

**BOROUGH OF CLARKS SUMMIT
BOROUGH COUNCIL MEETING
MARCH 5, 2014**

The March 5, 2014 Borough Council Special Meeting was conducted on Wednesday, March 5, 2014 at 7:03P.M. The Meeting was held in Borough Council Chambers, 2nd 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. Vincent Cruciani, Mr. Jim Kline, Mr. Dominic Scott, Mr. David Jenkins, Mayor Patty Lawler, Recording Secretary Virginia Kehoe, and OIC Chris Yarns. Mr. Pat Williams and Junior Council Members were absent.

MEDITATION:

Mayor Patty Lawler

PLEDGE OF ALLEGIANCE:

Mayor Patty Lawler

1. APPROVAL OF AGENDA:

President Carey

David Jenkins was the first to approve the agenda, seconded by Herman Johnson, vote was unanimous 6-0.

2. APPROVAL OF MINUTES:

President Carey

• **January 6, 2014 Reorganization Meeting**

Vince Cruciani made the first motion to approve the minutes, seconded by Herman Johnson, vote was unanimous 6-0.

3. PUBLIC COMMENT & INPUT:

President Carey

Pamela McNichols asked Council to reconsider their decision about not allowing alcoholic beverages at the upcoming event the Story Slam. New information came to light. AACC is heading this up the Story Slam and they are holding the event at the Clarks Summit Borough building. They are interested in serving wine at this event. It will not be sold but they will take donations. The AACC is covered under insurance by the AAJRB. Vince Cruciani stated that he is asking questions to protect liability for the Borough. What age groups, 14 and up. There are people under 21. Will there be identification with possible use of wristbands. If people are going to be drinking alcohol it would have to be managed. Ms. McNichols stated that, yes they would be asked for ID and it will be served as a bartender capacity. Mr. Cruciani also asked if there would be one entrance and one exit, will they sell tickets. The only item they are asking for is a can of food to come to the event, there will be no money exchange, unless they donate. Will there be a police officer or security guard. Ms. McNichols stated that It would cost money to hire a police officer, would welcome a volunteer police officer. They are not making money, hard to pay for an officer. Herman Johnson stated that he has no problem serving alcohol. He is worried about liability, asked Solicitor, would we be a third party in a law suit. If they leave here and get in an accident, who would be liable, would we be in the lawsuit. Solicitor Dan Mulhern stated that yes he would think so. Mr. Johnson stated that Council has a duty to residents of Clarks Summit if liability falls on us. Insurance agent was at the meeting. Mark Young spoke about the Borough policy's host liquor liability. Mr. Young stated that it doesn't prevent someone from suing you, but as long as they are not manufacturing, distributing or selling, the insurance policy provides coverage if an unforeseen event occurred and there was a lawsuit. Herman Johnson stated he wants Solicitor to research that. David Jenkins stated that if the Solicitor and Insurance agent agree that this would be fine, he would be adaptable for reconsideration. Need to vote on it, make the vote conditional so Council doesn't have to reconvene. David Jenkins made the first motion to give conditional approval on the advice of our Solicitor and Insurance advisor. David Jenkins rescinded his motion. Solicitor Dan Mulhern stated that we could put a clause in our building policy, saying with the majority vote of Council, there could be alcohol served. He can add that for future reference.

Vince Cruciani made the first motion to have the policy amended to allow that alcohol to be provided with the majority vote of Council, seconded by David Jenkins, vote was unanimous 6-0. David Jenkins made the first motion that on the conditional approval of our Insurance Company and our Solicitor that we give the AACC the permission to have and dispense wine, seconded by Herman Johnson, vote was unanimous 6-0. Vince Cruciani asked if they are cleaning up and taking care of the garbage. They stated that they would clean up. Volunteer policemen are hard to find. Chris Yarns stated that if police officers volunteer they are not covered by workmen's comp, so if they get injured that is a problem. An officer would be needed for a 4 hour shift. 6:00 to 10pm for a part timer. That would cost about \$75, they could reimburse the Borough.

