

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

The October 28, 2014 Borough Council Meeting was conducted on Tuesday, October 28, 2014 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 Mr. Patrick Williams, Mr. Vincent Cruciani, Mr. Jim Klein, Mr. Dominic Scott, Mr. David Jenkins, Mr. Herman Johnson, Chief Chris Yarns, Mayor Patty Lawler, Virginia Kehoe, Solicitor Dan Mulhern and Attorney Pat Rogan.

David Jenkins welcomed Council President Gerrie Carey back, Council and members of the public applauded. Ms. Carey stated that she is glad to be back and thanked Council.

1. WORKSESSION: President Carey

2. PUBLIC COMMENT President Carey

3. DINO AND FRANCESCO PUBLIC HEARING: resolution 2014-30

Virginia Kehoe stated this is a resolution transferring a restaurant liquor license from outside the Borough into the Borough for Dino and Francesco's. We advertised the resolution and are there to give the public an opportunity to comment on it. Ms. Kehoe stated that we have someone here representing Dino and Francesco's if there are any questions from Council. Gerrie Carey stated that they are more than willing to support their cause. Vince Cruciani asked if they are having a full bar or just beer and wine. They answered just beer and wine, they don't want to have a full bar. Pat Williams asked if this would be just for takeout. It would be both. They will have bottles of beer and wine by the glass. David Jenkins moved to put this on the agenda for November Council meeting.

- Warren Watkins - Abington Senior Center, the ABPA and our Sister City relationship with Ystradgynlais, Wales.: Back in 1984 the Clarks Summit Borough developed a sister city relationship. Only 8 other communities in the United States has a sister city relationship. We do correspond with them. Discussed the sign replacement. He and Dominic Scott are making progress on that, he would like to put a new sign on Front Street. At the Council meeting on December 3, 2014, they will be passing around a Christmas card for the sister city. Mr. Watkins represents the Borough with the ABPA since 1998. This might be his last year. Monthly meetings, strong group of people. Will not put up scarecrows on the parking meters. Ice Festival theme is Frozen Fairy. Trouble this year getting sponsors. Diva Night is scheduled October 29, 2014 at Nichols Village. November 1, 2014, Eaglemania is coming to the Ramada Inn, giving profits to ABPA. Holiday lighting was discussed, they are behind Council. There is a membership push for the ABPA. New website also is available. One of the best thing Council did was put up the Senior Center, 428 people are members there. Council is invited anytime. Activities have grown, been there just under 20 years. Parking problem persists. They have to park on the highway and walk to the Senior Center. Put bids out and no-one placed a bid.

Applied for a grant in the spring and we were turned down. Vince Cruciani asked if COLTS services the center. Mr. Watkins stated that the county bus, coordinated transit brings them in. Bus trips do sell out well, a lot of funds come from that. They are run through Telespond. Mayor Lawler thanked Warren Watkins for all he does for the community. Ms. Lawler asked about the Mayor of the sister city. He said he would get that information for her. Dominic Scott stated he got a price for \$2,100 for the sign. \$400 for the installation which the DWP could install. Mr. Scott stated that he spoke with Mr. Young from the funeral home. He said he could laser a sign and he would be interested in helping but he is such a busy person.

Donna Zagrapan – update on Shade Tree projects discussed at September work session. Ms. Zagrapan discussed different options for replacing the trees at the corner by Citizens Bank and at the Post Office. Tried to get Sproul on board they will not return the phone call. Many businesses think the trees are going to block their signs. Vince Cruciani stated that if we don't get a grant and the Borough funds 25% of the Post Office and with taking the fence out of the equation. Ms. Zagrapan said yes the fence would have to come from the business owners. If we went with phase 1 without the fence that still puts us at \$8,400. If we contribute 25% that would be totally in budget for 2015. Mr. Cruciani stated that he doesn't know if the Federal Government is going to dish out the \$1,800, referring to the post office, Ms. Zagrapan stated that is definitely going to be a problem. Mr. Cruciani stated that the Borough has \$3,000 in the budget. If Citizens Bank and the Post Office agreed to pay the other 75% then we would be in budget to pay the 25%. Ms. Zagrapan said it would be greatly appreciated, any amount of money they get. Mr. Cruciani stated that he believes in principal that it is important to contribute to the business that is also going to contribute to the beautification process. Ms. Zagrapan stated that on Colburn there is a blank space and it is pretty wide for a tree lawn. Even if they could get the ten free trees, maybe they can line that area. It would beautify the downtown. Their man goal is to increase the tree canopy. Patty Lawler asked about the Pocket Park. Stated they would come up with something. The only problem with the pocket park is that they already did a grant for that. They received ten trees. It depends on how much Citizens is willing to spend. Mayor Lawler asked who maintains the trees. Last year the gentleman that planted the last set of trees was supposed to do the pruning. It is on Donna Zagrapan's list to do the pruning. You have to know how to prune trees, use a certified arborist. Winter is the best time to prune a tree. Pat Williams asked about the container plants. The problem with containers is that you only have the plastic between the freezing weather; once the roots freeze they are done. Wind causes a lot of damage especially as it goes through the container. The cutting of the trees is on them, when they are going to firmly commit so we can commit our match. What they have done before, they give us the money up front, the state, LHVA. Then we do what we need to do and then tell Citizens what need to contribute. Pat Williams stated that in the past that bank has not been a good neighbor to the Borough. Be persistent on their share. The trees should have been removed years ago. Herman Johnson stated that they are an asset to our community, sit down and talk to these people and move further ahead. Gerrie Carey stated that whatever she can do they would appreciate it.

