

**BOROUGH OF CLARKS SUMMIT
BOROUGH COUNCIL MEETING
JULY 5, 2017**

The July 2017 Borough Council Special Meeting was conducted on Wednesday, July 5, 2017 at 7:02 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. Bob Bennett, Mr. David Jenkins, Mayor Herman Johnson, Mr. Patrick Williams, Police Chief Chris Yarns, Borough Manager Virginia Kehoe, and Solicitor Pat Rogan.

CALL TO ORDER: **President Carey**

MEDITATION: **Mayor Lawler**

PLEDGE OF ALLEGIANCE: **Mayor Lawler**

PRESENTATION FROM ABINGTON HEIGHTS CIVIL LEAGUE: Maryann Nichols
The Civic League gave a donation to the Pocket Park, pictures were taken.

1. APPROVAL OF AGENDA: **President Carey**
David Jenkins made the first motion to approve the agenda, seconded by Bob Bennett, vote was 7-0

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

- **May 31, 2017 Work Session:** Bob Bennett made the first motion to approve the minutes, seconded by David Jenkins, vote was 7-0.
- **June 7, 2017 Regular Council Meeting:** Frank Besten made the first motion to approve the minutes, seconded by David Jenkins, vote was 6-1 with Vince Cruciani voting no.

3. PUBLIC COMMENT & INPUT: **President Carey**
Jackie Welcome, 309 Summit Avenue and Anita West, 314 Summit Avenue addressed council about the property at 316 Summit formerly owned by Ian Castrogiovanni, now owned by Wells Fargo Bank. On April 24th the property was under new ownership and they wanted an update. Jenn Basalyga stated that the bank does now own the property but the bank still has to have Ian evicted. We cannot do anything until there is a writ of eviction, they are in that process. As of right now he cannot be evicted by the borough because the bank will not yet say that Ian is trespassing. We are in communication with the bank and the company in charge of cleaning up the property; they will not go near the house until Ian is evicted. Anita West called the police because he had a generator inside the house, they smelled gas and this is a scary situation. Ms. Kehoe stated that this property has been cited and Wells Fargo has been notified of the citation. One neighbor stated that he has a hole in the roof. There is no water or power. Mayor Johnson stated that this is a long process but there is nothing they can do as a Borough Council, the eviction is the best route to go. They do not think he will leave politely. The sheriff would have to evict

him. Jenn Basalyga stated that she is emailing the bank and we are keeping up with this situation. David Jenkins suggested forwarding this to Jackie and Anita. Mayor Johnson said he doesn't think we can do that. As the process goes on that is up to the Sheriff's department and the bank. Chief Yarns does want this resolved as quickly as possible but right now there is nothing more that the police department can do. Mr. Cruciani stated that you don't technically need gas, water or electricity. Is it legal to run a generator in your house? Don't think there is an ordinance for that. The Sheriff's department will notify the police department. The residents are afraid he will not go quietly, if something sparked and it caught on fire their houses are in jeopardy. These are safety issues. David Jenkins stated that our hands are tied also. There are branches on wires by his house; that would be PPL. Vince Cruciani suggested that the people living near him familiarize themselves with the Pennsylvania Castle Document and have a strong understand of what they can do.

