

**BOROUGH OF CLARKS SUMMIT
BOROUGH COUNCIL MEETING
Tuesday, July 2, 2013**

The regular July Meeting of Borough Council was conducted on Tuesday, July 2, 2013 at 7:00 P.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, Ms. Patricia Lawler, Mr. David Jenkins, Mr. Dominic Scott, Mr. Roy Davis, Recording Secretary Virginia Kehoe, Mayor Harry Kelly, and Chief Joe Laguzzi. Councilman Mr. Patrick Williams and Solicitor Pat Rogan were absent.

CALL TO ORDER:

President Carey

MEDITATION:

Mayor Kelly

PLEDGE OF ALLEGIANCE:

Mayor Kelly

1. APPROVAL OF AGENDA:

President Carey

David Jenkins made the first motion to approve the agenda, seconded by Patty Lawler, motion passed 6-0.

2. APPROVAL OF MINUTES:

President Carey

- **None**

3. PUBLIC COMMENT & INPUT:

President Carey

Gene Gallagher, a Borough resident at 205 Barrett Street spoke to Council about the Swientisky property on Grove Street. He commented that the property has turned into an eyesore in the community and he would like to see something resolved. Mr. Gallagher wanted to bring to the attention to Council the variance for the setback and if the property is partially the railroads' or the highway departments'. He doesn't agree with changing the variance with the Zoning hearing board. He discussed the issue brought forth by concerning the railroad; the dangers about the bank sliding down by the railroad. Mr. Gallagher stated that he doesn't want to see the Borough get into a fight with the railroad, stating the Borough would never win. Mr. Gallagher stated that this dispute with Mr. Swientisky has been going on for 8 years; where is all the money from the court hearing etc. At one time there was a cost of \$14,000 which was owed to the Borough. He hopes that the money situation is straightened out before the approval of Council.

John Lawler, 116 Maple Avenue addressed Council. He stated that a drainage ditch that runs between properties in his neighborhood flooded his shed etc. He called the Borough, after hours and it was a non-emergency call to the police. Officer Yarns came out to look at the situation and he was joined by another officer/firefighter because he had smelled gas and wanted that checked out. Officer Yarns called Virginia Kehoe. The problem is that people are allowing the ditch to be filled with their own yard garbage and deteriorating walls that have been used to buttrice the backs of their properties. Some wall material fell into the ditch along with 4 foot

shrubs, jammed the property; twigs, sticks and braches, gravel and silt caused the flooding. It then spilled into his property. Virginia Kehoe was there the next morning diagnosing and researching the problem. She arranged for a community service group to come and clear out the ditch. Today the group came and dug the ditch deeper and built a mini dike at the back of his property to try and avoid the property again. Mr. Lawler wanted to make sure that Borough Council was aware that the Borough Manager, Virginia Kehoe got on the job, saw it through to the end and was there 2 times that day to see that the job was started and see that it was satisfactorily completed. Maybe there is something that can be done, although it is private property, if there could be a cleaning project set up even though this is a drainage ditch not a creek. Mr. Lawler suspects that the debris may be from the South Abington side because they don't have brush pick up like the Clarks Summit Borough and people may be disposing of their brush there. He walked about 5 or 6 properties up and found that the ditch it is full of garage, wire construction materials, brush etc. and this is an ongoing problem. Virginia Kehoe stated that the people that did the work were from Judge Barrasses' program through the Lackawanna County Drug Court. Ms. Kehoe stated that she will write a thank you letter to Judge Barrasse. Herman Johnson stated that there will be a problem until Clarks Green and/or South Abington corrects the drainage off of South Abington road. Possible we can talk to Judge Barrasses' group and see if it can be cleaned more often, maybe they can help.

