

**BOROUGH OF CLARKS SUMMIT
BOROUGH COUNCIL MEETING
AUGUST 7, 2019**

The August 2019 Borough Council Meeting was conducted on August 7, 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. Patrick Williams, Mr. Vincent Cruciani, Mr. David Jenkins, Mr. Frank Besten, Mr. Bob Bennett, Mayor Johnson, Police Chief Chris Yarns, Solicitor Kevin Hayes, and Borough Manager Virginia Kehoe. Mr. Dominic Scott was absent from the meeting.

SPECIAL HEARING: Ordinance 2019-02 Ordinance Amending Ordinance Number 2002-01 To Reflect An Amendment Permitting A Crematorium As Accessory Use Of The Operation In A Funeral Parlor In The Borough

Solicitor Hayes made an opening statement for Council and the public. The borough is not voting to approve or deny any specific plans to build a crematorium in the borough. Furthermore, the borough is not endorsing any proposal for a crematorium in the borough. To the contrary, the borough is simply amending its ordinance to be consistent with Pennsylvania case law as well as the recent trends in the funeral service business. Earlier this summer the Solicitor of the ZHB notified Council that an amendment to the borough's current zoning code was necessary in order to comply with Pennsylvania law and to reflect the current trends in the funeral service business. The borough zoning code was adopted in 2002 and its definition of funeral parlor has not been updated in the past 17 years. The specific amendment to the zoning ordinance will simply allow a crematory to be an accessory use of a funeral parlor in the borough. This is consistent with Pennsylvania case law as well as the interpretation of other zoning hearing boards throughout the Commonwealth of Pennsylvania. Solicitor Hayes cited case law. This amendment is proposed to avoid unnecessary legal challenges and costly appeals which very well may result in the zoning code being deemed unenforceable with regard to the use of cremation services. Any proposal for a crematorium in the borough would have to be approved by DEP. Specifically the funeral home would be required to complete a permit application and submit it to DEP. That permit application is extensive. After that permit with DEP is filed, the public will have the opportunity to submit written comments regarding the proposed permit application. If the crematorium is approved by DEP, it will be subject to their strict oversight and regulation. Public comments are restricted to residents, business owners and their representatives of the borough. Public comment is limited to 5 minutes per person.

Molly Philbin, 401 Colburn Avenue, is strongly opposed to the crematorium. Ms. Philbin stated that she doesn't think the crematorium will serve the common good, she thinks it will harm people. She would like Council to do more research before voting on this amendment. Ms. Philbin quoted websites where she researched information concerning crematoriums. She read statistics concerning the dangers associated with crematoriums and the environment. Vince Cruciani asked what sources she was referencing. She quoted from the Minnesota Post on policy in 2013, a newspaper article. Carlene Gallo, 111 Main Avenue lives one block away and she is against the crematorium. She asked about the permit process with the DEP. If it is approved with the DEP, a plan would have to go before the Planning Commission. Vince Cruciani asked if it is common practice to ignore the commonwealth court ruling that is directly related to this subject matter. She stated she was not able to answer that. Bernard Elko, 401 Highland Avenue,

