

**BOROUGH OF CLARKS SUMMIT  
BOROUGH COUNCIL MEETING  
JULY 11, 2012**

The July Borough Council Meeting for the Borough of Clarks Summit was conducted on Wednesday, July 11, 2012, at 7:00pm. 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 Gerrie Carey, Herman Johnson, Patrick Williams, Virginia Kehoe, Roy Davis, Patricia Lawler, Mayor Harold Kelly, OIC Chris Yarns, David Jenkins, Dominic Scott, Solicitor Pat Rogan and Secretary Jennifer Schmidt.

**CALL TO ORDER:** **President Carey**

**MEDITATION:** **Mayor Kelly**

**PLEDGE OF ALLEGIANCE:** **Mayor Kelly**

**RECOGNITION OF VFW & DOM SCOTT – VETERAN’S DAY PARADE**

Mayor Harry Kelly read a letter about the Memorial Day Parade and its participants which was written by Dominic Scott. Members of the VFW and Mayor Harry Kelly had their picture taken in Council Chambers.

**COMCAST COMMENCEMENT OF RENEWAL PROCESS** **Dennis Macheska**

President of ACOG and Ransom Township Supervisor Dennis Macheska spoke to council regarding the Comcast renewal process letter. Mr. Macheska suggested the letter be disregarded for a while. The COG has asked to retain Attorney Dan Cohen. He was the original attorney on the contract from Comcast. Comcast is asking for special relief so they wouldn’t have to pay the municipalities the full amount that is due. Attorney Dan Cohen will also review the contract which is up for renewal with the municipalities. Herman Johnson asked what our options are, being that Comcast is the only cable company in the area. Mr. Macheska commented that Attorney Cohen has been successful in negotiations with Comcast in the past and has confidence in him.

**PUBLIC HEARING - ORDINANCE 2012-05  
ORDINANCE 2012-06  
ORDINANCE 2012-07  
ORDINANCE 2012-08**

Virginia discussed the 4 or ordinances that are up for councils vote. They have all been advertised and made available to the public. The four ordinances were discussed and asked if there is any public comment that would like to be brought forward for discussion. Paulette Oaken, owner of Paulette’s Pretty Purses asked if the open sign can be exchanged for a business sign. The answer was yes, if the ordinance passes.

**1. APPROVAL OF AGENDA:** **President Carey**

First to make a motion to approve the agenda was Patty Lawler, Roy Davis seconded the motion and the vote was unanimous 7-0.

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

**5/29/12 Work Session:** Motion to approve was first made by Patty Lawler and seconded by Roy Davis, vote was unanimous 7-0

**6/6/12 Regular Council Meeting:** Motion to approve was first made by Roy Davis and seconded by Patty Lawler, vote was unanimous 7-0. Herman Johnson wanted to make sure it was clear on the minutes why he voted nay on the ARWA Authority Members Terms issue. Virginia stated that the comments made by Herman Johnson about the ARWA were written in the 6/26/12 Work Session minutes.

**6/26/12 Work Session:** Motion to approve was first made by Roy Davis, seconded by Herman Johnson, the vote was unanimous 7-0.

**3. PUBLIC COMMENT & INPUT:**

**President Carey**

Janine Port discussed the Arts and Wine Festival which is August 11, 2012 on Depot Street. Virginia spoke to Charlie Charlesworth, he is going to check with Frank Savo to confirm that he would leave his back gate open for the residents. Letters were sent to the residents on Depot Street to make sure they are aware of the festival, and had no objection. There were two people at that point that they hadn't heard from. An attendant will be at the beginning of Depot Street where there will be checkpoints to make sure you are of age. Also an attendant will be on hand to help with parking. Ms. Port thanked the police department on a personal note, as they responded to a break in at her home. Janine Port also discussed the speeding issue on Center Street. OIC Yarns stated that there is a speed sensor sign on that street. Then in a week or so the police can determine what time frame is worse for the speeders, then set up patrols at that time.