Scott Perry, 201 Barrett Street spoke to council about a letter he received from the Borough. The letter stated that the letter was addressed to him and he is not the property letter. He read the letter out loud about the high weeds citing the property maintenance code. Mr. Perry was questioning Jenn Basalyga and Virginia Kehoe directly and Solicitor Rogan did tell Mr. Perry that he is welcome to make comment but not to ask questions. Mr. Perry discussed the ordinance and stated that his personal property has been maintained. The standard of practice for the last 50 years and this area was done 3 times a year by the borough. He doesn't understand why this changes after 50 years. Mr. Perry read the requirements for a citation and Ms. Kehoe stated this was intended just to let them know, that this was not a citation, the next letter would be considered a formal process. This was just a courtesy. Mr. Perry stated that this is borough property. Mayor Johnson stated that he knows that the borough was cutting this area but he didn't know if it was borough property or private property. Pat Williams stated that the borough has always trimmed there, what happened what changed. Ms. Kehoe stated that the borough does not do this for anyone else. Ms. Kehoe stated that this area is in the right of way, it's like your front yard, your front yard ends several feet into the grass line but you still cut the grass to the road. It's the same as the trees and the sidewalks are in the right of way. Mayor Johnson stated that the letter never should have gone out if it is borough property. Vince Cruciani stated that it is not a fee owned borough property like a park. It is the borough right away on the Perry property. Mr. Perry stated that after 50 years to get this letter, Ms. Kehoe stated that this was an alert. Ms. Kehoe told Mr. Perry on the phone that this is ultimately up to Council. Ms. Kehoe agreed that if Council wanted to set a precedent that is their decision not hers. David Jenkins stated that this may be the first time that this came to Jenn Basalyga's attention that it needed to be timed up there because we no longer doing it. We have sent out other letters where people needed to trim and they took care of it. Mr. Jenkins stated that because it is in the right of way it is normally an unwritten rule that the homeowner maintains it as if it is their property. Vince Cruciani stated that this is his property it's just that there is right of way on it. David Jenkins stated that this is his property and his responsibility or his mom's responsibility to maintain it, if it was cut in the past for any reason, it came to a halt, these things happen. Mr. Perry was upset because after 50 years and no warning, he thinks this was handled inappropriately. Frank Besten asked if the borough is obligated to keep weed whacking that area. David Jenkins said no

because it's not ours. Mr. Besten stated that if we are not obligated and this is something that has to stop because of manpower. Mayor Johnson stated that Mr. Perry is wondering why someone didn't man-up and say we were discontinuing this service and he thinks Mr. Perry is looking for that answer. Mr. Perry wanted to know why someone didn't come and knock on the door and talk face to face. Mr. Perry then stated that when Lou Vitali was chief, he talked to him about a dog that was causing problems and Mr. Perry asked Chief Vitali what he could do. Then Chief Vitali tol Mr. Perry that he would talk to her but how would it look if I file an ordinance violation against a 74 year old woman down at the judge. Mr. Perry said that his mom is going to be 75 in six days so after something that has been done over 50 years, what is the judge going to think if we file an ordinance violation and bring a 75 year old woman in there and she says there has been a 50 year precedent set.

Dori Waters asked Council if they had any questions. Frank Besten stated that he did look in and saw the wall and said it is very beautiful. She left brochures for the Gathering Place. Pat Williams asked if he and Dori can meet about the flags. She said no problem.

Gerard Hetman, Lackawanna County Community Relations Department, he updated council that the one lady they spoke about in other meetings does now receive Meals on Wheels services. Mr. Hetman thanked the borough for participating in the recycling program. Bob Bennett stated that he helped out on the recycling program with the electronics and said the communication between the county commissioners and the municipalities was very poor. Mr. Bennett stated that the original information given was inaccurate, stating that pallets were not necessary and as it turned out not only were pallets necessary but we had to get wrap to put around the electronics and the pallets. Vince Cruciani stated that the bottom line is that it cost the borough a lot of money and it occupied a lot more labor. Mr. Cruciani stated that he would like to hear a very brief synopsis of what the cost of the assessment will be by October.

4. **POLICE REPORT:** **Mayor Johnson**
Mayor stated that he earlier reported the police coverage on Knapp Road. David Jenkins suggested that we have our labor solicitor contact the lawyer for the officer that we have off duty and get a status report because members of council are curious about the status and they haven't really heard anything since the gentleman has been off. They need to find out and maybe have a weekly progress report and they need to find out so they can address staffing issues here so that it is not a burden on the mayor or the chief and council. Ms. Kehoe stated that she would email Joe O'Brien in the morning. Mayor Johnson stated that as the mayor and for Chris as the chief of police they have to stay out of this and they cannot comment. The labor lawyer and the borough manager should be checking with the insurance companies to see how the progress is going. There should be something submitted monthly. Ms. Kehoe stated that she gets a letter from the doctor that says he is still not at work. Mayor Johnson asked to go into executive session, the answer was yes.