asked Council to consider the amount of usage that this crematorium might represent. He sees the usage being somewhat limited. Mary Ellen Gualieri, 110 Gently Drive, stated that she agrees with Molly Philbin. Ms. Cited Action PA.org. She stated that the research showed that mercury is very difficult to measure, it is colorless and odorless. She also stated that dioxin is released into the air. She doesn't think it will benefit the general population in the borough. Chris Calvey, Harwood Avenue, spoke as a funeral director and as a resident of the borough. He is in support of the change to the ordinance. He has also done extensive research on the subject. His results were that the emission is minimal. Vince Cruciani asked for his sources. Mr. Calvey's sources included the PA DEP on crematories and regulations, the EPA, Cremation Association of North America, and Legislature hearings among others. Mr. Cruciani asked Mr. Caley in terms of environmental impact between the burying of a corpse, the procurement of a casket, digging up a grave, embalming of a corpse, and perpetual placement of a corpse in a cemetery; he asked Mr. Calvey in his professional opinion he asked which has a larger environmental impact. Mr. Calvey stated that hands down the answer is traditional burial has a larger impact. Gene Gallagher, 205 Barrett Street, asked that Council base their decision on facts and common sense, not hysteria. Brigid Reese, 313 Colburn Avenue, asked who wrote the Curative Amendment, the answer was Solicitor Hayes. The borough does not have to confer with the county on this. She asked specific question about the funeral home in the area and we are not answer those kinds of questions because we do not have an application in front of us. If the borough votes no on the curative it could be costly to the borough. They would have to go before the DEP for a permit. Vince Cruciani stated that the DEP process does have a public comment area and the Borough's Planning Commission has a public comment area also. Joe Krott, 419 Highland Avenue, asked about property values, stating that he doesn't believe his property value won't be affected. Beth Laco, 201 Highland Avenue stated that Clarks Summit is too populated for this, the residential communities are too close. Carol Rosecki, 306 Primrose Avenue opposes the crematorium. She stated that no one talks body parts, and the toxins that are going into the air. She feels that we should not allow this to go on.

CALL TO ORDER:

President Carey

MEDITATION:

Mayor Johnson

PLEDGE OF ALLEGIANCE:

Mayor Johnson

1. VOTE ORDINANCE 2019-02

President Carey

Bob Bennett stated that the footprint of the building, the environmental impact, and the fact that the ordinance that is not in compliance with the current state court ruling he is in favor of the ordinance. Mr. Cruciani stated that he would like to thank the residents for coming to the meeting, he did hear several legitimate concerns that he thinks are extremely appropriate to bring to the DEP's public comment process. Mr. Cruciani stated that the exploration concerning the emissions regulations. Mr. Cruciani stated that he believes that the carbon footprint is less through cremation than a grave. There is a legitimate concern about expanding the footprint of any business or residence, which falls under planning. Mr. Cruciani stated that that Planning Commission is an advisory committee so the accountability would fall back on the elected officials. He thinks it's a dangerous position for this borough to consider itself anything more in terms of the grant of power that they have. The borough is a completely subordinate body to the Commonwealth of Pennsylvania.

We are completely governed under the borough code. We are 100% subject to the rulings of the PA Commonwealth Court. Mr. Cruciani stated that they spent considerable energy and time paying off the Grandview Street debt that they incurred 10 years ago. It was paid a year and a half early. They saved \$250,000 that otherwise would have went to something else. We learned our lesson. He thinks it would be a matter of great ignorance for this Council to think that it had more power than it does and to ignore the court and subject the residents to legal bills which would be something that we would certainly lose. Because we have the opportunity to have the DEP address this, have local regulations be examined and have the planning committee examine any additional footprint, he feels it is incumbent upon all of Council to respect the authority of the Commonwealth court and pass this Curative Amendment.

Vince Cruciani made the first motion to approve the Ordinance 2019-02, seconded by Bob Bennett, vote was 6-0.

2. **APPROVAL OF AGENDA:** **President Carey**
Bob Bennett made the first motion to approve the agenda, seconded by David Jenkins, vote was 6-0.

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

- **June 26, 2019 Work Session:** David Jenkins made the first motion to approve the minutes, seconded by Vince Cruciani, vote was 5-0-1 with Bob Bennett abstaining.
- **July 10, 2019 Regular Council Meeting:** Vince Cruciani made the first motion to approve the minutes, seconded by Bob Bennett, vote was 5-1 with David Jenkins voting no.

4. **PUBLIC COMMENT & INPUT:** **President Carey**
Gerard Hetman, Lackawanna County Community Relations department updated Council on events happening in the county.

