

**BOROUGH OF CLARKS SUMMIT  
BOROUGH COUNCIL MEETING  
DECEMBER 3, 2014**

The December 3, 2014 Borough Council Meeting was conducted on Wednesday, December 3, 2014 at 7:00 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 Mr. Herman Johnson, President Gerrie Carey, Mr. Patrick Williams, Mr. Jim Klein, Mr. Dominic Scott, Chief Chris Yarns, Mayor Patty Lawler, Virginia Kehoe, and Solicitor Dan Mulhern. Absent from the meeting was Mr. Vincent Cruciani and Mr. David Jenkins arrived at 7:45PM.

**CALL TO ORDER:**

**President Carey**

**MEDITATION:**

**Mayor Lawler**

**PLEDGE OF ALLEGIANCE:**

**Mayor Lawler**

**PUBLIC HEARING – Ordinances 2014-06 Curative Amendment- 110 Maple:** Attorney Mike Goffer is representing the Struchko family and they are here seeking a change in the zoning from residential to commercial. His clients felt and believed that this property was a commercial property at some time, and at some point it was switched to a residential property. The house is right next to Robo Car Wash, a beauty salon and Kost Tire. Joe Struchko spoke to Council, stated that they are requesting that 110 Maple be changed to a commercial property. There are three commercial properties right next to them. Who would want to buy that house which is residential right now? This is a hardship because his mother lives there and when she is gone that house will be difficult to sell. Mr. Struchko stated that about 15 years ago he received a letter from Mr. Thorne, a former Borough Manager, stating that the property was commercial, he lost the letter. Because of Robo Car wash they have had many difficulties with flooding, noise, and litter. He wants Council to keep in mind that his mother has put up with all of these issues for many years. There were restrictions like a fence that was supposed to be put up. Gerrie Carey asked Virginia Kehoe to check the files and see if we can find the letter from Mr. Thorne. Ms. Kehoe stated that she had already looked and did not find anything on file. As of 2002 his property is residential and next door is commercial. Mr. Struchko was not aware that this was being changed back to residential. Herman Johnson was concerned about "spot zoning." Solicitor Dan Mulhern read off definitions of spot zoning stating that there are three businesses that are right next to this house. Also, this has to go to the Planning Commission; they are going to give the governing body a recommendation. Then Council can reject it, and the owner would have to file with the courts, accept this, neighbors can challenge, make reasonable recommendations with the Curative Amendment. There is some flexibility. Don't vote tonight until we have proof of what it was zoned prior to this. Herman Johnson was concerned about spot zoning because that would be illegal and the Borough has had other problems in our community. If that could be satisfied he would have no problem.

**2014-07 TAN**

**2014-08           General Fund Millage**

**2014-09 Sewer Billing**

**2014-10 Debt Service Millage**

**1. APPROVAL OF AGENDA:**

**President Carey**

Herman Johnson made the first motion to approve the agenda, seconded by Dominic Scott, vote was unanimous 5-0

**2. APPROVAL OF MINUTES:**

**President Carey**

- **September 3, 2014 Regular Council Meeting**
- **September 30, 2014 Council Work Session**

Herman Johnson made the first motion to approve the meetings minutes, seconded by Dominic Scott, vote was unanimous 5-0.

**3. PUBLIC COMMENT & INPUT:**

**President Carey**

Tom Hill, owner of State Street Grill spoke to Council about parking concerns. There are many parking lots in the area but they are locked after hours. Liability is the issue. Talked about developing something where they put an organization together to cover the plowing and liability of these parking lots. They are willing to pay for some of this liability from a commercial property. Virginia Kehoe stated that our Planning Commission's Len Wesolowski referred to another town in PA. There was a town wide policy for businesses to park on each other's parking lots and have blanket liability coverage. She can follow up with him on that. Tom Hill stated that it would cost \$8-\$1200 a year. Get a plowing contract during their off hours. Herman Johnson commended Mr. Hill on his research but he thinks the business association should be the ones looking into this. Maybe Council can get with the business association and see if we can push it forward. Mr. Johnson stated that he doesn't think Council can pass an Ordinance or Resolution for this. Herman Johnson stated that he thought Mr. Hill would not have a problem with this, because he is researching for liability, if that is taken care of. If Mr. Johnson owned that property and it is going to be plowed after hours, that would be saving him money, this would benefit the whole downtown. Mayor Patty Lawler stated that she tried to do this year's ago. They were not receptive to it and liability was one thing but there were other reasons why they didn't. We can't take a real leadership role because who will enforce it. She had found this to be very difficult. Discussed "friendly parking" advertise it. Mayor Lawler stated that it will help the downtown and everyone's business but she knows it is very tedious to develop and to do right. Herman Johnson stated that he is coming up with a different plan, because he is talking about when the other stores are closed. This would only benefit the businesses that were closed just from plowing. That is what he has to articulate, the after-hours. Mayor Lawler stated that she was trying to get more parking with the parking permits. She commends him and it would be an asset to the town.

