

**BOROUGH COUNCIL SPECIAL MEETING
MAY 31, 2017
7:00 PM**

The May 2017 the Borough Council Special Meeting was conducted on Tuesday, May 31, 2017 at 7:03 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. Frank Besten, Mr. Patrick Williams, Mr. Vincent Cruciani, Mr. Bob Bennett, Mr. David Jenkins, Borough Manager Virginia Kehoe, Mayor Johnson, and Solicitor Rogan.

1. WORKSESSION: President Carey

2. PUBLIC COMMENT President Carey

Charlie Sandercock, ABPA President spoke to Council. Plans for a Summer Block Party, Friday, August 18th 5pm-9pm. In the fall on October 19th thinking of having a membership breakfast meeting, a Clarks Summit representative can go.

Patty Lawler thanked Council Bennett and the rest of Council for the \$200 donation to the Pocket Park. She also thanked the DPW for all of the work they have done to keep the park looking great. The Abington Civic League will be donating \$1,000 to provide electricity to the Pocket Park. Ms. Lawler asked Council's opinion. David Jenkins stated that it is not a bad idea to have the electricity at the park. Mayor Johnson stated that he thinks it is a great idea, if Council is sponsoring some activity there the power source would be right there. We would need an electric permit for this; this is going to be put on the agenda. Bob Bennett stated that he thought the amount donated was \$300, they would double check.

Don Julian, a land surveyor was there representing property owners for the vacant lot at the 100 block of Electric Street. The majority of the lot is shown in the flood hazard area. In order to be able to build on the lot they would need a map revision with FEMA, so they could revise the map to show they are not in the flood area. David Jenkins asked how much fill they would need to raise the land. Mr. Julian said 3 feet at the highest. Virginia Kehoe presented the engineer's letter stating that he didn't feel there would be any negative impact. David Jenkins stated that he was concerned about what it would do to the residents in the front. They are not expecting any impact on the adjacent property owners based on the plans. Mr. Julian stated that the runoff will run to where the creek is now, it won't change the characteristics. David Jenkins asked if they were going to do anything to enhance the flow of the stormwater to go to the creek. Mr. Julian stated that it is graded so it going to go towards the creek. Mayor Johnson asked if it would have any effect on the pond that is there. Mr. Julian said no. David Jenkins asked if this will be accessible off of Midway Avenue. The access is from Electric Street. Bob Bennett asked if this would increase the water because they would be funneling it. When the owner purchased the property, he assumed that he was free and clear to build a home

and now there is an issue. David Jenkins asked the square footage of the house, the answer was about 1600-1700 square feet. Will this impact the house that is in front of it? This would be in between Panko's and the new house. Herman Johnson agreed with Bob Bennett asking if this is a concern for UCP and Miles Foundry, which floods often. If this will add more water this would be a problem. Bob Bennett stated that the water will not pool on this land because he is raising his level. Mayor Johnson stated that there has always been a problem down there (UCP & Miles) and there still is a problem down there. If we send more water down there, something is going to happen. Pat Williams stated that right across the street, on Electric, that gentleman came to the Borough at least twice with pictures of flooding. Mr. Julian asked why this wasn't critiqued in 2009 when the subdivision was approved. Ms. Kehoe stated that the subdivision was represented with miss-information and they only had what they could go with. Ms. Kehoe stated that his issue should be with the engineer that handled the subdivision. Vince Cruciani asked what the parcel was purchased for. It was purchased for \$55,000 for a 1/3 acre lot. Mark Stuenzi spoke to Council. Mr. Stuenzi stated that the subdivision map appears to be inaccurate in terms of where the flood plain actually lies. One of the concerns which is the water runoff but actually soil in and of itself does not increase runoff water because it absorbs water. What increases the runoff water is a roof and a driveway. It seems that when the borough granted the subdivision, they in essence gave permission to build a house on that property accounting for all of that runoff water that a roof a driveway would create. Ms. Kehoe stated that raising the soil level does increase of the velocity of the runoff. Mr. Stuenzi said that yes it will slightly but in a 100 year flood event it won't allow that flood plain to be completely covered at that point. If they end up in a situation where there can't be a building built on that property then in essence the property is being condemned, therefore it has negligible value. The borough engineer reviewed the plans and the county engineer also review the plans and neither caught the mistake in where the flood plain lies. The FEMA maps were on the original plans. Virginia Kehoe stated that she is not the person to quote on this but she believes that you can build on a flood way but there are specific standards to do that. David Jenkins stated that one of the challenges is that if they give approval then the Borough is accepting any future liability of the water downstream. We know the areas that already flood as of right now and we don't need to contribute to additional flooding because then the Borough is responsible. Vince Cruciani asked is the specification for building on a flood plain been examined. Mr. Stuenzi stated that he doesn't know if the borough has their own, FEMA has them. Ms. Kehoe stated that she believes that we go with the federal standard but she stated she is not the expert. Mr. Stuenzi stated that what is being proposed is that Shannon and his engineer will meet all of the FEMA regulations for building in a flood plain. Mr. Stuenzi suggested that they lean into what the engineers are saying about the effect of the runoff. Mayor Johnson stated that this subdivision was approved on miss-information. This area in question down to Bedford Street and Center Street are flooding areas. The soil is not absorbing everything; we are trying to come to a solution where everyone is happy. David Jenkins asked Solicitor Rogan how the Borough handles this legally. Solicitor Rogan said it's complicated and he would take a look at it. Bob Bennett stated that the report from our Engineer only talks about adjacent properties and he would like our engineer to look into this further down-stream. David Jenkins agrees with Mr. Bennett. Mr. Cruciani state that this is