5. **POLICE REPORT:** **Mayor Johnson**

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

- **Carnation Park Underdrain project:** Virginia Kehoe opened up two bids. One was from Linde Corporation, \$71,085. J.S Wright bid \$24,348. Mr. Cruciani asked what Matt William's bid was. Ms. Kehoe stated it was a little over \$24,000. Vince Cruciani stated that we need to look at specs and talk to the Borough Engineer because his concern with this project is. This is a job with fine-tuned execution and he thinks they are in the margin where they get to choose to not go with the low bidder. Solicitor Hayes stated that we need to go with the lowest responsible bid. Ms. Kehoe stated that because the bids are over \$20,600, then the borough must advertise and bid the job out. The bids are public record. The people who bid can rebid again. There is a time constraint because of the weather. Mr. Cruciani stated that the completion

window should be not more than 30 days of the date of the award. Vince Cruciani made the first motion to rebid then authorize the Borough Manager to accept the lowest responsible bid under the threshold of \$25,000, seconded by David Jenkins. On the question, Mr. Cruciani stated that the contractors should know that the threshold is \$25,000. This will be funded by the sewer fund. The vote was 6-0.

- **Cross Country Trailer – Municibid:** David Jenkins made the first motion to approve the trailer sale for \$600, seconded by Pat Williams, vote was 6-0.

7. **BOROUGH TREASURER’S REPORT** **President Carey**

Vince Cruciani made the first motion to approve the Borough Treasurer’s Report, seconded by Bob Bennett, vote was 6-0.

8. **COMMITTEE REPORTS:**

- **Building & Plant** Pat Williams, Chair
Pat Williams stated that Artie Frank painted the Perry plaque and he also fixed the cork board at the borough building. The Grove Street Bridge has weeds growing through the fence. Mr. Frank would be taking care of that also. Tom Carter is not feeling well, he will be retiring, and we can send a card thanking him.
- **Finance Committee** Dominic Scott, Chair
- **Grant Committee** Dave Jenkins, Chair
Resolution 2019-15 Lackawanna County Re-Invest Grant: We want to apply for a \$10,000 Community Reinvest Grant which would be used to assist the borough with remodeling the police station upgrade. David Jenkins made the motion to apply for the grant, seconded by Pat Williams, vote was 6-0.
- **Recycling Committee** Bob Bennett, Chair
Shredfest – 9.88 ton - update on brush pickup. Bob Bennett would \$547 in donations and he would like to have that money targeted for Carnation Park area. Franks Besten stated that Bob Bennett did an outstanding job with the shred fest. Ms. Kehoe stated that there was also a 25% increase from last year.
- **Insurance Committee** Vince Cruciani, Chair
- **Personnel Committee** Frank Besten, Chair
- **Public Safety/Safety** Pat Williams, Chair
Pat Williams stated that most of the granite sidewalks that we have, the caulking needs to be done or the sidewalks will push out and crack. Ms. Kehoe asked if the curbing is part of the right-of-way. Normally the curbing and sidewalks is the property owner’s responsibility. Do we want to push back against the property owners, rather than asking out DPW to patch it? Frank Besten stated that once we open that up, no one will repair their sidewalks. The curb is part of the right-of-way. Pat Williams is concerned about the granite sidewalks he is trying to be proactive. Mr. Cruciani stated that people don’t have an obligation and we should not come off two heavy handed because technically. Mr. Cruciani stated that the owners are liable and responsible but they are not obligated to act. Mr. Cruciani stated that is anyone wants to they can remove their sidewalk. Mr. Cruciani suggested that when Ms. Kehoe calls then it might be a good idea to have a few vendors for them. She can tell them where to look to find somebody.
- **Sewer Billing** Dominic Scott, Chair

Jenn Basalyga stated that 7 residents who did not made a payment. 2 were already shut off by the water company. 5 people have a water shutoff in the process. 1 certified letter was sent to a resident who hasn't kept up with their payment arrangement. 4 people are on the payment arrangement list. During the process 78 homes were posted with a letter, the DPW does this. Solicitor Hayes stated that Joe Riley was advised that he is in violation of the residential code. He is on a payment plan with the Magistrate. David Jenkins stated that Mr. Riley should be paying the Solicitor's bills for his time with this.