Gerard Hetman, the Lackawanna County's Community Relations Department spoke to Council about the activities happening in the County. Herman Johnson stated that the Borough sent a letter to George Kelly and cc'd the County Commissioners and we haven't heard anything back. Mr. Hetman asked for an update and there has not been a change in the status of the audit. Magistrates hours, Attorney Doherty, he is the administrator for the court of common pleas. He schedules magistrate's hours. There are provisions to add hours here if they are needed. Chief Chris Yarns stated that many magistrates have evening hours and that is what they are looking for. Herman

Johnson stated that our citizens should question the candidates that are running for Magistrate. Are they going to be full time or part time, what are their hours going to be. A lot of people are running for Magistrate. Mr. Johnson stated that it might involve overtime or an officer might shy away from a case because of this also. Council should follow up with Mr. Dougherty. Pat Williams asked who sets the hours for the Magistrate. Chief Yarns stated that they set their own hours.

**4. BIDS & QUOTATIONS: President Carey**

- **Vote Ordinance 2014 –07 TAN – vote to accept bid from First Keystone Community Bank at 0.69%:** David Jenkins made the first motion to approve Ordinance 2014-07 TAN, seconded by Herman Johnson, vote was unanimous 6-0.

**5. BOROUGH TREASURER’S REPORT President Carey**

Herman Johnson made the first motion to approve the Borough Treasurer’s Report, seconded by David Jenkins, vote was unanimous 6-0.

**6. COMMITTEE REPORTS:**

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

The TAP grant that we applied for, we did not get. This was to improve the sidewalks on State Street. These were the sidewalks going out of town for the Trolley Trail. Herman Johnson suggested letting Janine Port know also.

- **Recycling Committee** Jim Klein, Chair
- **Insurance Committee** Vince Cruciani, Chair
- **Personnel Committee** Gerrie Carey, Chair
- **Public Safety/Safety** Pat Williams, Chair

Mr. Williams wanted to thank CVS for the patches in the road. Virginia Kehoe stated that some of the pave cuts are from UGI and he is trying to get them done, it is a Penndots road and he needs their ok. This also goes with the traffic signal at Lackawanna Trail, he said if it is at all possible he will be in the next week or so to fix this. He is trying to discuss this with Northeast Signal. Chief Yarns stated that that signal light is getting worse and worse. He gets many complaints, people run the light and it doesn’t change. If someone runs the light and gets an accident this could be an issue. David Jenkins asked if we can get on Northeast Signal. Virginia Kehoe stated that this really is UGI, and she communicate with both UGI and Northeast Signal tomorrow morning make sure that it is addressed immediately. Chief Yarns stated that if it isn’t done soon he will have to choice but to put that light on flash. David Jenkins asked if we have a legal position here we need to take some action. Solicitor Dan Mulhern suggested putting everything in writing because this could be a liability issue. Herman Johnson stated that to make it a small liability is he should put this on flash. Those patches are all UGI and when they are by CVS that they go to Gerrity’s too. The sensor is out of the loop, it is broken because they dug it up with the gas line.

- **Public Works** Herman Johnson, Chair
- **Recreation** Dominic Scott, Chair
- **Sewer Billing** Dominic Scott, Chair

Dominic Scott stated that in November there were delinquent letters sent out. 28 homes were posted. 34 of 49 either paid in full or made significant payments. 15 are delinquent accounts. The second posting is set between the 8<sup>th</sup> or 9<sup>th</sup> of November. 53 people on the payment plan, 8 didn't keep up with the payment plan. Ian Castrogiovanni is back on the shut off list. Herman Johnson asked about the people that had a plan approved by Council, how are they doing with this. Mr. Johnson stated people come to Council pleading and begging with them and they have been very good to these people and they are hurting other people if they aren't keeping up with the payments. David Jenkins stated that we shouldn't give Ian Castrogiovanni any slack at all. He will be added to the shut off list. He thinks we have given him way more than he deserves, especially considering the hard time he has given the police department and everyone else concerned. This guy has done nothing to help us out. He thinks he burned his bridges on both sides.

- **Depot St Project** Herman Johnson
- **Stormwater Committee** Herman Johnson

David Jenkins stated that they are making progress on this. Herman Johnson stated that they are working on it. They had 2 meetings already. It is a slow burn but we are getting there. Donna Zagraban made a presentation to Abington Heights to plant more trees at the grade school. That would benefit us for stormwater reasons.

