

**BOROUGH OF CLARKS SUMMIT  
BOROUGH COUNCIL MEETING  
OCTOBER 2, 2019**

The October 2019 Borough Council Meeting was conducted on October 2, 2019 at 7:00 P.M. The Meeting was held in Borough Council Chambers, 2<sup>nd</sup> 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 (left early at 9:15pm), Mr. Vincent Cruciani, Mr. Frank Besten, Mr. Bob Bennett, Mr., Robert Sheils, Mayor Johnson, Police Chief Chris Yarns, Solicitor Kevin Hayes (arrived at 7:45pm), and Borough Manager Virginia Kehoe. Mr. David Jenkins was absent from the meeting.

**SWEARING IN OF ROBERT P. SHEILS III**

**Judge Julia Munley**

Robert P. Sheils III was sworn in before roll was taken for the meeting.

**CALL TO ORDER:**

**President Carey**

**MEDITATION:**

**Mayor Johnson**

**PLEDGE OF ALLEGIANCE:**

**Mayor Johnson**

**PROCLAMATION FOR DOMINIC SCOTT**

1. **APPROVAL OF AGENDA:**

Frank Besten made the first motion to approve the agenda, seconded by Pat Williams, vote was 6-0.

2. **APPROVAL OF MINUTES:**

**President Carey**

- **August 29, 2019 Work Session**
- **September 4, 2019 Regular Council Meeting**

Bob Bennett made the first motion to approve the minutes, seconded by Pat Williams, vote was 6-0.

3. **PUBLIC COMMENT & INPUT:**

**President Carey**

Gerard Hetman with Lackawanna County informed Council of events happening in the county.

4. **POLICE REPORT:**

**Mayor Johnson**

Frank Besten commented that the light will be going up by Winola Road.

5. **BIDS & QUOTATIONS:**

**President Carey**

- **Tahoe bids on Municibid:** Frank Besten made the first motion to accept the bid for the sale of the Tahoe, seconded by Pat Williams, vote was 6-0.

6. **BOROUGH TREASURER'S REPORT**

**President Carey**

Vince Cruciani asked Ms. Kehoe why there is still money in the Debt Service Account. Ms. Kehoe stated that it will be moved over but we are collecting it through

the end of the year. Mr. Cruciani asked if the DPW vehicle was purchased. Ms. Kehoe stated that yes it was purchased. Mr. Cruciani stated that Council voted to allocate the money for the DPW vehicle to be taken from the Debt Service Fund. Ms. Kehoe stated that the money transfer didn't happen yet. Vince Cruciani made the first motion to approve the Treasurer's Report, seconded by Bob Bennett, vote was 6-0. Mr. Cruciani made the first motion to allocate all but \$1,000 of the Debt Service Account Budget current holdings, to the appropriate funds. For the next Finance Committee meeting, Mr. Cruciani, he would like to see where the \$95,000 is reimbursed and then what is the balance of the already approved reimbursements. So there will be three numbers; what's in there now, the approved reimbursements and what our balance is and current debt. They need to make a motion next month to move that balance to the current debt, and then we will know what our position is on debt next year when they are forming the budget, for the December vote, they can vote on the balances for the November meeting. Then they can have an anticipated remainder amount left that will come in in November and December and also have an idea conservatively based on that balance after they have already paid down the promised reimbursed debt plus the balance of the debt, that way they can have an accurate 2020 budget when the Debt Service millage goes away. Mr. Cruciani stated that he will hold his motion until next month.

7. **COMMITTEE REPORTS:**

- **Building & Plant** Pat Williams, Chair
- **Finance Committee** Bob Sheils, Chair Sewer Fund transfer \$85,000 to Capital Reserves (or more)
- **Grant Committee** Dave Jenkins, Chair application submitted LSA Grant \$200,000 for borough building, did not receive watershed grant
- **Recycling Committee** Bob Bennett, Chair submitted 2018 recycling report – increase (slight) in commercial and residential
- **Insurance Committee** Vince Cruciani, Chair
- **Personnel Committee** Frank Besten, Chair Frank Besten stated that the association has filed for arbitration. Tomorrow the Personnel Committee will meet with Joe O'Brien and discuss strategy to get them back to the table. They discussed a few of the issues. Vince Cruciani stated that if we are going to arbitration and the contract then gets renewed in terms of all ideas being on the table. The past practice of the full time officers having the first opportunity to take additional shifts by their sole discretion, based on seniority, which was implemented in the last arbitrated agreement, should be a reviewable issue.
- **Public Safety/Safety** Pat Williams, Chair Pat Williams stated that Artie Frank has done a lot of work in the Borough. Penndot put the lines on Winola Road. Discussed the gas boxes in the road. Frank Besten stated that there will be a light installed near Winola Road. Areas of Carnation Park were repaired.
- **Recreation** Bob Sheils, Chair
- **Sewer Billing** Bob Sheils, Chair Jenn Basalyga stated that the delinquent sewer letters went out and 60 have been paid already. Ms. Kehoe stated that when it comes to the aging report, we have

more people that have pre-paid their sewer through the end of the year, than we had delinquent balances. So our aging is a negative for the first time.

