

**BOROUGH OF CLARKS SUMMIT
BOROUGH COUNCIL MEETING
APRIL 3, 2019**

The April 2019 Borough Council Meeting was conducted on April 3, 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. Dominic Scott, Mr. Vincent Cruciani, Mr. Patrick Williams, Mr. David Jenkins, Mr. Bob Bennett, Mayor Johnson, Solicitor Kevin Hayes, and Borough Manager Virginia Kehoe. Police Chief Chris Yarns and Frank Besten were absent.

ARWA UPDATE:

Paul Murphy

Paul Murphey stated that ARWA had a very good year last year. The sewer rates have not gone up in 4 years. Their expenses have gone down and they paid off debt. Their biggest problem has been with infiltration; they would like the 3 municipalities to cooperate and try to reduce that. They have a new operations manager. Pat Williams asked if they should work with the Shade Tree Committee. Mr. Murphey stated that they are using flow meters. They would like to identify certain areas to see where the infiltration is coming from. There are many broken pipes. Grease is also a problem. David Jenkins discussed the issue with the grease. Council discussed Sewer Enforcement Officer. Ms. Kehoe stated that the businesses under our ordinances are obligated to supply their grease removal reports, many do not.

CALL TO ORDER:

President Carey

MEDITATION:

Mayor Johnson

PLEDGE OF ALLEGIANCE:

Mayor Johnson

David Jenkins made an announcement as a citizen and a member of Council. He was replying to the action that was taken at the March meeting where he was removed as vice president. He stated that the reorganization to remove him as vice president, while he was out of town, was an act of cowardice that was done by the people who intended to get him out of the position. Mr. Jenkins stated that he in no way disrespected anybody. If anybody was disrespected it was him by what Council did to remove him without any notification or any provocation. Mr. Jenkins stated that he was never given a warning, a heads up, nothing, it was just arbitrarily done. It was done within the law. Gerrie Carey stated that this was Councils decision not hers. David Jenkins stated that it really wasn't Council's decision. He feels that it was an outright act of cowardice, trying to ruin and disparage his name in the community. He has sat at the Council table for almost 8 years and he has always acted with the attitude that he was a taxpayer and what he did was for the benefit of the taxpayers. He stated that not everybody does that. Mr. Jenkins stated that Mr. Besten was not at this meeting to defend himself, so he won't go too far on that. He stated that they were once friends they are no longer friends. Mr. Jenkins said shame on him not shame on me. Mr. Jenkins said shame on Gerrie Carey too because they have been friends for a long time. Gerrie Carey stated that she is representing all of Council. David Jenkins stated that is debatable. Mr. Jenkins stated that he thinks the whole deal was a matter of politics by someone in his eyes is a Nancy Pelosi wanna be, and that can be taken anyway they want to take it. Mr. Jenkins stated that he was offended by the action taken by people, whom he sat with, and

he got along with and he worked well with up until the March meeting. Mr. Jenkins stated that they can take the knife out of his back now because they accomplished what they set out to do.

Vince Cruciani stated that based on the events which happened last month, he gave fair warning that if the three of them walk out, (Bob Bennett, Vince Cruciani and David Jenkins) they better hope all four of them are there (Gerrie Carey, Dominic Scott, Frank Besten and Pat Williams) or they won't have a quorum to conduct business and good luck conducting business with a less than 1% majority. Pat Williams said if they wanted to walk out, go ahead. Gerrie Carey said that is their option. Pat Williams asked why Mr. Cruciani would say that. Mr. Cruciani said that because he can. So if they want to have their full majority there after tonight and he would not do this without notice, he said please make sure their full majority is there because they can end the quorum if they are not. Mr. Cruciani stated that then their fiefdom is a paltry house. Mayor Johnson stated that Mr. Cruciani is making a statement that is very disgraceful for this Council for one simple reason. Mayor Johnson stated that to him that seems like a threat. Mr. Cruciani said oh no, just to have their members at the meeting. Mayor Johnson stated that the community voted him in as a Council Person and to make a statement like that is disrespectful. Mr. Cruciani stated that if the majority wants to govern, after that evening, the majority is on notice and should all show up. Mayor Johnson stated that he/ they are on notice. Mr. Cruciani stated that he didn't realize the Mayor was part of the majority too, he though the Mayor was independent elected. Solicitor Hayes stated that going forward with comments everyone needs to be recognized by the chair so they can follow normal order. Bob Bennett asked Gerrie Carey if she represented all of Council, he said that is false, she didn't represent him. Gerrie Carey stated that when she read the letter of apology to Frank Besten, who was stepping down from Council, at the end of the letter, it stated that Council had a week to decide what position they wanted to take. That gave Council all the same opportunity to come forward and present what they felt should be done. Fortunately Frank Besten decided to come back to Council and he has done an awful lot for Council. Ms. Carey stated they felt that he should sit in as vice president and that's it and they are not discussing it any more. Bob Bennett stated that the action that was taken at the meeting did not represent all of Council. Mr. Cruciani directed his comment to the Mayor stating that he does respect the underlying principal of what he said, but as a Councilman he doesn't believe that the business conducted at the meeting is beneficial to the residents and the taxpayers, and ending a quorum can stop that business from being conducted, he is carrying out his duty as a Councilmember. Pat Williams began talking without being recognized by the chair saying so you did that now move on. Mr. Cruciani stated that this is the second time that the Councilman to her left (Pat William) has interrupted him both times that he had the floor. Mr. Cruciani stated that he had spoken twice and was interrupted twice. Pat Williams again began talking without being recognized by the chair and said ok, he's done. Mr. Cruciani stated that the Councilman to her left (Pat Williams) has not decorum in public meetings. Solicitor Hayes stated that as they proceed forward, everyone must be recognized by the chair.