**4. BIDS & QUOTATIONS:**

**President Carey**

**5. BOROUGH TREASURER'S REPORT**

**President Carey**

First motion to approve the Treasurer's Report was made by Roy Davis, Herman Johnson seconded the motion, the vote was unanimous 7-0

**6. COMMITTEE REPORTS:**

**• Building & Plant**

Pat Williams, Chair AACC lease – Vote

Patrick Williams discussing buffing the Police Department floors, possibly painting the clock tower and moving the gazebo from Hemlock Park to Veteran's Park. Patrick talked to a potential mover, and the DPW foreman to have the gazebo moved to a safer and more visible spot. Mr. Williams thanked Herman Johnson for cleaning the windows downstairs. Mr. Williams will be meeting with perspective cleaning person for the borough building. Virginia Kehoe mentioned the Community Classroom project. Council was asked to review and give input on the lease. Dori Waters, Attorney Greg Pascale and Mary Ann Nichols were involved in writing the lease. Pat Rogan had looked over the lease and commented that he and Attorney Greg Pascale can review one or two paragraphs, just a few details need to be clarified. Herman Johnson made the first motion to approve the lease for the Community Classroom under the advice of our Solicitor Pat Rogan, Roy Davis seconded the motion. The vote was unanimous 7-0. Patrick Williams asked about relocating the EMA office. He wanted to make sure that the EMA office would be in a satisfactory location. Input from Herman Johnson would be necessary for the placement of the EMA office.

**• Finance Committee**

Gerrie Carey, Chair

Gerrie Carey stated that she and Melissa, the Borough Treasurer, discussed the funding for the DPW truck and for the lease on a Police car. So far the finances for the first 6 months are going in a good direction.

**• Grant Committee**

Patty Lawler, Chair

Patty Lawler discussed the status of the grants for the Clarks Summit Borough. The borough was denied The American Water Grant. They were impressed with the work done on the grant, but the grant for Lackawanna County went to "Timmy Town." The Community Signage Grant, offered by the Pennsylvania Wild Resource Center, was later discovered to be only available for counties in Central Pennsylvania. Clarks Summit Borough did receive a \$500 Municipal Arts and Culture Grant to be used in conjunction with the arts in the borough. We are involved in Competitive Recycling Grant #902, this came from the Recycling Grant that we received for technical assistance. There is a 2 week window to apply for this grant. The amount for the grant varies. One suggestion was to develop an educational electronic tool to inform residents and businesses about single stream recycling. A DVD can be produced and made available on the borough's website, the senior center, at the office, and at the library. We could also be shown how to implement and enforce the single stream recycling with the small businesses so they can get their recycling up to speed. A small business is considered a business with no more than three employees. We asked for the purchase 32gallon recycling container on wheels for our seniors. Now that recycling is being streamlined, there will be more recyclables to be brought to the curb. We would pay 10% and they would pay 90%. The 904 Grant is due on 9/30/12. Virginia stated that the borough needs to make sure that the majority of the 2012 Business

Registrations have come in to the office. All the other information has been put in the system, just need to enter the number of 2012 Business Registrations as they come in.

- **Insurance Committee** Roy Davis, Chair  
Virginia Kehoe stated that we are staying with our previous Insurance Company as they had the best rates. The Insurance bid our 4 companies.

- **Personnel Committee** Gerrie Carey, Chair  
Gerry Carey commented that there will be an Executive Session regarding Personnel

- **Public Safety/Safety** Herman Johnson, Chair  
Herman Johnson stated that he sends out a flier every 3 months to the Clarks Summit Borough DPW. The latest one covered July, August and September 2012. The flier stated that safety is our first responsibility, accident prevention the number one intention. The DPW has weekly meetings where safety is discussed and the supervisor explains public safety. We haven't had any complaints for the public safety committee.

- **Public Works** Herman Johnson, Chair  
DPW is doing a great job keeping parks clean, working on storm pipes on Gladiola, and brush pickup for holidays.

- **Recreation** Don Moyer, Chair

- **Recycling Committee** Patty Lawler, Chair  
Patty Lawler discussed single stream recycling which will be much more convenient. Comingled and paper will be collected every week in one container. Press releases and mailings are going out the residents, stickers will be provided for larger containers. The blue recycling bins will still be provided by the borough. Single Stream Recycling begins August 1, 2012. Small businesses will be able to use the dumpster at the DPW building.

