote to approve this resolution authorizing him to complete the application and to be the signer on it. David Jenkins made the first motion to accept the Resolution, seconded by Frank Besten. Vince Cruciani asked the mayor if there are other items that can be purchased under this grant or is it solely for speed sentries. Mayor Johnson stated that they have purchased other equipment with the same grant. Mr. Cruciani asked if they have looked at other equipment to purchase, the Mayor said yes. Mr. Cruciani asked what the other items were that the Chief presented to him. Mayor Johnson said that he doesn't have that information off hand but there were other items that the Chief was looking at, but the 1 speed sensor that we have now and it is outdated. The new ones that he is trying to get will calculate the speed and it will store data, if they have to prosecute down the road. David Jenkins stated that the lights are more visible and they are LED's. Mr. Cruciani asked if the purpose of this is just to inform drivers. Mayor Johnson stated that it has a few purposes and one of them is to inform drivers. It is a lot larger. Mr. Cruciani asked the Mayor if this is the best use of the funds. Mayor Johnson said yes definitely. Vote was 7-0.
- **Reorganization:** Dominic Scott made the first motion to make Frank Besten Council Vice-President, seconded by Pat Williams. Solicitor Hayes stated that for clarification the proposal on the table is a motion to replace Councilman David Jenkins the current Vice-President with Frank Besten. Bob Bennett asked if they would first have to have a motion to remove the Vice-President before he can be replaced. Solicitor Hayes stated that the connotation for removal is for removal from Council, but this is a replacement because Councilman Jenkins will still serve as a Councilmember. Vince Cruciani agreed that the Solicitor was correct. David Jenkins asked why the replacement is happening. He finds it very ironic as to why it's being done in March. He asked what transpired between January and March and why the replacement was happening. Mr. Jenkins stated that there were issues where Councilman Besten resigned and then retracted his resignation. Then the President made an apology to Councilman Besten and he doesn't know if this is in retribution to Mr. Besten that he be made Vice-President because he felt embarrassed at the meeting. Mr. Jenkins feels that he is owed an explanation. He is not in town to face his accuser and he feels that he is getting stabbed in the back. Mr. Jenkins stated that this seems to be happening more and more with the people sitting at the (Council) table. Solicitor Hayes stated that he can't give an

explanation as to why it is occurring. Under the borough code allows for the President and Vice President to serve at the pleasure of Council. David Jenkins asked if the proper way to do is would be to start with the President of Council, then go through the Vice President and so on, rather than single out, like Mr. Scott did, the immediate replacement of the Vice President. Mr. Jenkins stated that it seems to be a little vengeance coming from Mr. Scott which he finds hard to believe. Mr. Cruciani stated that in order to satisfy David Jenkins request, made a motion on the motion to incorporate the office of President into the vote and he nominated David Jenkins for Council President. Solicitor Hayes stated that the only issue with that is that there is a pending motion and if Mr. Cruciani wanted to make a separate motion. On the question, Vince Cruciani stated regarding the Vice Presidency, he wanted to reiterate for the record the February 8th letter from Frank Besten in writing, Mr. Cruciani read Mr. Besten's resignation letter. Mr. Cruciani stated that they have not received any official correspondence showing his retraction. Mr. Cruciani stated that he will be making a motion to accept this resignation after the next motion, furthermore he is concerned about putting someone in a leadership position that according to the October 29th minutes of the worksession said, when a private citizen was going to appeal adversely had in her behalf against the Borough, Kathy Roth, Mr. Cruciani quoted "She pushes, we push back." Mr. Cruciani stated that they are the government who is just there to deliver due process to our citizens, we don't push back, we seek the law and that is what leadership is. Bob Bennett stated that it was at Gerrie Carey's discretion to put this on the agenda, he had three questions. Who initiated this, what and why was this initiated and what is the rush. Mr. Bennett stated that the majority of council is up for re-election in November, if they want to get it done before then, can't they hold off until April so all parties can be present. Gerrie Carey stated that this opinion from the Councilmembers and she never got an opinion from Vince Cruciani, that were distraught with the respect that was shown to Councilman Frank Besten....Bob Bennett asked if these other Councilmembers have names. Ms. Carey said yes they do, Dominic Scott, Pat Williams and she talked to Frank Besten about coming back. Gerrie Carey stated that Frank Besten did get a lot of good correspondence from other people connected with the borough. Bob Bennett stated that on a personal basis he doesn't have any problem with Councilman Besten, he has been able to work with him and he appreciates his efforts. Mr. Bennett stated that he doesn't have a problem with Councilman Jenkins either. Mr. Bennett asked what the rush was. Ms. Carey stated that it is on the agenda, and they would do this that evening or it won't get done. They have a motion from Dominic Scott and a second from Pat Williams. Roll call vote: Vince Cruciani voted no, Frank Besten voted yes, Dominic Scott voted yes, Gerrie Carey voted yes, Pat Williams voted yes, David Jenkins voted no and Bob Bennett voted no. The vote was 4-3 in favor of the motion. Vince Cruciani nominated David Jenkins to Borough Council President, seconded by Bob Bennett. Roll call vote: Vince Cruciani voted yes, Frank Besten voted no, Dominic Scott voted no, Gerrie Carey was not able to vote, Pat Williams voted no, David Jenkins was not able to vote and Bob Bennett voted yes. The vote was 3-2 not in favor of approving motion. Vince Cruciani made the first motion to nominate Bob Bennett to President Protem, seconded by David Jenkins. Roll call vote: Vince Cruciani voted yes, Frank Besten voted no, Dominic Scott voted no, Gerrie Carey voted no, Pat Williams voted no, David Jenkins voted yes and Bob Bennett voted yes. The vote