Gerard Hepman from the Lackawanna Community Relations Department informed Council of events happening in Lackawanna County.

4. BIDS & QUOTATIONS: President Carey

5. BOROUGH TREASURER'S REPORT President Carey
David Jenkins was the first to approve the Treasurer's Report, seconded by Dominic Scott, vote was unanimous 6-0.

6. COMMITTEE REPORTS:

- **Building & Plant** Pat Williams, Chair
- **Finance Committee** Dominic Scott, Chair

Dominic Scott stated that the Finance Committee met today with the Treasurer. Mr. Scott stated that the Borough is still within budget. Discussed bids for a loan to refinance, 10 banks already submitted their information and the Borough will run an advertisement this is to refinance of Grandview Street. We are soliciting other bids. Mr. Scott also discussed borrowing money to purchase a truck for the DPW. Herman Johnson asked how much, Virginia Kehoe stated about \$50,000 which was budgeted for. David Jenkins asked for specifics 2014 Dodge Ram with a dump body. This is replacing Neil Barthelme's truck. The answer was yes. Council asked why that big, why not a pickup truck. Virginia Kehoe will get back to Council about that. David Jenkins stated that he wouldn't second guess Neil Barthelme. This is through co-stars pricing. This is the best investment for us. Virginia Kehoe stated that Council will have to pass a Resolution as a result of the financing. This is a 6 month process also. David Jenkins asked if we can do a trade. This is not including a trade in; make sure light package is removed before it leaves the DPW. David Jenkins made the first motion to move forward with the purchase of the new DPW truck, seconded by Herman Johnson, vote was unanimous 6-0.

- **Grant Committee** Jim Klein, Chair

Jim Klein talked to the Senior Center's Telespond, there is a lot of grant money available for them. They are interested in applying for many things. They would like to fix parking lot, etc. Their goal is to enhance access. There is a time frame. This is a worthwhile project because the Borough owns the Senior Center building.

- **Insurance Committee** Vince Cruciani, Chair

Vince Cruciani stated that he is meeting with Jim Henkleman. Mr. Cruciani is seeing if some policies can be approved. He will bring ideas to Council. Making sure the lights on Depot Street are covered.

- **Personnel Committee** Gerrie Carey, Chair

- **Public Safety/Safety** Pat Williams, Chair
- Herman Johnson stated that the DPW were using a leaf blower and a lot of people were upset because their vehicles were getting peppered with stones. Could they sweep instead? Vince Cruciani asked Herman Johnson when the DPW will start to fill potholes. Herman Johnson responded by saying it would be beneficial to the Borough if we wait until it gets warmer. Waiting for the right weather conditions. We should be proud; Mr. Jonson stated that there are a lot of potholes at other places. It really isn't that bad. David Jenkins stated that they should use hot tar then use the cold patch.

- **Public Works** Herman Johnson, Chair
- **Recreation** Dominic Scott, Chair
- **Recycling Committee** David Jenkins, Chair

Jim Klein stated that the Shade Tree Commission is celebrating Arbor Day. Kids are invited and there will be contests prizes at the fire hall on April 27, 2014. Mayor Lawler stated that this is a 3 day event from April 25, 26, and 27th. The merchants will buy recycled bottle cap sculptures. They are going to meetings with Leah Rudolph and Donna Zagrapan. They are mainly concentrated on Saturday with the Shade Tree Commission.