a velocity issue and down streaming. The issue is not that they can't build on the lot, the issue is that the design on the lot may not be initially what the plan's design if the impact turns out to be detrimental after the study. Mr. Stuenzi stated that by raising the elevation a couple of few feet that takes it out of the zone that requires flood insurance. Mr. Stuenzi suggested that the borough engineer look into the down-stream impact. Vince Cruciani stated that there has to be a natural end point where the water ends. The question is where the house is built plus the amount of material brought in plus grading of it is what is going to cause the velocity.

- **Zoning amendment – John Durdan:** John Durdan spoke to Council. In 2015 an ordinance was adopted and it raised some concerns with the Planning Commission. The ordinance decreased the allowable pervious surface by 5% across the board in all zoning districts. The Planning Commission found a couple issues with the ordinance. There is not a lot of land left to be developed here in the borough. Most of the existing lots are less than 20,000 square feet; the median size is around 10,000 to 12,000 square feet. The ordinance did not give any specific relief for existing residential land/lot owners. Mr. Durdan picked 3 properties as an example. Discussed different situations where they would not be able to add any additional impervious materials without going to any extremes. The one concern is that this ordinance discriminates against the smaller land owners. Mr. Durdan provided a sliding scale which shows lot size and impervious surface allowed. Vince Cruciani stated that he buys into this concept and formula but he was wondering what the denominator should be. Mr. Durdan stated that they can change that scale to any number. Mr. Durdan stated that the definitions of permeable and impermeable surfaces have been updated and clarified. That is in Items #1 and #2 in the new proposed ordinance. Vince Cruciani stated that the ordinance should be tailored to implement Items #1, and #2. Items #1, #2, and #5 are relevant to pervious and impervious surfaces. Mr. Cruciani asked Council President Gerrie Carey if he can talk to John Durdan during the course of the week on the percentage. Mr. Durdan agreed to that. Vince Cruciani asked if a gravel driveway counts as impermeable, Mr. Durdan stated that it is best to define it on a case by case bases. Council discussed when they should advertise this for a vote. They need time to look over the ordinance first. Mr. Durdan stated that they also discussed increasing the minimum lot width, the frontage. Mr. Cruciani stated that our concerns are about overdevelopment. Bob Bennett asked if residents can go to the court saying that the borough is targeting them. Ms. Kehoe stated that someone can take the borough to court for anything.
- **Newsletter note re: free speech and signs on private property:** Virginia Kehoe provided the information from the newsletter about this subject. Vince Cruciani asked what the Borough is doing to do about Ash trees dying on Borough Easements and Borough land. It could become dangerous, this is a shared liability and we need to think about this because this is going to be a real serious problem. Ms. Kehoe was looking for Council's approval, David Jenkins does not agree with it, it's a tree, those signs were nailed to a tree and the nails will kill the tree, but with the Shade Tree Commission we are supposed to safe the trees. Vince Cruciani state that the tree is on her private property and you can do that. Gerrie Carey stated that Molly Philbin said that the nail will not kill the tree. Vince Cruciani stated that can only come into play if it is in the Borough right-of-way. The Shade Tree does not have any domain if the