was 4-3 not in favor of approving motion. Dominic Scott made the first motion to make Pat Williams Protem, seconded by Frank Besten. On the question Vince Cruciani asked Councilman Williams if he would recuse himself on all matters involving the police department as a conflict. If Mr. Williams does that and he is governing the meeting, then who will govern the meeting. Pat Williams stated that once they find out what the conflict of interest is. As a voting member of council, the only thing that he is not allowed to vote on (because his son is a police officer,) is finance. Mr. Williams stated that if that came up during one of the meetings he would recuse himself. Mr. Cruciani asked who would govern the meeting. Solicitor Hayes stated that he would have to research this issue. Mr. Cruciani stated that is a concern of his with Pat Williams being President Protem. Not because he would do anything wrong but because he wouldn't be able to govern. Mayor Johnson stated that if it came to an issue with financing, Pat Williams could table it. Vince Cruciani said, unless an emergency constituted the need. Solicitor Hayes stated that he may be able to recuse himself from the vote. Mr. Cruciani stated that if it was an executive session he would still have to reside over it. If the executive session involved finance regarding the police department then nobody would be able to govern the executive session. Solicitor Hayes stated that no one would be able to chair the executive session and that could be an issue. Roll call vote: Vince Cruciani voted no, Frank Besten voted yes, Dominic Scott voted yes, Gerrie Carey voted yes, Pat Williams voted yes, David Jenkins voted no and Bob Bennett voted no. The vote was 4-3 in favor of approving motion.

Vince Cruciani made the first motion to accept the resignation tendered on February 8th of Frank Besten from Borough Council. Ms. Kehoe stated that Frank Besten did give and letter and she did send it out, Vince Cruciani said there was an email but a letter was not attached. Ms. Kehoe stated that there was a letter from Frank Besten rescinding his resignation. Vince Cruciani stated that he withdraws his motion.

11. SOLICITOR'S REPORT:

Solicitor Hayes

- **Resolution 2019-07 Valvano Lawsuit Settlement:** Bob Bennett made the first motion to move ahead with the settlement, leaving the verbiage to the Solicitor with regards to the borough admitting no fault or no liability. Mr. Bennett made the motion to approve Resolution 2019-07 which allows the borough to release \$10,000, seconded by David Jenkins. Pat Williams thanked Solicitor Hayes for all the time he put in on this, many councilmembers agreed. Gerrie Carey stated that County Commissioner Pat O'Malley sat down with them and went over every single item, every option they had. A lot of time was put into this and thankfully they got the resolution resolved. Vince Cruciani thanked Pat O'Malley for doing the equivalent of taking ten dollars and congratulating us for not taking 20 dollars because that's what the county did in this instance. Mr. Cruciani stated that they basically took money from us that was the taxpayers money due to their inability to properly pay contractors through a grant process. Gerrie Carey stated that if this went to court it could have cost the borough more. Mr. Cruciani said that he gives Solicitor Hayes all the accolades. The vote was 7-0 in favor of passing the motion. Mr. Cruciani stated that he didn't mean what he said about a particular commissioner.

Solicitor Hayes stated that Councilman Cruciani has provided him with some information to address concerns that representatives from the Gathering Place have in insuring that their lease agreement with the Borough is fruitfully protected and recorded. The public record will show the Gathering Place on the deed with the borough.

Pat Williams asked about the ice carving on the side of the borough. The DPW will look at it, put a barricade around it.

12. CORRESPONDENCE:

- **Barbara Monick:** Sent a letter supporting the Gathering Place. Ms. Kehoe did receive 3 other letters in support.

Vince Cruciani stated that this reiterates the importance of strategically planning how they are going to repair this building in terms of structurally and major design issues rather than just aesthetics and in a way that is advantageous to the taxpayers. Bob Bennett asked Ms. Kehoe to write letters to the people that sent letters giving them possibly a copy of the deed which will include the Gathering Place. Solicitor Hayes stated that that will be public information.

- **Joe Grompone:** Mr. Grompone has an issue with a school bus which is parking in front of his home in front of his house every day. Ms. Kehoe stated that at this time there is nothing the borough can do, it is legal to park on a public street during the day. Mayor Johnson stated that he and the Chief have checked on this over the last 4 months. There is nothing that they can do because there is not a posting there. It is blocking the view a little bit but he is legally parked. They did talk to the gentleman and he will have the Chief talk to him again. Mayor Johnson suggested writing a letter to the school bus company, maybe they can have him park somewhere else.

13. EXECUTIVE SESSIONS:

President Carey

- **Prior-** February 27, 2019 Personnel
- **During-** None
- **Subsequent-** None

14. ADJOURN:

President Carey

Pat Williams made the first motion to adjourn, seconded by Dominic Scott, vote was 7-0.