Gerard Hepman, Lackawanna County Department of Community Relations, spoke to council about various events happening in Lackawanna County. Scranton Jazz Festival is coming up. The 2013 Lackawanna County Community Arts and Culture Grant Free Workshop, for those not receiving funding through the Arts and Culture Grants Program, will be held at the Abington Community Library. Rhythm of the Region Guitar Workshop is another Arts and Culture supported program which will be held in the Junior Ballroom at the Scranton Cultural Center. That will be followed by a free concert after the program. Also the outdoor movie series on courthouse square has been very successful.

- **Clarks Summit Emergency Management Coordinator** Herman Johnson  
Herman Johnson asked if council could go into Executive Session for a moment. Solicitor Pat Rogan asked what it was regarding, Herman responded DEP, and Pat said you need an exception to go into executive session. Herman responded ok. He will bring it up later. No report from EMA.

- **Civil Service Commission** Replacement of Dom Scott  
Wes Dunn, a Commissioner on the Civil Service Commission emailed Virginia Kehoe because Dominic Scott is now a Clarks Summit Borough Council member. The email questioned if it is in the best interest of the Civil Service Commission that a replacement be named. It is legal under the Borough code. For Dominic Scott to both be a Council member and a member of the Civil Service Commission. Unless or until Dominic steps down or there is justifiable cause you cannot remove him until the end of his term. Herman Johnson stated that there is no conflict of interest, Gerrie Carey agreed. Only one counselor at a time can serve on the Civil Service Committee. No vote is necessary. It was asked that council discuss this situation and come to an agreement.

**7. POLICE REPORT:**

**Mayor Kelly**

OIC Chris Yarns read the police report for the month. Herman Johnson discussed the part time police offers that have already been hired, to put in more time instead of hiring new part timers. Chris Yarns

stated that some part time police officers are more willing to work than others. The question is why is the police department hiring people when there are 3 part timers that are not putting in many hours. Patrick Williams discussed the vandalism in the rear of Davis Street, is anything being done about it? Chris Yarns said they are always looking out for the vandals, trying to get some information to make an arrest if possible. Roy Davis discussed the vandalism wants community to know that police are aware of it. Pat Williams asked about the new police vehicle, was informed that all the leasing information is gathered and the borough needs to get the bids in for the municipal lease. Roy Davis was the first to make a motion to accept the Police Report, Herman Johnson seconded the motion and the vote was unanimous 7-0.

8. **VENDOR PAYMENTS TO BE RATIFIED:** **President Carey**  
Herman Johnson made the first motion to accept the Vendor Payment, Patty Lawler seconded the motion, the vote was unanimous 7-0.

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

- **Ordinance 2012 – 05 – Curative Zoning Amendment – Lackawanna Trail**

This is an ordinance amending the zoning on Lackawanna Trail from M1 to CC for the David Noakes' property. Don Wydeen was present at the meeting to take any questions. There was an email from DEP concerning a spill which happened in the past, are there potential concerns in the future for that property. It was suggested that someone get in touch with DEP to get more information. The DEP concern is on a different property, not the Noakes property directly. The concern is if the spill could spread to the Noakes property. Roy Davis was the first to make a motion to accept the recommendation of the Zoning Committee to amend Ordinance 2012-05, with the amending ordinance # 2002-01, David Jenkins seconded the motion, the vote was unanimous 4-3, with Patty Lawler, Herman Johnson and Patrick Williams voting Nay. Don Wydeen asked about the location of the area that DEP is concerned with. Pat Williams suggested that Don Wydeen speak with Virginia Kehoe about the details.

- **Ordinance 2012 – 06 – Parking Amendment – Depot St**

David Jenkins was the first to make a motion to approve the Ordinance 2012-06, Herman Johnson seconded the motion, the vote was unanimous 7-0.

- **Ordinance 2012 – 07 – Stormwater**

Virginia Kehoe stated that as part of the MS4, which is our report to the state each year on storm water, they are looking to see that the Storm Water Ordinance is updated. The borough has been set up with an ordinance from the state which is an update on the original ordinance. Herman Johnson was the first to make a motion to accept Ordinance 2012-07, David Jenkins seconded the motion, the vote was unanimous 7-0.

- **Ordinance 2012 – 08 – Sign Ordinance Amendment**

This Ordinance allows flags to be hung by businesses with permits. The flags are considered signs and therefore would need a permit. Paulette Oaken, owner of Paulette's Pretty Purses, spoke about her business and her need for signage to keep her business profitable. Herman Johnson discussed the ordinance making sure the new ordinance is understood by the business people in Clarks Summit. First to make a motion to accept Ordinance 2012-18 was Herman Johnson, Patty Lawler seconded the motion, the vote was unanimous 7-0.