- **ACOG Representative** Frank Besten/Gerrie Carey/  
Bob Sheils
- **Building plans committee** Gerrie Carey/Frank  
Besten/Pat Williams
- **LCAB** Patrick Williams
- **SAPA** Dave Jenkins next meeting  
with Planning Commission scheduled for 11/20
- **Sr. Center Committee** Gerrie Carey, Kevin Hayes  
Solicitor Hayes reviewed the history of the Senior Center and the AAJRB. Vince Cruciani stated that we own a building (The Senior Center), without a deed or a lease and it's not located in the Clarks Summit Borough. That evening all representatives from the different Municipalities were at the Clarks Green Borough for a meeting about the Senior Center. Solicitor Hayes stated that the inspection report for the Senior Center states that it is in very good shape and the tenants are actually the ones who are responsible for the repairs. There are missing shingles and cracked sidewalks. Vince Cruciani made the first motion upon the Solicitor's discretion, the borough to file a claim of any breach of contract for repair work that needs to be conducted by Telespond that hasn't been conducted under the terms and conditions of their agreement, seconded by Bob Bennett. On the question, Vince Cruciani stated that the worst way the borough can get burned is if they go out of business before the borough files that claim. The vote was 6-0. Solicitor Hayes stated that he will circulate the proposed termination of the lease and he will work on the bill of sale.
- **Trash Contract Committee** Gerrie Carey/Frank  
Besten/Pat Williams: Gerrie Carey stated they are meeting on this on Monday. The contract expires 2/28/2020 but we have to budget for it this year. Frank Besten stated that a lot of people have brush out; some are large limbs that the borough can't take. It's a problem that we have to address. Should this be incorporated into the J.P. Mascaro contract? Ms. Kehoe stated that we can send warning letters that the brush which is not cut to the mandated size will be cited under the Quality of Life Ordinance. Discussed limiting the brush pick up so it doesn't go as long. Vince Cruciani questioned using the Quality of Life Ordinance when it comes to a large tree limb. Mascaro's estimated increase could be as much as 40%. There is not a market for recycling any more. That is the issue. Vince Cruciani suggested possibly having the recycling picked up bi-weekly instead of weekly. There is no sanitary issue with that. Vince suggesting getting a price for trash and recycling together and separate pricing for only garbage and only recycling.
- **Additional comments from Council**

8. **VENDOR PAYMENTS TO BE RATIFIED:** **President Carey**  
Frank Besten made the first motion to ratify the vendor payments, seconded by Vince Cruciani, vote was 6-0.

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

A. **Electronic Sign:** Solicitor Kevin Hayes has been working on the lease agreement with the vendor, CEIS. In the lease we are making a few changes. The lease agreement instead of 20 years, we want 10 years, they came back and asked for 15 years. They accepted our proposed rate of \$3,500 per year with a 2% annual increase. We proposed 15% of the messages be allocated for borough purposes, they are asking for 14.5%. There will not be any trees removed. They are responsible at their own expense for the removal and discarding of the existing sign. CEIS is responsible for the electrical costs for the sign. All disputes will be resolved in the Court of Common Pleas in Lackawanna County. They are responsible for restoring the area to an aesthetically pleasing manner. They cannot assign this to another party, without the Borough's authorization. They need to have insurance. Solicitor Hayes wanted to see what the sign will look like, and he wants that attached to the agreement. The size, materials, and landscaping needs to be addressed and attached to the agreement. Bob Bennett asked if CEIS terminates the agreement would we be left with an unusable sign. If they go out of business. Vince Cruciani stated that there is a provision that mandates removal of the sign upon abandonment. Solicitor Hayes agreed. Vince Cruciani stated that there should be a \$5,000 bond provision to cover the removal of the sign if they go out of business. Solicitor Hayes would add that in. Amber Alert should be removed at the Borough's discretion. Pat Williams stated that if the sign gets worn out and the lighting is getting dull, who makes the determination. CEIS would be responsible; it shall be kept in an attractive and well maintained state at all times. Solicitor Hayes will add in language supporting that. Council discussed the ads that would be prohibited. Vince Cruciani discussed the broad subject of political ads. Solicitor Hayes stated that there could be legal challenges on the content of the ads. Vince Cruciani stated that despite the excellent job that Solicitor Hayes has done negotiating this, this is why he is voting against it.