1. APPROVAL OF AGENDA:

Dominic Scott made the first motion to approve the agenda, seconded by Pat Williams, the vote was 3-3 with Mayor Johnson voting yes, vote was 4-3, agenda was approved.

2. APPROVAL OF MINUTES:

President Carey

- **February 27, 2019 Work Session:** Dominic Scott made the first motion to approve the minutes, seconded by Pat Williams, the vote was 3 yes, 2 no, 1 abstain, the minutes were approved.
- **March 6, 2019 Regular Council Meeting:** Dominic Scott made the first motion to approve the minutes, seconded by Pat Williams, the vote was 4-3 to approve the minutes. Pat Williams stated that he was trying to get this together, the antics that are going on.....Mr. Cruciani stated that Mr. Williams was not recognized by the chair and he is making comments. Mr. Williams continued by saying Mr. Cruciani was being disrespectful and in all of his years on Council he has never seen anything like this. Mr. Cruciani stated that this was not ok to the Solicitor, stating that there are constant interruptions. The Solicitor stated that it is up to the chair to recognize the Councilman.

Mr. Cruciani thanked Gerrie Carey for chairing the meeting and he wanted to respond to something that was said. Disagreement in cordial discourse at a public meeting isn't disrespect and knows the president knows that stating that she handles herself requisitely at every meeting, which he appreciates. But disagreeing with other members of Council isn't disrespect, or asking for formal rules to be followed is not disrespectful. Mr. Cruciani thanked the chair for the floor on that.

3. PUBLIC COMMENT & INPUT: President Carey

Frannie Jones, 201 Electric Street spoke to Council concerning the sale of the borough building. Ms. Jones stated that the building holds a lot of history. She worked for 12 years in the offices at the borough. The population is mainly the same. The meetings are not well attended, the offices are computerized, shouldn't need as much room for files. She does think that there are updates that should happen. She doesn't think the borough should spend the money on a new building. Gerrie Carey thanked Ms. Jones for her comments. Ms. Carey stated that we are holding off on this. Bob Bennett stated that it is not their desire to get rid of the borough building. There are several avenues that need to be explored. Mr. Cruciani stated that he is completely against selling the borough building. He stated that there is not a financial incentive to sell the building. The building was put out to bid and no one bid on it. Mr. Cruciani stated that we can make incremental improvements on this building, they can do it without having to borrow tremendous amount of money. Pat Williams complemented Ms. Jones on her property.

Gerard Hetman from Lackawanna County Public Relations updated Council on events happening.

4. POLICE REPORT: Mayor Johnson

Mayor Johnson said the aggressive driving grant, is a good program as it gives them an extra man to put on the road. The drug take back was successful. David Jenkins talked about Winola Road and the speeding. Pat Williams wants to see more action with excessively loud cars and motorcycles. Mayor Johnson stated that as long as they are within the vehicle code there is not much they can do. They would need to read a decibel level that requires equipment. Solicitor Hayes stated that we don't have a specific ordinance for this issue.

5. BIDS & QUOTATIONS:

President Carey

- **Winola Rd Stormwater – vote – accept bid Buranich for \$14,757.00:** Pat Williams made the first motion to approve the bid, seconded by Dominic Scott. On the question, Pat Williams thanked Virginia Kehoe and Bob Naegele for moving forward as quickly as they did. Vote was 6-0.

