

**BOROUGH COUNCIL SPECIAL MEETING  
JANUARY 28, 2014  
7:00 PM**

The January 28, 2014 Borough Council Special Meeting was conducted on Wednesday, January 28, 2014 at 7:03 P.M. The Meeting was held in Borough Council Chambers, 2<sup>nd</sup> Floor, 304 South State Street, Borough of Clark's Summit, County of Lackawanna and Commonwealth of Pennsylvania. Council members in attendance were President Gerrie Carey, Mr. Herman Johnson, Mr. Pat Williams, Mr. Vincent Cruciani, Mr. David Jenkins, Mr. James Klein, and Recording Secretary Virginia Kehoe. Absent from the meeting was Dominic Scott.

1. **OATH OF OFFICE FOR JIM KLEIN** **Mayor Lawler**  
Mayor Patty Lawler swore in James Klein as a Borough Council Member.
  
  2. **WORKSESSION:** **President Carey**
  
  3. **PUBLIC COMMENT** **President Carey**  
Dori Waters: Represents the Gathering Place, which is a project that the AACC is involved with, first floor of this building will be turned into a community art and education center. An event will be held called the "Story Slam." There should be a good turnout for this. Ms. Waters invited people to attend and to ask for permission for wine consumption. The wine would be sold for donation purposes. The Borough Solicitor was asked to look into this issue.
- **ARWA 2013 update – Wayne Miller:** Semi-annual update, what is happening with the Area Regional Waste Water Authority? Wayne Miller is one of our representatives on the sewer authority. Mr. Miller updated Council on the status of the wastewater treatment plant interceptor upgrade. He read a recent report from the operating director and discussing the status of the work being done. Discussed project financing. Preparing a new brochure for the public. They are 4 months ahead of schedule and below budget. Pat Williams praised the previous brochure and said he has confidence that the next one will be as impressive. Wayne Miller also commented that he was very grateful for the reappointment to the Sewer Authority.
  - **Glenburn Pass-through:** Dave Grimelski, Special Sewer Solicitor for Glenburn Twp. He was here to give an explanation of the pass through agreement of Border Realty's development in Glenburn Township. Here to follow-up and answer questions and move the process down the road. Mark Young was present he represents Border Realty. Glenburn Township has agreed to assume ownership of the sewer system. Border realty had a number of studies done, sought out a method that will help everyone. There will be single family homes and townhouses built. Showed a map of the area Border Realty would be building on. Commercial property will also be available. The 175 EDU's includes the commercial property also. About 80 single family lots, about 30 townhouses will be built. David Jenkins inquired about Glenburn Township and if they become interested in connecting to the sewer themselves in the future. David Jenkins suggests that the lines that are put in are not just equitable enough for Border Realty, but also possibly for the future, for expansion purposes, so the lines would be big enough to handle the excess flow that would be coming from Glenburn. The agreement with the borough is only 175, even if they design this for cushion because of limitation of the 175 EDUs with the agreement. Make the pipe 12 in or 18 in, in the long run that would be helpful. The storage capacity of the pump station would be the issue not the pipe. The pump station is going to have a cushion also. Virginia Kehoe asked if properties on Gravel Pond Road and Old Lackawanna Trail road will be able to connect. The response was yes. David Jenkins stated that there will be a total of 247 EDU's that will be going to the new pump station because the Apple Valley Pump station will not be used. Vince Cruciani asked what they would build first, would all the sewer system all be in place. Yes all of the infrastructure will be completed first. Herman Johnson asked if there was a plan B. If DEP says they have a sewer problem, what happens, can our lines handle everything. Are

the lines going to be big enough? The line would need to be extended and tied into the intercept. Herman Johnson stated that if we have a problem and a sewer line that goes under Gerritys that is hard to get to, who will pay for that. How comfortable is our Borough Engineer with this plan. Make sure it is the right thing for the Borough of Clarks Summit. Vince Cruciani stated that if some residents go on and they go above the 175 EDU's, looked at the formula on the penalties, have a punitive development so that there is proportionately more money if they go over. Maybe a 30% tax, a penalty to force them to come to the table and renegotiate the contract. There is no guarantee that DEP won't push for more sewer hookups. Border Realty stated that they expect to come to about 150 EDU's instead of 175. They will entertain any comments and questions. Virginia Kehoe stated that with the commercial businesses we don't have any idea what the uses will be. A restaurant will use more EDU's as opposed to an office building. We need protection. Herman Johnson stated that he is suggesting that Council needs to communicate with Glenburn if in case. Sooner or later it is all going to be regionalized; we need to look at the future of Clarks Summit. Mr. Young cannot answer that question. The agreement limits Glenburn's involvement up to the 175 EDU's. If they have to add anything they have to come back to Clarks Summit. Vince Cruciani stated if our Borough Solicitor agrees then he is in agreement. Solicitor Dan Mulhern discussed this with Bob Naegele and has his expert opinion. Some of the information is beyond the scope of understanding. David Jenkins stated that this is a low pressure pumping station that means a lot because the majority of the flow uses gravity.