- **Narrowband conversion**

Virginia Kehoe reported on the pricing that has come in concerning switching to Narrowband. Purosky and Tuckerman is a higher rate, but, if/when the government converts up to Ultra-Narrowband, their product is programmable to that during the lifespan of the product. David Jenkins asked if we have funding for this, the answer was yes. There are 3 bay stations and 7 portables involved. Purosky & Tuckerman offer Motorola and this is historically a good name brand. We have never had a problem with Motorola equipment. David Jenkins made the first motion to accept the bid from Purosky and Tuckerman for the Narrowband conversion, the motion was seconded by Herman Johnson, the vote was unanimous 7-0. Herman Johnson commented that Purosky & Tuckerman has

been around for a long period of time and they have proven dependable. Virginia did a good job finding the proper equipment and is pleased to be going with Purosky and Tuckerman.

- **Maria Deed**

Virginia stated that there is a deed from Attorney Pat Rogan which we can present to the Marias regarding the property on Depot Street. Herman Johnson was the first to make a motion to approve the Maria Deed, David Jenkins seconded the motion, the vote was unanimous 7-0.

**10. NEW BUSINESS:**

**President Carey**

**A. South Abington Sewer Agreement**

Since the Work Session, Virginia did get a Draft Agreement from South Abington Township. It seems as though South Abington Township is making a step in our direction. There were four issues that needed to be discussed 1.) Meet and discuss the properties that are direct connects. 2.) For those properties that are connected to the Clarks Summit sewer line that are below the municipality, Clarks Summit Borough should be getting paid for them. 3.) Clarks Summit should be getting reimbursed retroactively. 4.) A discussion about the quantity of EDU's for several of the properties that were debated. Their response strictly addressed the direct connects, which is only one of the four issues agreed upon in writing at this point. In one section of the agreement, there is an exhibit "C". This section states that there is a disagreement concerning all the South Abington Businesses that are connected to our sewer main from the Abington Shopping Center down. They specifically state that we are still arguing whether those businesses are a direct connect or a pass through. South Abington is saying they want to bill for these businesses but they don't discuss whether they are going to pay for a pass through or any retroactive pay. David Jenkins stated that South Abington Township has only met 1 of the 4 requirements; they haven't addressed the issues at hand. Patrick Williams stated that there has been a problem for years with South Abington Township not paying the sewer bill. Patrick Williams continued that this one sided agreement and they haven't addressed the issues, not hitting on all of the points.

Greg Pascale stated that because of the unresolved sewer issue which has been going on 8,9,10 years, the borough is taking its frustrations out on his client Tek78. Greg stated that South Abington Township says that it is the fault of the Clarks Summit Borough for not coming to talk to them. Greg Pascale stated that his client is stuck in the middle. Patrick Williams stated that South Abington Twp. is good at skirting the issue and by answering only one question out of four is a perfect example of that. Greg Pascale asked Clarks Summit Borough Council to go to the South Abington Township meeting to express their concerns. Council stated that they have gone to South Abington Twp.'s meeting and nothing changed. Pascale stated that since the sewer is coming through the Clarks Summit Borough anyway and South Abington Twp. is not paying the borough what they think they should be getting, Attorney Pascale doesn't see how this project is going to affect the ongoing issue. It is a new connection which is a pass through which we will get paid for. Pat Rogan stated that the South Abington Twp. response to Pascale's clients development that the Tek78 development is never going to happen. David Jenkins stated that what will happen is when the development goes up they will send Tek78 the bill and Clarks Summit Borough won't see a dime of the money even though it's going through our units, so that's the reason why we can't give the ok to go ahead right now until we get this straightened out because it's a redundancy here. The Clarks Summit Borough is waiting to get paid for what has already gone through. Virginia stated that our position at the borough has to represent the tax payers of Clarks Summit and they are paying an unfair burden when they are not getting appropriate pay back for the sewage that comes through our community that is not our own. As a property owner in South Abington Twp. they should be representing you in this, it should be their battle not ours. David Jenkins agrees that Tek78 is being held up, but stated that this is not the borough's problem; this is South Abington's problem. Pascale stated that not only is Tek78 being held up a little, but council is holding them up completely. David Jenkins said it is an unfair statement to say that Clarks Summit is holding Tek78 up. Dave Jenkins said we are sitting down in good faith negotiating with South Abington and they are not negotiating in good faith with us. Pascale stated that just because they have not met all four of the borough's demands does not mean that South Abington Twp. is not negotiating. Now that his client is being held accountable for a problem that has existed for 9 or 10 yrs is inherently unfair and if council can't get a result between two municipalities, then Tek78 will do what they have to do. Virginia stated that we have proof of letters sent and meeting with South Abington Twp. and this is the first time they have ever responded back to the Clarks