4. BIDS & QUOTATIONS:

President Carey

- 2013 Paving – award to American Asphalt for \$473,983.00

Virginia Kehoe stated that the Borough Engineer Bob Naegele did verify that the paperwork that was submitted by the lowest bidders and he is recommending that all appropriate paper is in place from American Asphalt. David Jenkins asked if the streets are on a priority list. Virginia Kehoe stated that last year DPW Foreman Neil Bartholme, Borough Engineer Bob Naegele, Herman Johnson and herself evaluated and rated the Borough's streets by sections in life expectancy. There is a map and chart of their estimated life expectancy. They took every road that had a life expectancy of less than ten years and that work was divided into 2013 and 2014. The difference is 2013 stormwater work being done this year will be paved in 2014. David Jenkins stated that the list is in alphabetical order, and he wanted to know specifically which were considered first and last priority. Mr. Jenkins concern is if there is not enough funding to finish all of the paving, which street gets done first. Herman Johnson stated that he thinks the list needs to be prioritize list as well. He discussed certain streets in particular. Virginia Kehoe will reprint the spreadsheet including the column with the life expectancy on it. David Jenkins wants the streets listed with a one through ten system. Ms. Kehoe stated that the list is ranked in life expectancy and she can show Council. David Jenkins inquired about Gravel Pond Road from 6 and 11 to Lackawanna trail being on the list. Ms. Kehoe stated that one-half is the Borough's responsibility and South Abington will share the cost with south Abington. Patty Lawler discussed Linden Street off of Park Avenue, which is used for football traffic, stating that the road is in horrible shape. One part of the street from Linden up to Grove is fine but the other half is a mess. Roy Davis asked if Neil Bartholme went with Virginia Kehoe to assess the roads. The answer was yes. Mr. Davis asked were any of these storm drains and construction projects mentioned by Neil Bartholme and how are they scheduled? Virginia Kehoe stated that everything scheduled for paving in 2014 will be worked on in 2013. There was a suggestion to only pave only one side of the street. Borough Engineer Bob Naegele suggested that this would not be most cost effective. Herman Johnson asked when this work will get started. Virginia Kehoe stated that when Council awards the bid. After the bid is awarded, Virginia Kehoe will

notify American Asphalt. They have two weeks to get the paperwork in and then we give them the notice to proceed and they have 90 days to complete the project. Roy Davis suggested checking with the water company to make sure they don't need to cut more water lines? Virginia Kehoe stated that she did discuss this with the utilities and they are aware. Also, Don Moyer has the pave list.

David Jenkins made the motion to approve the paving project be awarded to American Asphalt, Herman Johnson seconded the motion, vote was unanimous 6-0.

5. **BOROUGH TREASURER'S REPORT**

President Carey

David Jenkins made the first motion to approve the Borough's Treasurers Report, seconded by Dominic Scott, vote was unanimous 6-0.

6. **COMMITTEE REPORTS:**

- **Building & Plant** Pat Williams, Chair
- **Finance Committee** Dominic Scott, Chair
- **Grant Committee** Patty Lawler, Chair
- **Recycling Committee** Patty Lawler, Chair – June Recycling leader – Lawler's Affordable Elegance

Dominic Scott reported that we seem to be in good shape and holding our own.

Patty Lawler reported that we are looking forward to drafting the Borough's new trash contract, going to try to get it done by September 2013, to hand that over to financing for the 2014 budget. Ms. Lawler stated that the Borough did receive the Recycler's Award in PA. We submitted two detailed reports one was for Earth Day, and the other was for Clarks Summit Elementary for the recycling challenge champs, who were awarded a certificate. This is the Waste Watcher Award in recognition for excellent recycling. There will be an awards luncheon. Patty Lawler wanted to get in touch with Principal Rogan and/or the teacher Ms. Vogel. Ms. Lawler stated that she is thrilled about the award. Patty Lawler also met with ABPA to encourage better recycling with the businesses in the area. That was received well. Lawler's Affordable Elegance store won the recycling award this month. Ms. Lawler stated that they are working on the Elm and Main Street grants. The Depot Street project has been moved to the spring. We may be able to receive more grant money for this also. Patty Lawler also discussed an "Adopt A Meter" program, the permits didn't work well, drafting an idea for this. Mainly for landlords and business owners, their workforce can park in a spot that is not needed for the business. Out of the way parking used the very least. The charge would be for a year, not a monthly charge. Christmas in July, they will raffle off 4 tickets for a family to go to Radio City Music Hall. Also the Borough is going to offer to adopt a tree for a business or family to sponsor a tree and have Ellen Beechko design a necklace on the tree with the business or family name. This is just in the working/brainstorming phase.