Rebekah White is there to address Council about the sewer payment plan. Ms. White, made fifty dollar payments and this month she is receiving a disability check. Ms. White stated that she has been at the house 28 years. At this point her daughter is working and providing for the family. Ms. White's proposal is to make payments in the amount of \$50 in addition to the \$47 monthly and possible that they can forgive some of the late fees. She will make the first payment for the

month of November 2014. Vince Cruciani stated she would like to pay \$47 plus \$50. In exchange how much is late fees. There was a balance from the water company. She has to stick with this plan. In order for him to support it she would have to stick with it. It can't get voted on tonight. Herman Johnson stated we should put this on the agenda.

- Police Staffing: Mayor Lawler and Chief Yarns did interview 7 candidates, agreed on the same person Matt Karam. His certification up to date, qualified in vascar, tasers etc. He lives locally, went to AHSD, and is a part of the fire department. Anxious to come back home to serve the Borough. Strongly recommend him. He has his own equipment, and he is partially trained. Mr. Karam did the drive alongs already with our police. He is a strong candidate and it is good to see someone from the community. Still looking for a second part timer and Mayor Lawler asked to keep the discussion open for a full time officer. Need to make a comparison between a full time and part time officer. Dominic Scott stated that Matt Karam is an excellent candidate.
- Ordinance 2014-04: Cable Franchise Agreement: Virginia Kehoe stated that we are advertised to vote next week on ordinance 2014-04 authorizing us to sign the agreement with Comcast. As negotiated with Phil Frega from Dan Cohen's group. That will be on the agenda.
- SEO Replacement: Our sewage enforcement officer Walter Redel passed away we do need to replace him. We were going to go with the person that works with him. We had advertised, didn't receive any interest. Will have an update next week. What are the qualifications, asked Vince Cruciani.
- ARWA: Virginia Kehoe stated that Bob Davis is continuing with ARWA until the 15 of November. He stated that there is not one individual who he can recommend to take over that specific position. The board for ARWA had an emergency meeting and they are advertising to fill the position. We are looking for a director, need credentials, class one operator. Whoever comes in they are in the middle of construction. They are starting to move into some areas of the new buildings. They expect to be converted over into the spring which is ahead of schedule. Send something to him from Council.
- Non-Uniformed Union Negotiations: Vince Cruciani stated that they had an excellent meeting with the DPW and they were receptive to everything presented. Good Compromise. Executive session after this meeting. All we need to do is highlight the language that changed before it is sent to the labor solicitor after it is cleared by Council. Mr. Cruciani stated that it was an exercise positive for them and the DPW.
- Ordinance 2014-05 Curative Zoning Amendment – 3 Front St: Attorney Greg Pascale spoke to Council concerning the 3 Front Street. Charles Hibble who owns the a Real Estate company is interested in the property at 3 Front Street single family home and it is on the corner of Front and Lansdowne. Mr. Hibble would like to convert it to apartments and businesses. It is labeled R-1 Zone which is a single family home. They are asking for a Curative Amendment to have that area rezoned the corner property. David Jenkins asked if this should go to the Planning Commission. Virginia Kehoe stated that this process is correct and they first need to come straight to Council. Herman Johnson asked if that would be considered Spot Zoning. M.s Kehoe stated there will be a Public hearing at the next meeting, it will

be advertised. Solicitor Dan Mulhern stated that he doesn't anticipate having all of the answers next week.

