

**BOROUGH COUNCIL SPECIAL
MEETING AUGUST 28, 2024
7:00 PM**

The August 2024 Borough Meeting was on Wednesday, August 28, 2024, 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, Ms. Roni Lopez, Mr. Joshua Mitchell, Mr. Steve Guza (by zoom), Mr. Bob Sheils, Borough Manager Virginia Kehoe, Solicitor Andrew Krowiak, Mayor Harry Kelly, Junior Council people Mr. McVety and Ms. Siddiqui. Mr. Frank Besten and Ms. Kathleen Simrell were absent.

1. WORKSESSION:

President Carey

2. PUBLIC COMMENT:

President Carey

Artie Frank asked about the rain garden. We fine for QOL, wouldn't that apply to the park. Ms. Kehoe said that we need the detention basin, we can put up a privacy fence.

3. DISCUSSION:

President Carey

- Frank Besten Resignation – replacement?: Once this is voted on, we have 30 days to make a replacement. Josh Mitchell stated that the borough should aim to advertise to request applicants; they can interview the applicants at the worksession, then make a vote at the September meeting. We can advertise on the bulletin board, web page. We can tell the paper that we accepted a resignation, they could put that info in the briefs. We would need a letter of interest by the Monday before the worksession, September 23, 2024.
- Tire Recycling Event: Ms. Kehoe stated that the event is 10am-2pm, September 14th. They will have volunteers.
- 2024 CDBG monies: Ms. Kehoe stated that they were talking about using the money for a handicapped playground, possibly at Hillside Park. Bill Risse will get pricing. The installation would need to bid out. Bob Sheils asked about local parks in the borough. Ms. Kehoe stated that if it is in a borough park that would then require the maintenance, fencing and lock the park at night. She received a quote to replace the one area of fencing at Hemlock Park, the amount was \$17,000. Also, will CDBG funding pay for the fencing if the handicapped park is in the borough, Ms. Kehoe would look into it. Josh Mitchell stated that if the park was at Hillside, it would get much greater use.
- Municibid Auction: Ms. Kehoe stated that council will be voting to accept the bids at the council meeting. The bids are due by 3pm next Wednesday. The bids coming in have been encouraging.
- DPW Time Clock: Ms. Kehoe stated that the DPW timeclock is broken. Roni Lopez asked how much a replacement in. Josh Mitchell suggested an App to use. Ms. Kehoe will look into this.

- Judson Request: Ms. Kehoe stated that 500 School Street is now residential and years ago a handicapped parking spot was put on the road at that address. They are requesting that it be removed. Ms. Kehoe stated that there are two options; legally, they need to amend the ordinance or just remove the sign. Solicitor Krowiak would have to amend the ordinance and advertise it. We could take the sign down, and go from there.
- Resolution 2024-07 LSA Grant application: June 30th is the deadline for the LSA grant. Chief Yarns was encouraged to apply. Gerrie Carey would need to sign off on it.
- Treasurer's resignation: Vicki Tyler has been here 6 months, but she realized having this commitment is not what she expected. Virginia can contact one of the gentlemen at the original interview to see if he is interested.
- Rossi Rooter: Ms. Kehoe stated that Rossi Rooter did some work on the road. IDWA did reply with our new ordinance and the information they needed for pricing. They admitted that they did not read the email and they didn't realize the difference in pricing which was not reflected in their bid for the job. They are asking council to reduce the fee. Josh Mitchell stated that ignorance is not an excuse, and we do not want to set a precedent. The vote for this will be on Wednesday. Gerrie Carey suggested splitting the cost in half for them. Josh Mitchell and Roni Lopez disagree.
- Sunoco Convenience Store land development – Tim McLain: Ms. Kehoe explained that the newest owners of the Sunoco at the corner of State and Grove went before the Planning Commission asking for approval for a Convenience Store land development. Ms. Kehoe stated that they meet the terms of the ordinance. Tim McLain spoke to council. He stated that they have the proper amount of parking spaces. They don't expect a big difference in traffic. The Planning Commission approved the project. Council can vote next week.

4. REVIEW SEPTEMBER 4, 2024 AGENDA

Bob Sheils stated that he had the opportunity to reach out to PSAB and they gave guidance when it comes to the length of the contracts. Under the borough code, they are limited to the reorganization after the next election or two years, whichever is the shorter. Ms. Kehoe stated that the contracts were updated to reflect that. The contracts are valid through 2025. Mr. Sheils stated that he thought both contracts would need to be voided, and council can vote on new contracts. Under the borough code, council doesn't have the authority to enter into contracts with anyone other than the Borough Manager. He stated that they should not have a contract with the Assistant Secretary. Solicitor Krowiak stated that for the Borough Manager the new contract would be January 7, 2026. This was changed in the contracts to reflect the change from 2 years to one. Council voted to approve the contract to reflect the correct term and to reflect the amendments for sections 6 & 8 to mirror the DPW. Those amendments were made to the contracts. Bob Sheils suggested having a letter on file reflecting the terms, but not a contract. Solicitor Krowiak stated that if they are writing a letter with the same terms, it's essentially the same thing as entering into a contract. Mr. Sheils disagrees. Ms. Kehoe stated that the contracts don't have remedies in it and

they specifically say that it's null and void with the vote of 4. Bob Shiels believes that the borough can be sued for breach of contract. He only sees the downside and potential litigation with contracts. Roni Lopez asked Solicitor Krowiak since council voted on the contracts, the votes passed, and the contracts were signed, are the contracts upheld. Solicitor Krowiak stated that is his understanding based on his recollection of the last council meeting. Josh Mitchell read the minutes from the last meeting and there is nothing about the length of the contracts. He suggested if council needs to have on the agenda to approve a revised contract that ends on the proper date, he thinks that should be done. Solicitor Krowiak stated that both contracts were approved. Ms. Kehoe stated Jenn who is now the Assistant Secretary has always been under contract. Josh Mitchell stated that Bob is under the impression that they do not have to have a contract with the Assistant Secretary, and they should not. The rest of council sounds as though they have the opinion that they should. Josh Mitchell stated that they shouldn't be entering into a contract that is different than what was approved. He thinks the process was hasty and they entered into a contract that was legally allowable for them to enter into. That is sloppy, but they can vote to accept an amended contract. Steve Guza stated that he and Bob Shiels voted against it because it was an illegal contract. Roni strongly disagreed saying it wasn't illegal. Josh Mitchell stated that the length of the contracts isn't allowable, and they have to fix that. Ms. Kehoe stated that they can put on the agenda to allow a vote to adjust the contracts to reflect the shorter term. Solicitor Krowiak stated that not having a contract with an employee where there has historically been a contract could create an issue down the road for litigation; it creates more ambiguity. He respectfully disagrees with Bob Shiels. Josh Mitchell asked Solicitor Krowiak if it is his opinion that the length of the agreement as currently approved and executed is permissible given the at will clause or should council amend them. Solicitor Krowiak stated that after the last meeting and after talking to Bob Shiels also doing research; he changed both contracts to reflect employment for either two years or the next reorganizational meeting, whichever is first. Josh Mitchell thinks the contracts should be retroactively approved. Solicitor Krowiak stated that couldn't hurt just to be clear. Josh stated that the minutes do not reflect this. Ms. Kehoe stated that she would also listen to the recording.

Josh Mitchell stated that there is a chance that they will have a MOU with the Police Union. He asked for that to be on the agenda for September council meeting.

5. ADJOURN:

President Carey