6. BOROUGH TREASURER’S REPORT

President Carey

Dominic Scott made the first motion to approve the Treasurer’s Report, seconded by Pat Williams. On the question, Vince Cruciani thanked the Borough Treasurer for responding to the request to have the reports emailed early. The Treasurer’s report shows a cash balance in the Debt Service \$11,566 and that is after the Grandview Street debt was paid off, a year and a half, \$250,000 early. Mr. Cruciani anticipates that with the low revenue coming in so far, 25% less performance in the last 3 or 4 years, this number is only going to increase as the tax revenue comes in. Mr. Cruciani asked that the Borough Manager put together a list of each debt that we have, the term left on the debt, the debt service per month and the interest rate so that they can not invent new ideas of how to spend taxpayers money by taking out new debts but instead pay off the debts that we have. The vote was 6-0 in favor of approving the Treasurer’s Report.

7. COMMITTEE REPORTS:

- **Building & Plant** Pat Williams, Chair
Pat Williams stated that the state inspected the Knapp Road Bridge, as of right now there are no major issues with the bridge. The fence is in good shape. He wants to have the monument to Mr. Perry spiffed up. Ms. Carey stated that she thinks their family takes care of that monument. When they pave Winola Road, the water will increase. Bob Naegele didn’t think that this would be a problem. Dave Jenkins suggested putting a trash rack to slow the water down. Ms. Kehoe stated that Bob Naegele is of the opinion that there should not be any action proactively because he feels we will be fine. Ms. Kehoe stated that Mr. Naegele said if we find some overflow, it is an easy fix. Ms. Kehoe stated that Dunmore Roofing did come to fix the leak on the roof of the borough. David Jenkins stated that the sidewalk on Bedford is in need of repair. Will look into it. Pat Williams discussed the curbing at Citizens Bank that needs repair. That may be private property. Bring this to the attention of the bank. The light at the intersection of Lackawanna Trail and Winola Road will be going in. DPW did remove the Christmas lights.
- **Finance Committee** Dominic Scott, Chair
- **Grant Committee** Dave Jenkins, Chair – Creek restoration application \$295,425 being prepared – no LSA grant for Borough Building or Police Vehicles.
- **Recycling Committee** Bob Bennett, Chair – 2017 Recycling Performance Grant - \$7,810.00 awarded. Shred fest is on 4/27/19. The Shred Fest will not cost the borough anything.
- **Insurance Committee** Vince Cruciani, Chair
- **Personnel Committee** Gerrie Carey, Chair
- **Public Safety/Safety** Pat Williams, Chair

- **Recreation** Dominic Scott, Chair
 - **Sewer Billing** Dominic Scott, Chair
- Dominic Scott asked if the properties where the water is shut off are they vacant. We do know that the Riley's are turning their water back on. This has been an ongoing process. Vince Cruciani stated that if the water company has provided evidence/documentation that the water company has shut off the water, it has been turned on and shut back off, do we not have the ability to file criminal charges for theft of services. This way the District Attorney would have to look into it.

- **ACOG Representative** Frank Besten/Gerrie Carey/Dom Scott

- **Building plans committee** Gerrie Carey/Frank Besten/Pat Williams

- **LCAB** Patrick Williams

- **SAPA** Dave Jenkins

- **Sr. Center Committee** Gerrie Carey, Kevin Hayes

Gerrie Carey stated that she talked to Warren Watkins, and he wants the solicitor from the Senior Center and the Borough's Solicitor and the AAJRB Solicitor to put their heads together to see how this can be solved. Once they make a decision as to the legal direction to go. Solicitor Hayes stated that he has a meeting with the AAJRB Solicitor next week and Virginia Kehoe will join them. Solicitor Hailstone represents Telespond. Someone from the Senior Center should be there also. Vince Cruciani suggested the president of the site council be there also.

- **Additional comments from Council**

Bob Bennett asked the Mayor about the status of the EMA. Mayor Johnson stated that we have an EMA Director, Jeff Ames. The Deputy Director is no longer with us. Bob Bennett asked about the recycling money. The Preate Park sign is in need of repair. Would it be possible to use some of the recycling money on this sign? Ms. Kehoe stated that the recycling money has already been budget for but it may be able to be put aside for next year. Mayor Johnson suggesting asking people from Abington Heights to help with the sign. Pat Williams stated that the front door of the borough is always dirty. Ms. Kehoe stated that it is routinely cleaned but because it is on the main street, it gets dirty very easily. Gerrie Carey will clean it in the morning.

8. **VENDOR PAYMENTS TO BE RATIFIED:** President Carey
 Dominic Scott made the first motion, seconded by Pat Williams, vote was 6-0.