5. **BIDS & QUOTATIONS:** **President Carey**

- **Dead Ash Tree Removal - \$2,000 to Economy Tree:** This is on the Lilac and Woodside properties and the other is on the end of Front Street on the Weinberger property. Vince Cruciani made the first motion to remove the Ash trees, seconded by Frank Besten, vote was 7-0.
- **Florence Street pipe cleaning - \$2500 – 3000 to Koberlein:** David Jenkins made the first motion to approve the bid from Koberlein, seconded by Frank Besten. Vince Cruciani asked if this was coming out of the sewer fund, the answer was yes. The vote was 7-0.
- **Bedford Street Sidewalks - \$1950 to MHW Construction:** David Jenkins made a motion to approve the repairs on the sidewalk, seconded by Dominic Scott, vote was 7-0.

6. BOROUGH TREASURER’S REPORT

President Carey

David Jenkins made the first motion to approve the Treasurer’s Report, seconded by Vince Cruciani, vote was 7-0.

7. COMMITTEE REPORTS:

- **Building & Plant** Pat Williams, Chair
Frank Besten stated that the DPW did a very good job fixing the fence and spent very little money. The fence was straightened out. Ms. Kehoe stated that the people on the other side thanked the borough. This was a band aid it should be put in the budget for next year. The poles are rusted and the fence is worn. David Jenkins suggested a privacy fence; Ms. Kehoe stated that she could price this out just for the side.
- **Finance Committee** Dominic Scott, Chair
- **Grant Committee** Dave Jenkins, Chair
- **Recycling Committee** Bob Bennett, Chair \$174 in donations – 6640 lbs of electronics: Bob Bennett stated that they recycled a little over 3 tons of electronics. Mr. Bennett stated that they collected \$175 of donations. He decided that to give \$25 of that for a pizza and soda for the DPW. For the future, his concern is that there were 20 hours used by the seasonal worker, 47 hours used by the regular DPW workers, and 10 hours by the assistant foreman. So they did accomplish a lot with the recycling aspect, but from the borough’s point of view it cost us 77 man hours. They tied up 3 trucks and the gasoline involved. The communications on the procedure for the recycling was an embarrassment and the financial impact is a lot more than expected. Next year if they decide to do this again, he does not want to move on this until he gets the ok from the finance committee. Ms. Kehoe reached out to the boy scouts and the high school and did not get any volunteers. Mr. Besten stated that may not be a bad thing because the televisions were very large and heavy. They spent \$24 to buy the shrink wrap. This tonnage does not count towards the weight that we get money back on. It goes for future credits with DEP for grants in the future.
- **Insurance Committee** Vince Cruciani, Chair
Vince Cruciani stated that Jim Henkelman has lowered our premium again by about \$2,000. Mr. Cruciani stated that Mr. Henkelman has over the past three years has obtained about an \$8,000 premium reduction in addition to the rebate that is about 17%. Mr. Cruciani gives Mr. Henkelman a lot of credit.

- **Personnel Committee**

Gerrie Carey, Chair

Gerrie Carey stated that the personnel committee is going to do an interview tomorrow morning for the DPW and this gentleman has his CDL and he lives in the borough. Pat Williams referred him. Frank Besten asked if the gentleman that they are interviewing would need to take a physical before he is hired. David Jenkins suggested that any employee that drives our vehicles should have to have a physical. Mr. Cruciani stated that it may be a good idea to suspend the meeting with limited voting on this subject for the work session. Gerrie Carey also stated that they would have David Thorne in on the interview because he knows the right questions to ask also. Pat Williams asked why we are inviting the DPW in on this, we never ever did that. Ms. Carey stated that Mr. Thorne is going to have to work with the gentleman. Mr. Williams stated that Mr. Thorne would have to adjust. David Jenkins stated that the tail is wagging the dog again. Mayor Johnson stated that they are counselors, they should know what questions to ask, they don't need a foreman. This is why a lot of our departments fall behind. They are the elected officials. Ms. Carey wants to make sure that they have somebody to work with the foreman. Mr. Cruciani stated that Gerrie Carey could authorize up to \$1,000 in spending and if this person is the right person, he could then work so many days before the work session but he would have to know that there is a chance that he could not get hired at the work session. Frank Besten stated that he would be in the union, he would get union protection. They are talking about hiring this man before council approves. Mr. Cruciani stated that the probation period would begin the day he starts working. Mr. Besten asked when someone gets into the union, then he has union protection is that correct. Whether there is a probation period or not. Mr. Cruciani stated that if the union wants help before the day that council gets to vote, the union sends us a letter that says they are going to let him work and that they are not going to hold actions against council until it is ratified and if they don't send us that letter then they don't get his help. Frank Besten stated that you can't make the DPW work more than 40 hours a week if they don't want to. Mr. Cruciani suggested hiring him as a seasonal person until they vote as the permanent part time person. Mayor Johnson asked if the DPW is essential personnel. Mr. Cruciani stated that there is going to be a personnel committee meeting, they are going to end the meeting tonight allowing us to vote on this in 3 weeks, the interview is for the full time part timer, if Gerrie Carey feels comfortable with it, Gerrie can bring this person on up to \$1,000 worth, as a seasonal person until the vote up to \$1,000. Ms. Kehoe stated that they will be recessing and not adjourning.