- Review the agenda. 2 items that we would like added. Gerrie Carey stated that she would like to be reinstated. Vince Cruciani and David Jenkins stated that she is already, it is a done deal. The moment she stepped in, it was done. Herman Johnson stated that the lady who put that article in the newspaper, he wishes she got the facts straight. If you look at the meetings minutes, we stated that we were moving these gentlemen up as acting; as soon as Gerrie Carey walked in she was President. Government has to keep on moving, that's all we were doing. Not throwing people under the bus as it was quoted and she is doing a commendable job. Vince Cruciani stated that this was for the purpose of signing checks, so David Jenkins could sign them and if Dominic Scott or David Jenkins missed a meeting Herman Johnson would run it. The second she came back the acting status went away. Solicitor Pat Rogan stated that the Borough Code describes what happens in that situation and that is the Vice-President chairs the meeting. Vince Cruciani stated that it was one step further so that the Vice President chair runs the meeting, but if Dominic and Dave weren't there... Solicitor Pat Rogan stated that there would be a vote on the floor for a temporary chair the Borough Code covers it. Vince Cruciani asked who would sign check if Dominic and Gerrie weren't available because we need the President or the Vice President to do it. Solicitor Pat Rogan stated that they would cross that bridge when they got to it. He stated that this was very misleading to the public and he received many phone calls himself with people wondering what Council did to Gerrie Carey. In 25 years he never seen anything like that happen. Solicitor Rogan stated that letters to the editor are not within his domain as a Council person. Mr. Cruciani stated that it is within his domain as a citizen of the United States and that's why he wrote it. Gerrie Carey stated that Mr. Cruciani signed it as a Council Member. Mr. Cruciani stated that he remembers Council sending out letters of support of other matters that didn't deal directly with Council so he tends to disagree with Ms. Carey on that. Solicitor Pat Rogan stated that he can disagree but if the Borough gets sued, Rogan Law firm would not be defending Mr. Cruciani. Mr. Cruciani stated that's fine and he is pretty sure that the factual nature of that letter to the editor falls within the first amendment because it would have to pretty much prove it false and then they would have to prove damages. Mr. Cruciani is pretty comfortable about that he wouldn't want to Borough to defend him. We were worried about checks getting signed and we needed to make sure that they could. Solicitor Pat Rogan stated that Mr. Cruciani doesn't get to make up the law. Mr. Cruciani stated that they passed a motion. Solicitor Pat Rogan is going to recommend that Council rescind that motion at the next meeting. Mr. Cruciani said ok but he disagrees with Solicitor Rogan. Mr. Cruciani asked where that doesn't follow in the Borough Code. How was the acting status in violation of the Borough Code? Solicitor Rogan stated the Borough Code describes what happens when the President is not here. Mr. Cruciani asked if there is a mechanism to not allow for acting status to be passed. Solicitor Rogan stated that Mr. Cruciani should go get it out; there was no need for the action. The Borough Code says what happens when the President is not there. There are 7 Council members at this table. If the President and Vice president are not here, who do you think has the votes for the chair of that meeting? If Gerrie, Dominic and Dave are not here then it falls to 4 people and the Mayor. Instead of having that decision is made

by 4 people and the Mayor, it was more appropriate to be made by 6 people. Solicitor Rogan stated that he thought that was ill advised and ill-informed and mis-informing the public. Solicitor Rogan stated that it is his legal opinion that should he act in contrary to the Borough Solicitor's opinion, he is not covered.

Gerrie Carey stated that Melissa Jones did cut the check for the debt service and after she talked to the Council members stated that were not aware of exactly the ways things were going down. They assumed that as soon as Gerrie Carey came back it would be on the agenda. She did speak with Jim Burke and he said whatever we decide is ok with him. That \$20,000 that we put on our debt service is not really going to help us, if we put it in our Capital Reserve, next year we are going to need it. Vince Cruciani asked didn't they vote on this already. The answer is yes it was voted on in the October 2014 meeting. Mr. Cruciani stated it is up to Council, if the check hasn't been cashed yet. Jim Burke said its fine. Virginia Kehoe stated that the \$20,000 has been paid to the bank already. He would reimburse the \$20,000 and we would make our regular payment. Herman Johnson stated that they should re look at it next week at the Council meeting.

Virginia Kehoe stated that she was at a Storm water seminar and she did learn a lot. Found out that the National Fish and Wildlife Association has technical support grant money available to help us survey and design a storm water plan. Ms. Kehoe also stated that she talked to Meg Murphey, a DEP attorney who handles storm water and water ways. Discussed about ownership of creeks, unless it is a state designated water way, which is typically a river or a very large creek that is used for commerce, it is owned by whomever has the bed in their property. So when it is running through somebody's back yard it is their private property. As far as DEP is concerned, we have our MS4 requirements for storm water control, but maintenance for the creek and the bed is not the Borough's legal responsibility or DEP's impression that it should be. Whoever does any work at the creeks, the Borough or a home owner, they have to meet DEP standards and apply for a permit if DEP requires it. Ms. Kehoe stated that DEP is encouraging communities to set up a Storm Water Authority, rather than using general fund money to do storm water work. They are suggesting considering it and look at our own scenario, and this is where the technical support money would come into play. Financing is the issue. Ms. Kehoe stated that it is interesting to get DEP's perspective and understanding of the MS4 requirements. Look forward to sharing this information.

4. REVIEW OF NOVEMBER 5, 2014 AGENDA

5. ADJOURN:

President Carey