- **ACOG Representative** Frank Besten/Gerrie Carey/Dom Scott
- **Building plans committee** Gerrie Carey/Frank Besten/Pat Williams
- **LCAB** Patrick Williams meeting
8/15 at 6:30
- **SAPA** Dave Jenkins
There will be a meeting on August 21, 219.
- **Sr. Center Committee** Gerrie Carey, Kevin Hayes
Solicitor Hayes stated that Greg Pascale has the proposed date and they want to talk to the other municipalities. Solicitor Hayes will follow with Pascale.
- **Additional comments from Council**
David Jenkins asked Ms. Kehoe to check in with the Tower Co, the flag needs to be replaced. Mr. Jenkins asked about the windows in Council chambers. Ms. Kehoe will call Redfield Construction to see if they can do anything. Pat Williams asked if Artie Frank could do the work. Unless he is licensed and insured he cannot do the job. Bob Bennett asked if they can increase George Carros's hours from 12 to 15. Bob Bennett made the first motion to increase George Carros', the borough's parking enforcement officer hours, seconded by Frank Besten, vote was 6-0. Mayor Johnson stated that they would like to train another person to do this job also; this would be an alternate person. Vince Cruciani stated that the Police Chief has done an excellent job maintaining costs. Mayor Johnson stated that the police department and the chief have done an excellent job. The Chief watches out for grants. They are watching their finances and he is very happy with the department.

9. **VENDOR PAYMENTS TO BE RATIFIED:** **President Carey**
Vince Cruciani made the first motion to ratify the payments, seconded by David Jenkins, vote was 5-0.

10. **OLD BUSINESS:** **President Carey**
A. **None**

11. **NEW BUSINESS:** **President Carey**

12. **SOLICITOR'S REPORT:** **Solicitor Hayes**
Solicitor Hayes stated that he is still reviewing the proposed contract. He is looking at other municipalities that have engaged them and have a sign. We need to do our due diligence. Are there any other companies that do the same thing? Solicitor

Hayes stated that he did tell the representative that the borough will not move on this before September if at all. Solicitor Hayes stated that he is working on a couple personnel issues. He also complimented Council for the issue with the proposed issue of the ordinance at the beginning of the meeting. Vince Cruciani asked if we got a quote to take the electronic sign down. Ms. Kehoe did not get a quote yet. Mr. Cruciani stated that this is for financial analysis; also he wants to have some kind of bond for them to fulfill their obligation. What would it cost with the DPW, calculate all the expenses. We want a safety net if the company goes defunct. On July 25th hearing about an outstanding tax bill for Roy Davis, Dan Penetar told him that there was an error and Mr. Davis was not told that it was his property. They did give him a reduction on the cost so the borough should be receiving that. Vince Cruciani thanked Solicitor Hayes for his work on the public hearing. Gerrie Carey stated that she thought it was great that he addressed it first so that eliminated questions. Solicitor Hayes stated that Councilman Cruciani had good ideas on the order of the process. Vince Cruciani stated that a significant amount of the people who spoke in opposition did not even stay to listen to Council's comments or watch the vote. He asked that this was reflected in the minutes. David Jenkins stated that everybody is too complacent and that shows, they just got up and left.

13. **CORRESPONDENCE:**

- **Shannon Brown:** Ms. Kehoe stated that Highland Avenue is a PENNDOT alternate route, so she doesn't think that we can ban trucks on it. Mayor Johnson stated that trucks can't be banned from Highland. There has been a lot of construction on Highland Avenue. There was a cause and effect, and the construction is finished.

14. **EXECUTIVE SESSIONS:**

President Carey

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| ● Prior- | July 31, 2019 contract negotiations |
| ● During- | None |
| ● Subsequent- | None |

15. **ADJOURN:**

President Carey

Vince Cruciani made the first motion to adjourn, seconded by Frank Besten, vote was 6-0.