- **Public Safety/Safety**

Pat Williams, Chair

Bedford St / 2018 Paving: Pat Williams stated that he and Frank Besten met with Northeast Signal. Mr. Besten stated that they looked at the pausing switch at various intersections. The Dunkin Donut there is a cable that is exposed. The audible signals are very expensive. David Jenkins asked where our liability is when it comes to the audible signals. Gerrie Carey stated that the recommendation was to take the audible signals off. Mayor Johnson asked who is liable is there a state law that says there needs to be audible signals. Mayor Johnson asked about the maintenance program. It would cost \$3,000 a year. David Jenkins asked about the project on Winola and Old Trail, we should have a

monthly letter sent out to the people who are slowing this process down. We have to get after the utilities. Ms. Kehoe will reach out to UGI again.

- **Recreation** Dominic Scott, Chair
Vince Cruciani discussed the paving of the basketball court at Carnation Park. This will be covered by a private donation, they can invoice the borough, then Mr. Cruciani will send a check and then have them give a receipt.
- **Sewer Billing** Dominic Scott, Chair
Jenn Basalyga stated sent out 180 delinquent notices. They would be delinquent 3 months at least. The quarterly bill also was sent out. We are new beginning to receive payments. David Jenkins stated that the house at 403 Haven now has a dumpster and he believes someone is working on it. Vince Cruciani asked that the zoning report be emailed 1 day earlier.
- **ACOG Representative** Gerrie Carey/Dom
Scott/Frank Besten: Our borough is in good shape with the MS4, but organization throughout the communities is not happening.
- **Liquid Fuels Research** Bob Bennett
Bob Bennett stated that our Solicitor told him that he is picking up the papers at the courthouse and everything will be in place for the August meeting so they can file the paperwork on time. Ms. Kehoe stated that there will be an ordinance to formally adopt the streets in August.
- **Civil Service Commission update** Dom Scott written exam
scheduled 7/22: We have received 2 applicants so far.
- **Additional comments from Council**
David Jenkins stated that on July 16, 2017 there will be a fundraising all you can eat breakfast at the fire house for the benefit of Jake Hoinowski. Tickets are available. They will have a basket raffle; there will be boot drop at the Dalton Carnival also.
Bob Bennett stated that when council does the roll call of the people he would like to put Jenn Basalyga's name on the list at the beginning of the meeting.
Pat Williams stated that he has the report from the Shade Tree Commission. PPL will be around doing the tree trimming.
Mayor Johnson stated that Pat Gibbons's 6 month probation is over today. He is doing well, he has been enforcing the traffic and there have been no complaints.

8. **VENDOR PAYMENTS TO BE RATIFIED:** **President Carey**
Bob Bennett made the first motion to ratify the vendor payments, seconded by David Jenkins, vote was 7-0.

9. **OLD BUSINESS:** **President Carey**

- **Heart & Lung Policy:** Mayor Johnson stated that a copy was sent to the union and we have not heard back. Mayor Johnson stated that we may have a problem with letter "F" due process hearings. They might have to appoint someone by council to be at that hearing and he doesn't know if that would be correct. Before they vote they should get the union's comments back. They could wait and note at the worksession. Mayor Johnson suggested that Virginia Kehoe get a hold of the union president and get their comments. The draft came from our Labor Solicitor.