- **Insurance Committee** Roy Davis, Chair
- **Personnel Committee** Gerrie Carey, Chair

Virginia Kehoe stated that she does need the personnel committee to meet for two separate reasons.

- **Public Safety/Safety** Pat Williams, Chair

Herman Johnson stated that the DPW is doing a great job picking up the brush and he is wondering if some of the brush is solely from the homeowner and not a company that is not picking up their clippings. Virginia Kehoe stated that the Borough does not pick up brush that we know was deposited by a contractor. If you see something let the Borough know. David Jenkins discussed the siren, request for that to be put back in service. That is under the control of the EMA and it has been out of service for the last 4 years. Maybe EMA Coordinator Joe Krott can check on that. Herman Johnson suggested getting the EMA siren working also; get a cost to see how much to get that back inter service

- **Public Works** Herman Johnson, Chair
- **Recreation** Dominic Scott, Chair
- **Additional comments from Council**

David Jenkins noticed that there are stop signs and speed limit signs being overgrown by brush and trees. It can be difficult to see the posted speed limit or the stop signs. At an intersection some brush is inhibiting the line of site. Virginia Kehoe stated that depending on scenario they are working with the residents and the DPW.

7. POLICE REPORT:

Mayor Kelly

David Jenkins asked what batteries are used in the Borough meters. Chief Laguzzi stated that ½ of the meters were not working due to meters without working batteries. George Carros is suggesting that the batteries are changed out twice a year. David Jenkins stated that this would be a good idea. Virginia Kehoe stated that finance committee can meet with George Carros, based on his recommendation we can move forward. In the Police Station, the evidence room air quality is poor. Chief Laguzzi stated that they did dispose of materials no longer needed in that area and now conditions are better. David Jenkins inquired about the moisture in the area and if a dehumidifier would be helpful. See if the dehumidifier would be feasible. Chief has not seen a lot of moisture problems but he will monitor that. Concerning the rifle donations, more came in and there is enough funding. Chief Laguzzi stated that he will present Council in August with policy and procedures and training for September and get the approval to put in an order for the assault rifles. David Jenkins made a motion to make the purchase, Patty Lawler seconded, it was already voted on previously; David Jenkins withdrew the motion.

8. VENDOR PAYMENTS TO BE RATIFIED:

President Carey

Herman Johnson made the motion to pay the vendors, Roy Davis seconded the motion, vote was unanimous 6-0.

9. OLD BUSINESS:

President Carey

- **Swientisky conditional use:** Attorney Steve Evers stated that at the sewer plant they had their first bypass in 22 months. They had a 36 month record then a 22 month record. Construction did begin, but they don't believe that was the issue. It is more likely due to the amount of rain we have been getting. Attorney Evers also discussed recycling, stating that there is a different kind of recycling that the Borough might want to look in to. This would require residents to recycle their own food waste. By placing a little box with a plastic bag inside, residents can create their own waste to add to a compost pile. This could be put it out with the garbage and recycling and put out for those with compost piles. Virginia Kehoe has seen the same system used in Seattle, Washington. Virginia Kehoe stated that she would get more information to Council. Attorney Evers also thanked the Chief of Police for

posting a police car at 211 North State Street saying the numbers of trucks that are flying down the road are substantially reduced. On the Swientisky matter, Attorney Evers stated that they want to see this resolved. Asked for an approval of the conditional use which was approved by the Planning Commission. David Jenkins made the first motion that Council approves the conditional use; Dominic Scott seconded the motion, the vote was unanimous 5-1 with Herman Johnson voting Nay. This vote includes the language that the Borough recognizes the irregular shape of the lot, and Council has no problem with not having a buffer for backing out. Herman Johnson is concerned with the railroad. Mr. Johnson is aware of the letter written to cover that, but the Borough could be a third party to a lawsuit. Attorney Evers indicated that the railroad first raised the issue with the slope; Mr. Swientisky hired engineers to do another calculation. Attorney Evers represented to Council that the study was done and that satisfied the railroad and the town's engineer that there is no problem with the banks sliding. There only concern is where the water going to go, the answer it that it is going to go into a detention pond. The property out front is the highway property not the railroad. All of the construction is on Mr. Swientisky's property the problem is the setback, a window has a peak in it that extends out 2 to 3 inches and the variance in the front will all be addressed before the Zoning Hearing Board. No one addressed the variance in the front where the peak is, they used the original deed and no one picked it up, but it was not intentional.