- **Civil Service Commission** Dominic Scott

Dominic Scott stated that they are going to have a meeting at 2pm on Monday November 8<sup>th</sup>. Select a proctor and an exam select a date for the exam and determine a fee. As he understands it the exam is about \$15. The proctor last time was \$500. Put part of that proctor cost into the fee for the exam. Virginia Kehoe stated we don't know how many people we will get who want to take the test. Ms. Kehoe and Chief Yarns believe a safe number would be about 20 people. A fair price for 20 people would be about \$40 per person for the exam and the proctor. Herman Johnson stated that most of the advertisements for the test that he has seen in the last couple of years it ran from \$40-\$100. He thinks a good average is about \$50. David Jenkins agreed with that amount. Chief Chris Yarns stated that the PSAB might be available to proctor. Dominic Scott stated that we were able to contact Wes Dunn he is staying with his step daughter; he has some assistance coming in, he is hopeful to get back on his feet. Mr. Dunn is going to contact Virginia Kehoe tomorrow to resign which has to be in writing. Ms. Kehoe stated that we will put up a message on the website and electronic board that we need an alternate for the Civil Service Commission.

- **Christmas Tree Lighting** Mayor Lawler

Mayor Lawler gave an update on the lighting of the tree. 4 groups of carolers, community tree, named the tree after the Maria family. There were about 150 at the reception at the Borough building. The sponsors paid for the reception and the ABPA was very helpful. The town looks even better this year. Merchants decorated their own windows. Mayor Lawler stated that we don't want to deter the DPW, wants the DPW to decide when to put up the lights. Jamie Kresge donated lights for the traditional tree. Mayor Lawler stated that it was a good spirited thing. Ribbon cutting at the CBS on 12/5/14 at 10am. The pocket park sidewalk belongs to the

Borough, so for inclement weather, the DPW would be in charge of cleaning the sidewalk. Pat Williams commented on how great the town looks.

- **Additional comments from Council:** Pat Williams discussed the Abington COG. The reorganizational meeting will be tomorrow evening; will probably be the same people. Marnie Palmer is the newly elected stated president for the state. Bernie McGurl made an MS4 presentation and Mr. Williams suggested that Herman Johnson talk to Mr. McGurl. Mr. Williams asked Virginia Kehoe if the Borough is up on all of the yearly paperwork involved with the MS4.

David Jenkins stated that a couple of people have brought to his attention the smoking of e-cigarettes primarily at Duffy's. There are more and more kids doing this. You have to be 18 to buy them. Curious about is they serve food in Duffy's', and if you have to be 18 to buy them. Where do we stand with our nonsmoking ordinance? He thinks that at the moment they say that they are safe, the vapors that come out there something is in them, it can't be good. There has got to be something there. If kids under the age of 18 and are smoking in the public. If it's illegal, it's illegal. The police could walk in there and check their ID. Chief Yarns stated that it's against the law to purchase them but not to possess them. There was an Ordinance passed, we can see if this is included in the Ordinance. Check with Solicitor Dan Mulhern. We should stay on top of this, doubts about this being safe. Virginia Kehoe stated that she reached out to the PSAB to see if they passed the Ordinance. No one responded to her email. We are just talking about preventing this with underage people. David Jenkins stated that if you doing this in an enclosed building, it should be considered under the same umbrella. Solicitor asked which one to research, underage smoking or banning it in closed areas. Herman Johnson stated that if we go back and look at our ordinance for underage smoking. See if we can put something in there. There is a clean indoor act which covers smoking that is intended to keep the air clean. This is a chemical put in the air. You can smoke in certain bars.

**7. POLICE REPORT:**

**Mayor Lawler**

Chief Chris Yarns read off his report to Council. David Jenkins if Mr. Karam is on the street yet. Chief Yarns said not yet but should be this Friday. Mr. Jenkins also asked about people smoking the lights. 4 cars did coming up State Street at State Street and Highland, also State Street and Grove Street. David Jenkins suggested a relay a couple of hours in the morning. If you do it a couple hours in the morning one or two days a week, people will catch on. Officer Orzalek had been doing a great job with the weights and scales.

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

**President Carey**

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

**9. OLD BUSINESS:**

**President Carey**

- **2015 budgets:**

- **General Fund:** Dominic Scott made the first motion to approve the General Fund Budget, seconded by Herman Johnson, vote was unanimous 6-0.
- **Sewer Fund:** Herman Johnson made the first motion to approve the Sewer Fund Budget, seconded by David Jenkins, vote was unanimous 6-0.
- **Debt Service Fund:** Pat Williams made the first motion to approve the Debt Service Fund Budget, seconded by Herman Johnson, vote was unanimous 6-0.
- **Liquid Fuels Fund:** David Jenkins made the first motion to approve the Liquid Fuels Fund Budget, seconded by Herman Johnson, vote was unanimous 6-0.
- **2014-08 General Fund Millage:** Herman Johnson made the first motion to approve the General Fund Millage Budget, seconded by David Jenkins, vote was unanimous 6-0.
- **2014-09 Sewer Billing:** Herman Johnson made the first motion to approve the General Fund Millage Budget, seconded by David Jenkins, vote was unanimous 6-0.
- **2014-10 Debt Service Millage:** Herman Johnson made the first motion to approve the General Fund Millage Budget, seconded by David Jenkins, vote was unanimous 6-0.
- **Border Realty:** Solicitor Dan Mulhern stated that he spoke Dave Gromelski who is the Special Solicitor for Glenburn Twp. it's important for the Borough to have a mechanism so we can go on to Glenburn Townships soil and inspect check the flow meters. Mr. Gromelsky agreed and he is passing this on. Solicitor Mulhern relayed this to Mark Young. David Jenkins voted to table this vote.