- **FEMA Flood Mapping:** Mark Stuenzi and Shannon Cross were at the meeting. Mr. Stuenzi stated that since the last meeting the positioning of the house has been moved back slightly, not significantly to the point where it would impact the ability for the property owner to utilize the back yard or add a deck or things like that. The total area of the flood plain that would be impacted has now been decreased from 2,400 square feet down to 850 square feet. David Jenkins made a motion that the borough gives approval to go forth with this, to sign off on the FEMA paperwork supporting specifically the plans that are dated July 5, 2017, seconded by Bob Bennett, the vote was 7-0.
- **Barberry – Stormtree recommendation:** Vince Cruciani asked if this is approved what is the sequence do you order the unit and then order the tree in the spring time. Ms. Kehoe stated that the best time for planting the trees is in November or April. So depending on the timing and the availability of the tree we may wait until spring. She is sure the unit is going to be custom made. So ordering the unit, ordering the tree and the installation, we have a 3 ½ month window to finish this or it would have to wait until mid-April. Ms. Kehoe stated that she would think they could get the system in by this fall, unless there is an issue with finding the correct tree. Ms. Kehoe stated that maybe we can choose from the bare root trees in conjunction with the Shade Tree Commission. Mr. Cruciani suggested getting a recommendation from someone else as a second opinion. Mr. Cruciani also suggested using a tree in the native list. David Jenkins made the first motion to move forward with this. Vince Cruciani wanted to make sure this money was coming from the sewer fund, to approve purchasing the unit, with the intent of the DPW to install it. Bob Bennett stated based on the size and the weight he was unsure if the DPW would be able to do the work. Ms. Kehoe said to make the motion presuming that the DPW is going to do the work. That way they can order the unit and if we find out that the DPW doesn't have the physical capability, then they can come back to Council to see what their options can be. Vince Cruciani said the final part is that this is through the sewer fund, DPW installing upon recommendation and cross reference with this company on the type of root system somewhere on the native list. David Jenkins stated that he will make that a motion, seconded by Bob Bennett. Pat Williams asked on the question, have they determined whose water that is. Vince Cruciani stated that Bob Naegele said it was surface water, Mr. Williams asked how much the borough is going to pay for that. Ms. Kehoe stated that it should be well under \$10,000 unless they run into issues with rental of equipment or something like that. The vote was 6-1 with Pat Williams voting no.

Helene Magnotta thanked everyone for coming to see the area on Barberry. She had some thoughts about Mr. Perry's situation. There are the boy scouts the girl scouts, confirmation community service work, groups out there looking for service projects. Maybe by creating something low maintenance. Bob Bennett stated that the owner is still responsible for maintaining it. It boils down to communications.

10. NEW BUSINESS:

President Carey

- a) **Resolution 2017-13 re: adopting MS4 procedures:** David Jenkins made the first motion to approve Resolution 2017-13, seconded by Frank Besten, vote was 7-0.
- b) **Senior Center Window:** David Jenkins made the first motion to split the payment with the Senior Center Window replacement; the payment will be split in half. Vince Cruciani asked how this will be paid. Ms. Kehoe stated that the borough will pay the bill (\$2,700) and get reimbursed. Mr. Cruciani agreed. The motion was seconded by Dominic Scott, vote was 7-0
- c) **Resolution 2017-14 re: PPL LED street lighting:** David Jenkins made the first motion to accept Resolution 2017-14, seconded by Dominic Scott, vote was 7-0.
- d) **ARWA Intermunicipal Committee Agreement:** David Jenkins made the first motion to accept the ARWA agreement, seconded by Vince Cruciani, vote was 7-0. This will assign a representative to be on a committee with other member of other communities to work as a liaison to make sure we are all on the same page. We are committee to participating for one year. They will only be able to make recommendations. There are issues with grease traps and EDU numbers.

11. **SOLICITOR’S REPORT:** **Solicitor Rogan**
Solicitor Rogan wants to discuss the Valvano situation with Council

12. **CORRESPONDENCE:**

- **Letter from Tracy Tague:** Nothing to discuss, consider this handled.

13. **EXECUTIVE SESSIONS:** **President Carey**

- **Prior- June 28, 2017 litigation**
- **During- None**
- **Subsequent- None**

14. **ADJOURN:** **President Carey**
David Jenkins made the motion to recess.