tree is on private property. Council suggested this be put on the agenda. David Jenkins stated that he can vote no on this. They changed the wording on the last sentence. David Jenkins discussed a time limit on the signs, like the political signs. Vince Cruciani stated that would never hold up in court. Ms. Kehoe will re-write this and send it out to Council.

- **Carnation Dr. - no parking:** David Jenkins stated that he thinks this is a dead issue and the explanation from the Chief and the Mayor should suffice. Mayor Johnson stated that there is nothing in the law that says we have to cite him. Frank Besten stated that this is a safety issue. Mayor Johnson stated that there is nothing in the vehicle code that the police can cite him. Ms. Kehoe stated that it was left where the public safety committee was going to make a recommendation to Council and that is why this is on the agenda. Pat Williams stated that they never looked into it. Frank Besten stated that most councilmembers drove by the area. Mr. Besten sees people swerving around the car, kids riding their bikes going into the other lane. It is a dead issue now.
- **One way on Knapp Rd:** David Jenkins stated that at the last meeting Vince Cruciani brought up the fact that if we do this on Knapp Road the people are only going to use Upper Knapp Road. This is off the agenda
- **Heart & Lung Policy:** Tabled until the next worksession.
- **Police Contract:** Ms. Kehoe stated that there are three questions that our Labor Solicitor said to consider. Ms. Kehoe stated that she would forward these questions to the union.
- **CDBG – 2016 and 2017 monie:** Virginia Kehoe stated that this is a reminder that they need to know how the Borough wants to spend the 2016 and 2017 monies that thus far. They need a project from the Borough so they can evaluate it. Mayor Johnson stated that John Petrini said if we don't have a project they could put new sidewalks on the other side of Depot Street. If you don't have a project we could put that down and when you do come up with a project you can switch it over. David Jenkins stated that if we did sidewalks on the opposite side, can we put up more street lights. Mr. Jenkins suggested putting lights near the smoke shop, but that won't qualify. Bob Bennett stated that Powell Street might qualify; they have issues with the sidewalks. Vince Cruciani suggested taking a comprehensive look at any other costs that occur at the Senior Center. This very conversation is why Mr. Cruciani voted no when it came to the renewal of the CDBG funds because they are having a discussion of how to spend money on items that qualify rather than finding money to spend on things the Borough needs. Mr. Cruciani stated that the Borough finds itself in a tricky spot every year. The Senior Center is a huge risk in our budget. Gerrie Carey stated that now they are doing their own plowing and mowing. Mr. Cruciani thanked Gerrie Carey stating that she was instrumental in reversing the trend there. He is more worried about our infrastructure costs with the building. Mr. Cruciani stated that where they need the money is on road paving. Can certain roads that qualify be paved?
- **LED Street Lighting:** This will be on the agenda for the council meeting.
- **CBA Memorandum of Understanding:** Ms. Kehoe stated that when they were interviewing for the seasonal and part time DPW position, they came across somebody that they wanted to hire but he does not have a CDL. The union asked if they can add that definition as laborer for somebody who doesn't have a CDL with a different rate. Provided is the verbiage that was provided between the Personnel