- **Abington Life Magazine:** This magazine is being delivered to residents in this area and they have cut and pasted a number of items directly from our website. Gerrie Carey stated that if there was anything we wanted to get out there for the public. Herman Johnson asked how often the website was updated. Virginia Kehoe stated that the website is updated sometimes daily. Vince Cruciani stated that he was in communication with them also about publishing a story. Perfect opportunity of affirmatively showcase items we want to get out there.
- **Council Etiquette:** Gerrie Carey stated that it is important to be respectful of each other. If there are any items that we don't want to air out to the public, we want to be on board with that. Ms. Carey stated that Virginia Kehoe needs to be given respect, not to be called out on the carpet. Ms. Kehoe suggested Council members come to her before-hand as to make sure we are all on the same page. Herman Johnson stated that he agreed but, seeing that they are all elected officials, all the information must be passed to all Council members. Virginia stated that we have committees, she can send information it to all 7 Council members, but doesn't that defeat the purpose of the committees. David Jenkins stated that after the committees meet and have a recommendation, then it needs to go to the Council members before the meeting. This way everyone is on the same page. Vince Cruciani stated that if the information comes out of committee; get an email or mailboxes by the close of business before the meeting. It is up to the committee to get that information to Ms. Kehoe. The committee should enclose all the information in their summary. Gerrie Carey also stated that is also what the work session is for, to review the meeting. That can make meetings more efficient.
- **Hemlock Park Fence:** Ms. Lawler suggested putting "The Heart of the Abington's" on our stationary; she suggested Council give any ideas to Virginia Kehoe. Mayor Lawler stated that the Hemlock Park Fence issue is a concern for safety. It has been addressed for years, it needs repair, and it's not durable. Vince Cruciani asked if there was a lock at the park at night, the answer was yes but people can still get in, it is counterproductive. Patty Lawler stated that there are illicit and illegal issues there. When the police are there it is dark they have to put the search light, the crowd scatters. Police request what we can do with the fencing. The purpose of the fence is because those that developed the park, they didn't want to look out at the businesses and route 6. It was cosmetic. Rich Fibus was the developer, and the fence was costly. Make the fence more durable and safer. Herman Johnson stated that they should have put up a chain link fence and had the slats into the fence so you can't look out. It would take a lot of effort to break a chain link fence and the slats are easy to break. Council asked for the current fence for aesthetic reason. The police are having problems with vandalism etc. Vince Cruciani stated that wouldn't the fence and the privacy created by it provide more of an atmosphere to be able to get away with stuff like that, than if you had it open where a quick drive by. Virginia Kehoe stated that the fencing is a nightmare and the amount of money we spend on fixing it is a great deal. Patty Lawler stated that she is looking for ideas. It is a volatile situation for the police. It is property of the Borough. If you took down the fence you could always put another one up. Put a motion light there to illuminate the area. Herman Johnson stated that that is a commercial section of town. Moe's and

Sheets are all there. Without a fence you are going to have more kids there at night. It is an eyesore. Come up with a plan to do something with it. If we are going to take it down, we can try without a fence as a trial period. Pat Williams asked where we get the money to put another one up. Patty Lawler stated that this is about the safety. The police have difficulty monitoring this, strange activity and empty bottles of alcohol, graffiti. It is lovely during the day, in the evenings. Vince Cruciani suggested putting up a game camera and makes these kids responsible; it is a motion sensor that takes pictures. Herman Johnson stated that this is a safety issue and sometimes we only have one officer on so that is a liability issue to. David Jenkins suggested having Virginia Kehoe get a price on a game-camera. Pass that information on to the Chris Yarns and see if there is a grant for that too. David Jenkins asked about the flow meters, to put on the agenda, to purchase two flow meters. We need two and we take the one we do have and use that one as a backup. Should something happen, we can use the older one. That one is from 2009. Vince Cruciani asked if there is a warrantee. Not sure will find out. Gerrie Carey asked if we need two. For a community our size we need three. Rather look forward than backwards. Herman Johnson stated that we could use two and if we wait another year they could cost more. See what we could afford. Sooner or later DEP will probably regionalize and we should have these meters. Finance Committee discussed that the DPW can change the meters weekly. There are 4 locations from where the sewer flow comes into town. One week a month, will have 12 separate readings. Now you can take two sections for weeks at a time. Virginia Kehoe stated that we have had this meter since 2009, in use continuously, other than once when we worked on the corrective action plan never once has anyone referenced the data we had. Herman Johnson stated that a lot of times you might have an infiltration in area A or an overflow, putting that in there you are going to get an accurate reading. Not getting an accurate reading if it is there for only one week. This will give more accurate reading and pinpoint accuracy. Vince Cruciani stated that if we get one put it in the budget for next year. Look at the sewer budget. Do flow meters need to be calibrated? Ms. Kehoe would look into that.