- **Sewer Billing** Dominic Scott, Chair - update on delinquents: Dominic Scott stated that he is pleased with the success so far. The Borough has collected a lot of money. They money is still coming in; the man at the last meeting paid his bill (referring to a delinquent Borough resident). David Jenkins suggested having that resident drop off his check to the Borough before Noon to make his payment. Mr. Jenkins stated that Jennifer Basalyga Schmidt should call the resident and make sure he pays by noon, if he doesn't pay by then, his water should be shut off. Mr. Jenkins agrees that the progress that we have made here has been tremendous. We are down to 26 names on the delinquent list, as compared to what it was and he knows that by the end of the week there will be more coming in, which is even better. Mr. Jenkins stated that he would like to see that specific delinquent resident's name on the list even though he is making payments. Make sure the balance is being reduced. Virginia Kehoe stated that 6 of the names on the delinquent list actually are empty houses. David Jenkins suggested an asterisk be put by the vacant homes to distinguish them. Wherever there is a lien, make an asterisk. Council asked how much it costs the Borough to place a lien on a property \$42.50 is what it costs, plus lawyers fee to have it removed. The Borough charges the account a \$200 fee to have lien removed. That is legal fees at the recommendation of Pat Rogan. Gerrie Carey stated that very good progress has been made. Ms. Carey thanked Jennifer Basalyga Schmidt stating that she has done a great job.

- **Depot St Project** Herman Johnson
Virginia Kehoe stated that Borough Engineer Bob Naegele dropped of new plans based on the meeting last week; he did not give an electronic copy yet. Has original and new plan. The Borough needs easements because we are working up to the property line, they are temporary workspace easements. Realistically speaking we could do it without them. The county takes care of that. Vince Cruciani discussed the county getting the easement, does the county pay the cost, and Virginia Kehoe has to check because they have only paid \$1 for an easement. Can the county bind us? Herman Jenkins stated that at the last meeting they said they were keeping Roy Davis

on the committee too. Mayor Lawler stated that there are magazines that she has that have prices on lighting. She said they should be comparative shoppers. Ms. Kehoe stated that the county will take care of the lighting and the county will bid out the contractor. The Borough is responsible for giving them the specs. They purchase the lights through costars. The Borough hands it over to the county to run. Vince Cruciani asked will the park or the Depot street project be done first. They expect the park to be the first to start.

- **Additional comments from Council**

7. **POLICE REPORT:**

Mayor Lawler

OIC Chris Yarns gave report to Council. David Jenkins discussed crosswalks in Scranton that he noticed were lit up. Especially during inclement weather, they are an excellent idea. Virginia Kehoe stated she would look into the cost.

8. **VENDOR PAYMENTS TO BE RATIFIED:**

President Carey

David Jenkins made the first motion to pay the bills, seconded by Herman Johnson, vote was unanimous 6-0.

9. **OLD BUSINESS:**

President Carey

- **Police Chief Contract:** David Jenkins made the first motion to present the contract to Chris Yarns for his approval, seconded by Vince Cruciani, vote was unanimous 6-0.
- **Glenburn Pass-Through:** Mark Young was there to discuss the Glenburn Pass through. Came to the meeting wanted to make sure everyone understood what is being asked. Border Realty has a valid pass through agreement with Clarks Summit. The DEP has said as a developer Border Realty can't own or operate the sewer line. So their choice was to have Glenburn Township take over the pass through agreement or to assign it to someone with a PUC license. Virginia Kehoe asked why is it that South Abington is going to own the line which is in the Borough. Mr. Young answered stating that it is South Abington's pump station. Don't think that we should ask South Abington to hook onto a line that is actually in our Borough. Herman Johnson stated that he doesn't want to assume that South Abington will comply. He stated that this needs more research. There are a lot of questions. Vince Cruciani asked if the Sewer Authority owns any of the lines. No, why can't they own this, he'd be more comfortable if they did, that would be a common ground, a step in the middle. Mr. Young said they won't own it. Mr. Young stated that all he is talking about is regarding a pass through and that the Borough already has an agreement written up years ago. Herman Johnson stated that they had a committee that was going to talk to the other communities. Virginia Kehoe stated that they have the request, it is on their agenda, and they would contact us with their contact. Virginia Kehoe was under the impression that the meeting with South Abington was about pass through rates, Vince Cruciani agreed with Ms. Kehoe. Herman Johnson stated that this should be included in the discussion. Vince Cruciani asked Solicitor Mulhern if there is assignability. Mr. Cruciani is concerned that they will go over on EDU's and not pay a penalty. He believes there should be a punitive element if they go over 175 EDU's. If there is a penalty then he is more comfortable with it. If it was all townhouses it would go above 175 EDU's. Mr. Young disagreed saying that they won't go above it. He would get the punitive fee approved, no problem. Virginia Kehoe stated that Dickson Automotive, Dr. Hwan, The Noakes' property and Dr. Gerfin's properties are the four that need to get on the sewer system. They are Old Lackawanna Trail and Gravel Pond Road. The simple solution is they would have to run a grinder pump. Drop an inch and 1/2 line in the ditch and they connect to that, connect to the manhole. Vince Cruciani asked what happens if South Abington owns this sewer line and something goes wrong with it and we don't like the way South Abington fixes it. What is the Borough's recourse. They will put the line in and give South Abington the line through transfer of ownership. We granted the pass-through. Nothing said we wouldn't own it. We want our residents to be involved want some people connected. Whether we own it or not, we cannot add to the line, there cannot be any hookups to this kind of line. Put a second line in. Do we want to own the line, Vince Cruciani stated yes. We should allow the sewer authority to own the line. Municipal authority should be handling this. This agreement doesn't address who will own the