**10. NEW BUSINESS:**

**President Carey**

- A. 2014-06 Curative Amendment 110 Maple St**
- B. Appointments – Rich Yarmey-AAJRB, Ed Yasinkas-Planning Commission, John Kazista-Zoning Hearing Board and Donna Zagrapan-Shade Tree Commission:** Virginia Kehoe stated that this is just a reminder that the four seats above are expiring at the end of the year. Of these four seats, Rich Yarmey said that he is not interested in being reappointed. These will be on the January agenda to vote on. Virginia Kehoe stated we can put this on the billboard and the web site.
- C. Resolution 2014-33 CDBG funding:** Virginia Kehoe stated that we got the numbers from the County for the CDBG money and they gave us this resolution to pass. This would allocate the money for the Depot Street project. Herman Johnson made the first motion to approve Resolution 2014-33, seconded by Dominic Scott, vote was unanimous 5-0. Herman Johnson stated that he knows this is the Resolution for this but he thinks we need to keep following up with the County. He doesn't understand why it takes so long for a County wide audit like this.
- D. The Gathering Place – lease:** Dori Waters stated to Council that they are looking for an extension. In their contract they had agreed to raise \$200,000 by December 2014. Looking to reach the \$200,000. Herman Johnson stated that he would like to see them get the extension because the community is behind it and

they have raised  $\frac{3}{4}$  of their goal and he thinks that they will reach their goal. Herman Johnson made the first motion to give the Gathering Place an extension, David Jenkins seconded the motion, vote was 6-0. Pat Williams asked how much time they will need. Are they anticipating any more grants etc. Dominic Scott asked how much they have gotten from the community that is on the information sent out to Council. They had a setback with their 501 c-3. There were delays and they didn't go out and solicit money from people until they had their 501 c-3. Herman Johnson stated that they have raised \$158,000 and they are almost there and they made a commitment as Council that we were going to let them use downstairs. They agreed to extend this by 6 months.

**E. Update on E-Cigarette Request from Mr. Rose**

**F. Update on Animal Ordinance Request:** Adelyn Fink spoke to Council about a pig as a pet. Lori Harris left a message regarding a request for a pet pig. She did not purchase one yet. She checked the zoning here in the Borough. There is an ordinance against it. She is interested in Council amending an Ordinance to allow pigs as pets. Gerrie Carey stated that our Solicitor has to take a look at this, if we change it for one animal what about other requests. Each animal would need its own consideration. Virginia Kehoe stated that our Solicitor will look over the information. If she wants to discuss this further at the work session she is welcome to present her argument. She asked if it is a no. She is not fighting this if it is a no. Herman Johnson stated that his is tabled until more information is found. There would be legal fees for this also that would be forwarded to Ms. Fink.

**11. SOLICITOR'S REPORT:**

**Solicitor Mulhern**

Solicitor Dan Mulhern stated that we seem to be getting more and more Curative Amendments and what is important about them is that Council ultimately makes the decision. It will go to the Planning Commission but Council has the final say. It's important that Council knows that whichever way they vote it will be setting precedent. Herman Johnson stated that it seems like they are coming to Council first, when it should be going to zoning first. Virginia Kehoe stated that it is the Planning Commission and yes. Ms. Kehoe did forward a request for another one in January. When we have public hearing for the next one we should already have input from the Planning Commission. Mr. Johnson stated that we have to direct these people to the Planning Commission first. Ms. Kehoe stated that there is a clock on this and once they come and request this, if we don't respond within a certain period of time, it would be approved by default. Ms. Kehoe presents this to Council and the Solicitor so everyone has time to look this over. Solicitor Mulhern will look into the animal ordinance, drones, e-cigarettes, news racks and peddling. The Planning Commission sent three recommendations.

**12. CORRESPONDENCE:**

**13. EXECUTIVE SESSIONS:**

**President Carey**

- **Prior- None**

- **During-**                      **None**
- **Subsequent-**

**14. ADJOURN:**

**President Carey**

Herman Johnson made the first motion to adjourn the meeting, seconded by Pat Williams, vote was unanimous 6-0.