10. **NEW BUSINESS:** **President Carey**

11. **SOLICITOR'S REPORT:** **Solicitor Hayes**  
Solicitor Hayes discussed a property on Bedford Street in disrepair. There are two provisions of the Quality of Life Ordinance that can be invoked and violations of the building code. Vince Cruciani asked about the Stivala property. Ms. Basalyga would look into that, it was sent to the Magistrate's office. Mayor Johnson mentioned Art Wells' gas station, it is an eye sore, but there are no violations. Pat Williams stated that the Quality of Life Ordinance should cover all of these small things. Ms. Kehoe stated that as long as there is not a safety issue we cannot cite them. Vince Cruciani stated that the property is for sale and if anyone doesn't like it, they can buy it and change it. Pat Williams stated that he thought when they did the Quality of Life Ordinance it would address issues like this. Pat Williams stated the rule on grass being ten inches high is ridiculous, he said the grass will fall over before that. Jenn Basalyga stated that if the grass is so high that it falls over they will be cited for that. Solicitor Hayes stated that you can't just say I don't like the way your place looks, there has to be a violation of the QOL Ordinance. The ordinance is specific, if Council wants to change that, they can. Pat Williams did not agree with that, he would like to tell residents to spiffy up their property to fit in with the rest of the properties.

Vince Cruciani stated that we live in a society of private property. He said he doesn't disagree in spirit but he said Mr. Williams could buy Mr. Well's property. Pat Williams stated that neither here nor there, and what kind of answer is that. Ms. Kehoe stated that for this kind of regulation you would need to move into an HOA. Mr. Williams doesn't think that the QOL ordinance should be so specific; every time he brings up an issue he's told we can't do anything about it. Ms. Kehoe stated that there are things that he wants to cover that cannot be legally covered. Mr. Williams stated that instead of citing someone, we can make a suggestion for people that they need to step up and maintain your property like everyone else. Mr. Cruciani stated that if you say that one time, that's fine but if you say that two times, when does it become coercion or harassment. Mr. Cruciani stated that the government does not need to coerce people. Pat Williams said the he stated his position and everybody should understand that, they can spin it in a 1,000 ways if they want; all he is asking is for people to maintain their property. Vince Cruciani stated that as a citizen, Mr. Williams is within his right to express that as heavily as he wants but in terms of a government actor it's different. Pat Williams stated that there are a lot of properties available in Scranton for anyone who doesn't agree with that he is saying. Mr. Cruciani stated that there is one for sale in Clarks Summit for sale if he wants to buy it (referring to the Wells gas station.)

12. **CORRESPONDENCE:**

13. **EXECUTIVE SESSIONS:**

**President Carey**

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

14. **ADJOURN:**

**President Carey**

Vince Cruciani suggested recessing on just the issue of the police contract negotiation. Ms. Kehoe stated that an arbitration date won't be set until probably the New Year. Mr. Cruciani stated that if the arbitration doesn't occur or a settlement does not occur, before the beginning of the New Year, the existing contract will remain in place. The answer was yes, Ms. Kehoe stated until something is enacted that says retroactive back to January, and then we would make adjustments. Vince Cruciani suggested scanning pictures of the new sign and putting them on the Borough website for the public to weigh in on. What model Borough sign they prefer. Mr. Cruciani stated that one of the pieces of feedback that they have received on a few different issues that merits their consideration and reflection is that they didn't ask for feedback on certain things. Pat Williams stated that will cause a lot of confusion, they are elected to make decisions. Mr. Cruciani stated that they are not looking for a referendum on which sign might be chosen, we would be putting the signs on the website and if people want to come to public comment on the meeting that we ratify the agreement. It is Council's decision to make he thought if the public could see the models, they could come to public comment and weigh in. Solicitor Hayes stated that the material terms for the sign are a \$3,500 fee per year with a 2% increase yearly; a 15 year lease; 14.5% of the content is dedicated for Borough purposes; the \$5,000 bond; no advertising for cigarettes, alcohol, etc. which is

specified. Vince Cruciani suggested an indemnity provision contain content based lawsuits. Solicitor Hayes read the indemnity clause which was very broad. Vince Cruciani stated that for the record, Pat Williams left the meeting early (9:15). Frank Besten made the first motion on the above material terms as stated by the Solicitor, seconded by Bob Bennett. On the question, Vince Cruciani stated that the Solicitor and other members of Council did a great job negotiating the terms of the agreement, that being said, he thinks one single law suit on content which he sees happening which he sees very likely, it could easily wipe out the entire profit margin of what estimates to be \$50,000-\$60,000 or so. Also technology is so rapidly expanding that the actual value of the technology itself could be obsolete before the terms of the contract ends. Mr. Cruciani stated that he would rather spend \$1,000 to take down the sign and not have one in the park. He doesn't want the borough to have the potential liability of someone saying the distraction of the sign caused some kind of accident. He sees more liability than value and that is why he is going to vote no but he thanks the Solicitor and Council for their hard work. 4-1 with Vince Cruciani voting no.

Vince Cruciani made the first motion to adjourn, seconded by Frank Besten, vote was 5-0.