Summit Borough with anything a resembling acknowledgment of the problem. Attorney Pat Rogan stated that he was asked questions about an unpaid bill from South Abington Twp. and was looking for a way to get their attention to pay the bill. There was a meeting which resulted in Clarks Summit not allowing any more hookups or pass throughs for South Abington Twp. Attorney Pascale stated that Tek78 has conditional approval from South Abington, and they are in front of the Planning Commission. Attorney Pat Rogan stated that that was not his understanding of the situation and this is the only leverage Clarks Summit has. David Jenkins was the first to make a motion to table this issue until we have another sit down between the lawyers to get these issues ironed out. Virginia stated that the meeting was not between the lawyers but between Gerrie Carey and Mark Dugherty. Patrick Williams suggested Attorney Pascale send the issue back to South Abington Twp. and tell them to address the four issues. Patrick Williams seconded the motion and the vote was unanimous 7-0. Pascale then made a request for Clarks Summit Borough Council to approve the pass-through for the 23 home development that his client Tek78, has brought to South Abington Township for approval. Patrick Williams stated that, that request is what they just voted to table. Pascale stated that, it is the borough's agreement with South Abington Twp. and that is a separated issue from his clients request for a pass-through under the agreement that has been acknowledged to exist between Clarks Summit Borough and South Abington Township to allow a pass through, though the sewer system. Attorney Pascale is asking council to do this for his client, Tek78. Virginia Kehoe stated that the borough needs a written request with a set of designs that can be send to our engineer, Bob Nagele, so we can review it before council could vote on it. Attorney Pascale stated that he made that request 6 weeks ago and this is the first that he has heard of the written request necessary. Virginia Kehoe stated that she put Tek78 on the agenda, under the assumption that Attorney Pascale came to council to discuss this situation at hand, and nothing at this point has been put in writing which is the next step. Attorney Pascale stated that if they couldn't get this resolved because of a fight between two municipalities then he and his client will have to take recourse with the courts, that's all there is to it. David Jenkins stated that maybe if it goes to court that maybe it will get straightened out. Gerrie Carey stated that this freeze was put on the sewer system long before his client and the development discussed. Pat Williams stated that we are not going to take any chances losing out to South Abington Township. Mr. Williams stated that Attorney Pascale is coming here telling council that they are punishing his client Tek78 when Clarks Summit is just looking for South Abington Twp. to pay their bill.

**B. ARWA Resolution**

ARWA adopted articles of incorporation a couple of years ago with the motion of three municipalities now there has been a question about term limits which has been addressed in the articles of incorporation. ARWA passed a resolution saying they are going to abide by those articles that they adopted. Instead of just offering our support, which was voted on already, they are asking the board to pass this resolution. David Jenkins was the first to make a motion to pass the ARWA Resolution, Patty Lawler seconded the motion, the vote was unanimous with a vote of 5-2 with Patrick Williams and Herman Johnson voting Nay.

- 11. **BOROUGH SEWER OFFICE REPORT:** **President Carey**  
Herman Johnson was the first to make a motion to approve the Borough Sewer Report, Roy Davis seconded the motion, the vote was unanimous 7-0
- 12. **SOLICITOR'S REPORT:** **Solicitor Rogan**
- 13. **CORRESPONDENCE:**
- 14. **EXECUTIVE SESSIONS:** **President Carey**
  - **Prior-** **6/6/12- personnel**  
**6/26/12 – personnel**  
**7/11/12 – personnel**

- **During-**
- **Subsequent-**

15. **ADJOURN:** At 9:13pm Roy Davis was the first to make a motion to adjourn, Herman Johnson seconded the motion and the vote was unanimous 7-0. Council went into an Executive Session.