Variances are an important part of the ordinance because additional things do come up. Mr. Swientisky signed a "Hold Harmless Agreement" 5 years ago, stating that would be the responsible party. Patty Lawler asked about the hold harmless agreement does it still stand. The answer is yes.

- **2014 Police Contract:** David Jenkins made the first motion to approve the contract, seconded by Herman Johnson, motion was approved 6-0. Patty Lawler praised the committee that worked on the contract.
- **Resolution 2013-11 Parking Meter Suspension:** This is for the ABPA's sidewalk sales days. David Jenkins made the first motion, seconded by Herman Johnson, vote was unanimous 6-0.
- **Policy re: building usage:** Need to hear back from the Building and Plant Committee. Council can further discuss this at the work session in July.
- **Ordinance 2013-02 – Police Pension Amendment:** Herman Johnson made the first motion to approve the Police Pension Amendment, David Jenkins seconded the motion, vote was unanimous 6-0.
- **Ordinance 2013-03 – Neighborhood Preservation – further discussion at 7/30 Work Session:** Need input from Solicitor Pat Rogan, he is not here, put this on for work session.
- **EMA vehicle – still interest out there:**
- **Summit Ave property:** Both were advertised June 7th and 16th of 2013. No bids were received. Virginia Kehoe did state that there had been some interest but people missed the ads. Council suggested that the Borough needs to get re-advertise both. If the vehicle doesn't sell, the Borough should check about a county auction. Put this information on our Borough website.

10. NEW BUSINESS:

President Carey

- a) **Chief Laguzzi 6 month review:** Personnel committee needs to meet first.

11. SOLICITOR'S REPORT:

Solicitor Rogan

12. CORRESPONDENCE:

Joe Menichiello owns a property on Sheridan that he has been building a home on, he has not made the sewer connection yet, because the Borough requires a \$900 sewer permit and the sewer authority also assess a fee which is about \$2400. He now has a buyer for the house and has a scheduled closing date of August 7, 2013. He is asking if Council would consider holding the \$900 until the closing and they will escrow that in the closing and bring it to the Borough. His attorney stated that they will escrow the \$900 that will be paid at the time of closing. David Jenkins made the first motion, seconded by Dominic Scott, vote was unanimous 6-0.

- **Request from Taylor Sheds**

Taylor Sheds is requesting an amendment to the ordinance allowing for a 5 foot setback on temporary structures, as the sheds are not on a permanent foundation. Code Enforcement Officer Lori Harris stated that Council may want to put a size limitation on the sheds as well. This would be the law, an ordinance they have the setbacks, which means there would be no leeway. Council stated that they would be in favor of making an amendment to the ordinance. There would still be a 5 foot setback. Council recommended sending it before the Planning Commission.

Herman Johnson asked about the pave cut situation with UGI. They only paid a portion of the bill. David Jenkins stated that if UGI still say that they don't want to pay, the Borough should talk to Solicitor Pat Rogan. Does the Borough have the authority to say that UGI can't come into the Borough and do any work? Herman Johnson stated they could if there was an emergency. David Jenkins stated that these are the laws of the Borough and UGI needs to follow them. Virginia Kehoe stated she would go to the Solicitor Pat Rogan to get his opinion. Herman Johnson stated that if we are going to put the money into these roads by repaving many roads, keep in mind that once you make a pave cut you are taking the integrity out of the road.

13. EXECUTIVE SESSIONS:

President Carey

- **Prior-** **6/5/13 personnel**
 6/25/13 litigation
- **During-**
- **Subsequent-**

14. ADJOURN:

President Carey

David Jenkins made the first motion to adjourn, Patty Lawler seconded the motion, vote was unanimous 6-0.