- Committee and the union. Ms. Kehoe stated that she presented this to the labor solicitor; there was one word or phrase that was changed. Otherwise he is fine with this. If Council is amenable to this then they can authorize for Gerrie Carey to sign it next week. They did hire a permanent part timer, Don Logan. Vince Cruciani stated that he would like to know as a Council Person when somebody is hired. Ms. Kehoe stated that at the last meeting they asked for permission from Council to hire somebody and ratify it at the next meeting. She just got the acceptance later. Vince Cruciani asked to get an email that would say Don Logan was hired, this is his resume and he is now working for the borough etc. Ms. Kehoe said yes, this just happened yesterday. Mayor Johnson stated that he should have physical just to cover our liabilities. He knows this gentleman, he is a good guy, a friend but he is not in the best of health. Frank Besten stated that this has been addressed. One of the reasons they interviewed him because no one else has applied for the job. He has a good resume. Mayor Johnson stated that no one saw his resume. Mr. Cruciani stated that either way it is not fair to Council, the Mayor, the Solicitor and Virginia Kehoe if the Personnel Committee, once they make their decision to circulate the resume of the person and the recommendation. It should come before the meeting. Mr. Besten said he has a good resume, he is older...This should be taken into Executive Session. Bob Bennett stated that he is concerned that the way this is set up now. What happens if he never gets his CDL, he stays as a laborer. Ms. Kehoe stated that the DPW has two smaller trucks that do not require a CDL so if he was assigned one of those he is fine. He can use the skid steer and the loader. Mr. Bennett said he is more worried about if one or two DPW workers are on vacation. He thinks a CDL should be required. Mayor Johnson is not comfortable with this. David Jenkins stated that for point of order it is not up to the Mayor whether he feels comfortable or not. It is up to the Council people. Mayor Johnson stated that it is up to the Council people and as Mayor he can give his input for the simple reason that if it comes to a vote and it's a tie then he has to break that tie. Mr. Jenkins stated that the Mayor can give his opinion but it is ultimately up to Council. Gerrie Carey stated that if the Junior Council members would like to be on next year we would need a letter of interest.
- **SAPA amendment:** Ms. Kehoe stated that SAPA is ready to move forward. There is work that needs to be done and the cost is going to be \$160,000 of which grant money in the amount of \$80,000 and \$30,000 there is \$50,000 left. Clarks Summit would \$3,588.04 which could be budgeted over two years. We have to vote to accept this Amendment and the next thing will be a Resolution committing to our share so they can apply for the grant because they need the match to apply. David Jenkins stated that he would like to move it forward for the agenda.
 - **Resolution 2017-12 Request for Municipal Assistance**
 - **Civil Service Exam:** The Civil Service has met; they would like to do what we did last time and work with Lackawanna College to do the testing. Council need to vote to authorize the testing next week. Ms. Kehoe stated that the Civil Service Committee voted to charge each applicant \$35. Mayor Johnson said he thought it was \$45. David Jenkins stated that he thinks it should be \$50. Also that it is non-refundable.
 - **Letter from Tommy Miles:** David Jenkins would like to move that forward to vote on. As long as they let us inspect the property after the meter is removed. Letter from the water company. Vince Cruciani suggested a notarized letter. Mayor Johnson suggested asking the water company to notify the borough when they are shutting off

a resident's water. David Jenkins also wants to know when the water company is going to be paving. Virginia Kehoe was told May 15th.

- **Electronics Recycling:** Virginia Kehoe stated that the county has advertised this. They are not doing this, the borough has to collect the material and bring it to the recycling center. We have to bring it in a truck to the recycling center and the material cannot be damaged. The limit is one per house hold. We want to only collect them from our residents. Bob Bennett suggested collecting June 19th and 20th from 9am-3pm, we should be able to spare one large truck for 3 days. Frank Besten asked if someone brings in a 37 inch big tv what do we do. Ms. Kehoe stated that we could have the seasonal or permanent part timer there to load. The Mayor said this could get expensive, if a DPW worker gets hurt that is an issue, the heavy tv's need more than one person to help. Mayor Johnson thinks that they should scratch the idea. Ms. Kehoe stated that in the email from Barbara Giovagnoli stating that the DEP is going to take not of those communities who do not participate. Next week they can vote on what council wants to do. Bob Bennett is the chairman of the recycling committee. Ms. Kehoe said she would see if we can get help but someone from council should be there to check identification.

Bob Bennett thanked the Solicitor for the deed and the ability to move ahead. Virginia Kehoe stated that as of today the Weinberg property is now done.

Vince Cruciani stated that Ms. Kehoe will be receiving correspondence from the resident at the Corner of Tulip and Primrose, a curb was put up and fanned it into his driveway, Ms. Kehoe said all he needs to do is call and she will take care of it.

3. REVIEW OF JUNE 7, 2017 AGENDA

4. ADJOURN:

President Carey