9. **OLD BUSINESS:** President Carey

- A. **MMO – comparison to expected numbers from D Williamson provided in 2018:** Last fall we had an issue with the MMO. Wanted to set up a meeting with Don Williamson. They feel that it is too early; the actuarial evaluation isn't completed so they don't have any information for us yet. Mr. Cruciani asked when they would have the information. Ms. Kehoe stated that would be late August, early September. Mr. Cruciani asked when they have the vote whether Don Williamson is the person that we would retain. Ms. Kehoe stated that it is automatically renewed every year. David Jenkins stated that it seems as though they have been dragging their feet with the serious questions that we have. We

were told that a 500% increase in the premium is going to drop. We haven't seen that. The next Police Pension meeting is in May and they can bring this up to them. Bob Bennett wants to explore other companies that do this. Vince Cruciani made a motion to send formal correspondence to the police association, that the Council will be exploring alternate insurance companies for the police pension actuarial rates and we encourage an open dialogue to explore and put forward alternate companies as well, seconded by David Jenkins. On the question Mr. Cruciani stated that he thinks this gives the Borough the latitude they need to be judicious, so when they go into their meeting with the union, they are not blind sighted. Vote was 5-0.

- B. Resolution 2019-05 CDBG Agreement:** Solicitor Hayes stated that there is language that provides indemnification to the Borough in the event that we get sued. David Jenkins made the first motion to approve Resolution 2019-05 as on the advice of the Solicitor, seconded by Dominic Scott. On the question Vince Cruciani thanked the Solicitor for his work and when we do get to the point where we are self-administering the grants he will vote for them. At the same time he found the CDBG Grants to be an excuse for local government to invent programs that wouldn't otherwise spent money on if the money wasn't given to them. Given the case that we incurred major liability this year, that the solicitor was nimbly remove us from, he has a lack of faith in the county's ability to properly execute the payment of everything from their own garbage bills to grants that we were liable for. Mr. Cruciani will be voting no. Bob Bennett asked about the administrative fees involved. Mr. Cruciani stated that we pay the county administration fees, so we would pay ourselves administrative fees. Gerrie Carey stated that we would have to hire someone that would do the bidding for us. MS. Kehoe stated that the administrative fee would come out of the grant. The vote to approve Resolution 2019-05 was 5-1 with Vince Cruciani voting no.

10. NEW BUSINESS:

President Carey

- **Resolution 2019-08 Creek Restoration Grant application:** David Jenkins made the first motion to approve Resolution 2019-08, seconded by Pat Williams, the vote was 6-0.
- **Swingset – Lewis Ln Park:** David Jenkins made the first motion to order the two person swing set, seconded by Vince Cruciani. On the question, Mr. Cruciani asked if they could order the two person swing and if they need the other two, you're not saving any money by ordering four. They are the same price. Mr. Cruciani stated that they should take the responsibility as Council for approving the location for the area where the swing set should be placed in the park. Council decided to table the installation site until next month. They would like it installed by July 4th. The DPW will do the installation. Have the swing set delivered to the DPW. Vote was 6-0.
- **2009 Sherwood Freightliner – approve \$11,793.75 repair (pay 1/3 from General Fund and 2/3 from Capital Reserve):** Vince Cruciani made the first motion to approve the repairs, seconded by Bob Bennett. Vote was 5-1 with David Jenkins voting no. Mayor Johnson asked about a policy with this vehicle. He said they weren't looking to reprimand anyone but the issue with the Freightliner was from neglect. Mayor Johnson stated that the Borough hires people, are they trained enough to handle these vehicles. Council could do more.

He stated that was neglect and no one wants to take responsibility. Mayor Johnson would be more comfortable if the Borough had a policy. David Jenkins stated that he agrees, there is an issue here. Someone dropped the ball. Mr. Jenkins stated that the policy should be that the truck be inspected before use every time. It was either someone dropped the ball or there was a drastic leak that was not picked up by whoever had the equipment. Virginia Kehoe stated that there is not a policy in writing, she can do so and run it by the Personnel Committee. They did talk to the operator and in fact and in fact they have switched operators. Ms. Kehoe stated that she would ask as part of policy that Council allow the foreman and herself some leeway with who is driving the truck because if we are short men and we are in the middle of a snow storm we have to use whoever we can. Ms. Kehoe stated that the DPW does check their equipment daily. We have had a number of hoses burst so there has been oil under the vehicle regularly. Mayor Johnson disagreed with Ms. Kehoe on one thing when she said they might have to put the driver back in to that truck. If he is the cause of the damages, then why would you put him back in that truck? Mayor Johnson stated that they need to come up with a solid policy that we have to hold people accountable. Vince Cruciani asked if it was the operation of the vehicle or was it a failure to review the condition of the vehicle prior to the operation of it. Ms. Kehoe stated that as of right now everyone is assuming that the operator was negligent, but nothing is proven that he did anything wrong. The report stated that there were metal shavings in the oil and that was part of the problem. Ms. Kehoe stated that she didn't think this was fair to put this entirely on this person. Ms. Kehoe stated that there definitely is an accountability issue; he should have been more attentive. But this truck has had issues when he hasn't been driving it also. Ms. Kehoe stated that the operator didn't review the integrity of the vehicle. Mr. Cruciani stated that there is no reason why another person, at least until this question about the person's competence to inspect the truck is resolved. Someone on shift that day/night inspects that truck and then drives it.