- **Smoking policy:** David Jenkins stated that he thinks this is a fair policy. Our job is to look out for the Borough employees, their safety and well-being. By us condoning smoking we put employee's safety on the back burner. For the one or two police officers to smoke, why should another have to sit in that police car and absorb the odor? Vince Cruciani doesn't agree with the broad language in the policy, gave example of different kinds of tobacco, chewing tobacco, this is not the same as smoking. Mr. Mulhern stated we would have to go through collective bargaining in order to eliminate smoking that would be for the Police and DPW union employees. David Jenkins asked if we own the vehicles, Solicitor Mulhern said yes. Herman Johnson stated that this is "past practice." He thinks the policy should be no smoking in building and parks. Vince Cruciani stated that there are signs in our parks stating that there is no smoking, but you can smoke as long as it is properly disposed of. Herman Johnson stated that the signs from the county were mis-printed and we have to come to a happy medium. This would be a grievance and past practice. Virginia Kehoe stated that she asked the PSAB about the no smoking policies and they stated the Borough would have to go through collective bargaining, to change the terms of employment for the unions. Specifically this is for the vehicles. Vince Cruciani asked if there is a difference between the vehicles and the building. Solicitor Mulhern stated that the 2008 clean air act does not allow smoking in the building. David Jenkins stated that the Borough owns the vehicles, and pays the health insurance for these union workers. Solicitor Mulhern will look into this more. Solicitor Mulhern commented about smoking at the parks, stating if it is a sports or recreational facility, yes you can ban smoking but otherwise it is open to interpretation. David Jenkins stated that all parks could be seen as recreational. This year the DPW contract needs to be re-negotiated and add a smoking ban in the contract. For the non-smoker it is very difficult to ride along with one who does. We need to provide a smoke free environment. Herman Johnson stated that we have to get clarification from our Solicitor. David Jenkins stated that as a Councilman they have to account for employees' health and safety. Do we have a policy in place for the Borough building for non-smoking? Vince Cruciani also discussed the electronic cigarettes. It has a vapor and a smell is emitted. We all need to look at that for what it is.
- **Comcast Cable Franchise agreement:** Virginia Kehoe stated that ACOG wants a regional franchise agreement with Comcast, we need to sign engagement letter if we want to be a part of that. Pat Williams recommended signing the engagement letter. Herman Johnson asked what the benefit is to the Borough. It will cost \$200 to get the lawyer. They need 10 municipalities to get a better rate and they have 5 right now. David Jenkins also asked what we get. Virginia Kehoe

explained with the franchise agreement Comcast gets exclusive rights to providing cable in Clarks Summit in exchange they pay us a fee between 1% - 5% percent. Whatever fee we decide it is directly passed on to the cable users' bill. The advantage is that we would be one of several communities so we would share the cost of the lawyer. Herman Johnson stated that they need ten, are more getting involved. Vince Cruciani asked about the franchise agreement. Virginia Kehoe discussed the franchise fee and what the Borough receives from Comcast monetarily. David Jenkins stated that we should put this on the agenda.