line. Mark Young stated that this just says Glenburn can pass their sewer through Clarks Summit lines. Makes no difference who owns the line. We tell them who will own the line. Makes no difference to them. Herman Johnson stated that we need have been going back and forth; we need a separate meeting and a solution for this. Gerrie Carey stated that Council can recess rather than adjourning, reconvene at another time. Solicitor Dan Mulhern stated he would be in contact.

- **Joint Sewer Pass-Thru Engineering Study:** Dominic Scott added that he was opposed to having us put in another line. It was enlightening to learn that you can't just tap into the line. David Jenkins stated that the normal sewer lines are low pressure, gravity fed. Maybe one to two pounds of pressure. Because they are coming from the pumping station. They need the pressure to push the sewage through. Herman Johnson stated that as elected officials; need to see what we are getting our residents into. Who knows what happens in years to come. If you are going to do it right, he has heartburn with South Abington owning that line. He doesn't want to put the residents in financial stress 10 to 15 years down the road. Vince Cruciani asked Solicitor Mulhern about the assignability of the contract. Solicitor Mulhern stated would have to look into it. At what point can they go above our heads and sign with different committee. In the agreement, these things were not understood, reevaluate the agreement. Vince Cruciani stated that there are two issues. Is there assignability language? Secondly does the fact is there a severability clause with Border Realty. Solicitor Mulhern stated that he will look into this, it's not clear cut. David Jenkins asked if we not legally bond. We can't proceed until we hear back from Solicitor Mulhern. See how far we are at this point; recommend what way we should go. Vince Cruciani suggested putting a term on it. David Jenkins stated it is an option to put to the Solicitor. We can propose it. Mr. Cruciani made suggestions. He asked can Glenburn pay for feeder lines, make a condition that Glenburn pays for the installation of for the feeder line. South Abington can take ownership of the feeder lines. Have South Abington take control of both the lines. Own lines they will own the 4 connections. Virginia Kehoe stated that our ordinance gives us the power to make the 4 properties get connected to sewer. If they say no, if the line is available they have to connect. Mr. Cruciani suggested making Glenburn pay for that also. Solicitor stated Glenburn would have to agree to this also. We don't want to obstruct a contract purposefully. We are not making any money, complying with DEP regulations. David Jenkins agreed that this will help comply with DEP regulations. We would get the pass through. Anytime South Abington wants to service their line, they need a permit fee. They would have to pay a pave cut. Vince Cruciani suggested ideas for permit fees. Solicitor Mulhern will supply several. Different options for Council to discuss. Herman Johnson stated that it is going to be a long process to get it right. Return at the worksession, Mr. Johnson asked why they didn't go to South Abington in the beginning.
- **UCC appeal procedure and officer:** Virginia Kehoe stated that Duffy's has presented new plans that they believe may qualify them for an exemption. We still need to determine an appeals board. Herman Johnson suggested running an advertisement. David Jenkins stated that we can reach out to Highland Association. Virginia Kehoe will run an advertisement and check with Highland Association.
- **Waiver of delinquent sewer fees:** David Jenkins stated that they were holding off on this.
- **Adopt-a-Meter:**