- **Sewer Main damage off Winola Rd (emergency – ratify at May meeting):** David Jenkins made the first motion to give the Borough Manager the authority to go ahead with this emergency situation and keep Council posted by email, seconded by Dominic Scott. Pat Williams asked what we were cleaning up, the sewer line broke? Ms. Kehoe stated that the sewer line didn't break. The line was camerad and they found abandoned laterals and either they weren't capped or the caps came off or they were damaged so the sewage backed up and went to the first opened and that was these abandoned laterals. So the bid is to clean up the raw sewage and cap the laterals. Vince Cruciani stated that laterals are the responsibility of the property owners. Ms. Kehoe stated that one of the laterals belongs to the Stivala property. They owe liens on the sewer and the water has been shut off for a while at that property. Mr. Cruciani suggested filing an additional lien for the cost of the money. He would like the cleanup and the capping need to itemize per lateral, there are two. The property owner of each lateral should be sent a letter and if they are willing to work with us maybe Council can negotiate with them. But if they are not then we put a lien on them. This is a public health emergency which allows us to go on the property. Mr. Cruciani stated that we need two complete separate itemized costs for each lateral. David Jenkins suggested sleeving this with a 6 inch pipe at the same time the repairs are being done. They cannot do this because this is an emergency

situation and that his to be fixed first, the sleeving would be extra that is not absolutely necessary. They would need an additional quote for the sleeve which would be secondary. They can get a quote for the sleeve. Vote was 6-0.

- **Electric for Christmas lighting:** Ms. Kehoe is asking for estimates.

Ms. Kehoe stated that there was a truck that took down a wire on State Street. It is a wire to our Christmas Lights and it's not turned on. Solicitor Hayes wanted to find out how tall the truck was. Vince Cruciani stated that this may lead to a criminal investigation and litigation, he asked Council to refrain at the moment until they have more facts. This may need to be discussed in an executive session.

11. SOLICITOR'S REPORT:

Solicitor Hayes

Solicitor Kevin Hayes stated that the Borough put the Sheridan Avenue property up for bid. There was an appraisal report done by a certified appraiser that indicated that the property was completely in the name of Clarks Summit. It was on tax maps that the 1.7 acres was all the property of Clarks Summit. There are some issues with regards to the deeds in which not all of the properties are in the name of Clarks Summit. This property needs a clean title. Solicitor Hayes stated that under Section 1201 A-2 of the Borough code, the prospective purchaser is required to produce the funds of the purchase price within 60 days. That was also in our resolution that was put out to bid. Those funds would have to be placed in an escrow account until these issues are resolved. The purchaser is willing to do that subject to certain conditions. Vince Cruciani asked if we put in the bid that we would special warrantee it or can we just quick claim it. We could give a general warrantee deed to the 2 parcels we own then a quick claim deed with regard to the others.

12. CORRESPONDENCE:

- **Shirley Staffaroni/Pat Stark – David Parker Memorial to Veteran's Park (vote max funding for plaque):** David Jenkins made a motion that whatever they decide to do that they do it at Veteran's Park and still keep a spot available at the Sheridan Avenue property for even a small plaque for David Parker. Vince Cruciani stated that by the motion that was passed to sell the property, the 10 x 10 spot is preserved. They know that they are going to have funding coming in. They all know that they can put stuff there at Veteran's Park for Dave Parker. They will have to appropriate funds. They talked last month about having veteran's organizations look at possible ideas. Mr. Cruciani doesn't think they need to make any motions. David Jenkins withdrew his initial motion and he made a motion to set aside \$5,000 towards both Veteran's Park and something at Sheridan Avenue specifically dedicated to memorials for Parker, seconded by Vince Cruciani. Vote was 6-0.

Council went into an executive session.

13. EXECUTIVE SESSIONS:

President Carey

- **Prior-** None
- **During-** None
- **Subsequent-** None

14. ADJOURN:

President Carey

Bob Bennett made the first motion to adjourn, seconded by Pat Williams, vote was unanimous