- **Resolution 2014-11 PCCD Grant:** Virginia Kehoe stated that if we are applying for a grant we have to vote by resolution as to who can represent Council in signing the grant application. Chris Yarns is currently completing an application for laptops for the individual squad cars. Need to submit a copy of the Resolution along with the grant application.
- **Resolution 2014-12 Meter Suspension:** Virginia Kehoe stated that this is for the meter suspension for the Ice Festival. Standard operating procedures. Vince Cruciani discussed the fact that these are non-reserved spots. This does not include the parking places were purchased for their businesses. Herman Johnson suggested letting the people who bought these spots know so there is not a problem with the public.
- **Joint Sewer Pass-Thru Engineering Study:** Virginia Kehoe stated that the agreement between the three communities say that it can be changed but only with the recommendation of an independent engineer. David Jenkins asked who is going to pay for the engineer. Virginia Kehoe stated that we have to sit down with South Abington and come up with an agreement as to who is going to pay the fees. It is in the agreement; South Abington is just enforcing it. Herman Johnson stated that it would be all three municipalities that are in the agreement that he would assume would pay for it. Could we get documentation from old engineers and see what the payment arrangement was done then. The last was done in 1995 and Virginia Kehoe does not know what the arrangement was. It is not in the documents. David Jenkins discussed going on population, Clarks Green would be limited; Clarks Summit would be less than South Abington. Vince Cruciani discussed using the census data the stated that the ratio is 5:3:1. Virginia Kehoe stated that this would be what we have to argue with South Abington Township and Clarks Green. Ms. Kehoe stated that she would get the study from 1995 for their review. Vince Cruciani discussed a statement from an economist as to the price difference that should be considered since the last study was 1995. David Jenkins discussed putting in something about a cost of living increase into the contract. David Jenkins stated we should have a meeting with South Abington and Clarks Green. Get the three municipalities to sit down with a committee. David Jenkins, Vince Cruciani, and Gerrie Carey will serve on this committee. Virginia Kehoe will reach out to Clarks Green and South Abington. Will not put on agenda because there will not be anything before then.
- **UCC adoption / Appeal process:** Virginia Kehoe stated that we don't have a UCC representative. When Ms. Kehoe reached out to South Abington and Clarks Green to say that we are supposed to have this joint committee. Clarks Green said they were working on it. South Abington said we never signed an agreement. She asked for a copy of the ordinance. They are not looking to appoint anyone now. No UCC appeal board. Needs to be from the community, has practical knowledge in that area. David Jenkins suggested putting an advertisement in the Abington Journal. This is a volunteer position. We don't have time. We have 45 days. Vince Cruciani suggested putting something into Abington Life magazine. Council discussed a variety of options. Will get a draft ordinance together, get it advertised, and figure out when to have a special meeting to vote on it. Herman Johnson suggested the Borough draft the ordinance and also reach out to people for this position. Solicitor Mulhern suggested that the violations at Duffy's are due to the fire code, if more than allotted number of people are in the business, alert the fire company. Vince Cruciani stated that they fall under the exception if they stay under 50 patrons. Herman Johnson stated that we let this go on right under our own nose. No one knew what they were doing? Virginia Kehoe stated that it seems like we have to get this committee together, Duffy's is in there for the long fight. Within a week we were in there stating that they need permits. They have not been able to give us a permit application that meets the code. They took the wall down without a permit and we went to them and explained that they need a permit to do the work. Vince Cruciani asked about the wall in question, the legality of it. Where is the landlord in all of this? Virginia Kehoe stated that they did talk the landlord. When Joe Supolski went the first time they though they didn't need a permit. The first meeting Joe Supolski said that there is a way you can manage this and work with us. Mr. Supolski said if they put the wall back

up it defines two different setting. Vince Cruciani stated that their biggest problem is they want clarity on how to act. Virginia Kehoe stated that they are supposed to get an architect and for us to sign off on it. We cannot approve it without that. We have told her that there are ways to qualify for the exemptions. Vince Cruciani stated that if there are issues with the inspectors, Council should be able to address it. David Jenkins stated that if their limit is 50 we need to instruct the police department and police should enforce it, fire hazard, could close it down. Right now they have a permit for a restaurant; they need a permit for an assembly. Don't want to panic the owner, wants to work it out. David Jenkins stated that we should be worried about a fire and possibilities that go with that. The state takes care of any ADA issues.

- **Sewerage Enforcement Officer:** Virginia Kehoe stated that this position was not reappointed in January. Walter Redel has an assistant and he does most of the work. Herman Johnson stated that it makes us look like fools because Mr. Redel is over 80 years old and his assistant does everything. Don't feel comfortable to put his name down just to fill the position. Leave these items on the agenda to vote on in March.
- **Police Chief:** Executive session
- **Labor Solicitor:** Virginia Kehoe has a letter of interest and a resume. Grace Hildebran addressed Council. She spoke to Council explaining her qualifications, education, and work experience. Gerrie Carey stated that our two unions, the police and DPW unions would be singled out as for her to handle this. Any experience with unions? Specifically she has had experience with government work. She has worked with unions and civil matters. Vince Cruciani asked if she would be willing to take the contractual set up as the solicitor did last year in terms of hourly rate, etc. The answer was yes. Vince Cruciani made the first motion. Cannot make a motion; make a move to put on the agenda. Move to have consideration for this position. Positive relationship for our Borough always happy to have people from the community being involved with the community. Herman Johnson suggested that the Personnel Committee, the Borough Manager and the Mayor should meet with her and go into depth what our contracts are and non-uniform. That committee can come back and report to Council. She is asking us to look at her resume, a committee needs to interview her so everything is even across the board. We go to our labor solicitor who represents us. Have a full understanding. They set up a meeting for her for next morning.
- **TCC Representatives:** Virginia Kehoe stated that this position was not reappointed. Jim Burke and Virginia Kehoe put on agenda in March.

4. **REVIEW OF FEBRUARY 5, 2014 AGENDA**

5. **ADJOURN:** **President Carey**