Mayor Lawler stated that Depot Street is going to be under construction. Stated that it was wasn't successful. Hard to monitor, stressed residents etc. Her recommendation is that we not go forward with the Adopt-a-Meter. Does this just expire or does it need a vote. Chris Yarns stated that there was no way to know if the people that parked in a parking spot are in that specific store. There was difficulty with enforcement and monitoring. He stated that it was a noble cause and well intentioned. Vince Cruciani stated that if we would have to do this from Spring Street from Highland Ave. Virginia Kehoe stated that we can specify which meters. Council passed an ordinance specifying which meters are available. Vince suggested that the business owners can bid it and see who wins the bid, stating that we have to be fair to other businesses. Herman Johnson stated that we should let it expire, opening up a can of worms. This would cause headaches more than anything. Gerrie Carey suggested Council wait until the Depot Street project is done; suspend the Adopt-a-Meter. She doesn't want to totally close the door on the State Street Grill. Not being renewed in April.

10. NEW BUSINESS:

President Carey

- **Resolution 2014-13 PC Sketch Plan Fees:** The new SALDO that was enacted, there is verbiage in there that says, the applicant shall pay a fee to pay for the cost of the consultants review of the plan. We had never charged a fee for a sketch plan before. Lori Harris and Virginia Kehoe had a conversation with Borough Engineer Bob Naegele as he would be the consultant on this. They agreed that one hour is more than adequate for sketch plan reviews. Recommendation is that \$100 application fee they shall pay all costs in excess...David Jenkins made the first motion to adopt Resolution 2014-08, seconded by Vince Cruciani, vote was unanimous 6-0.

11. SOLICITOR’S REPORT:

Solicitor Rogan

Solicitor Dan Mulhern stated that there is a summary trial for a nuisance violation for Ian Castrogiovanni, same man who agreed to pay \$200 a month for the sewer bill. They weren’t seeking jail time, instead he will do 20 hours of community service and he has agreed to remove 20% of the rubbish from his property every week with the garbage collection my May 1, 2014. Lori Harris is policing that. If it is not removed he would recommend a jail sentence, a couple days, through the Magistrate. David Jenkins discussed Hemlock Park and that would be a good place for Ian Castrogiovanni to start. Virginia Kehoe stated that there are two things to know. First, Mr. Castrogiovanni has a disability; he needs doctor’s approval. Secondly, Ian Castrogiovanni is responsibility to reach out to the Borough. We have no control. Herman Johnson suggested that Virginia Kehoe has a list of services that he can do. Solicitor Dan Mulhern discussed the delinquent sewer bills for RC Associates and 518 Waverly Avenue stating that he would get that information to Council. Solicitor Mulhern addressed the smoking ordinance. David Jenkins wanted that pushed forward. David Jenkins stated that the reason for the smoking ordinance is that he is looking out for the wellbeing of our employees and safety. Mr. Jenkins stated that by the Borough condoning that is not showing that we are looking out for wellbeing. The smoking ordinance is part of the collective bargaining agreement and next time the agreement is on the table that is when they would need to negotiate. David Jenkins suggested Solicitor go ahead with the general population smoking ordinance. Gerrie Carey stated that we can’t enforce it. Vince Cruciani stated that we don’t want to pass anything that is in violation of the law and principal. David Jenkins stated that this should be put it on the drawing board for the next contract.

12. CORRESPONDENCE:

EXECUTIVE SESSIONS:

President of Council

- **Prior-** February 25, 2014 **Personnel**
- **During-**
- **Subsequent-**

ADJOURN:

President of Council

David Jenkins made the first motion to recess, seconded by Herman Johnson, vote was unanimous 6-0. The recess is only to allow a vote for the Glenburn pass through.