

**BOROUGH OF CLARKS SUMMIT
BOROUGH COUNCIL MEETING
AUGUST 5, 2015**

The August 5, 2015 Borough Council Meeting was conducted on Wednesday, August 5, 2015 at 7:13 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 Mrs. Gerrie Carey, Mr. Herman Johnson, Mr. Vincent Cruciani, Mr. Jim Klein, Mr. Patrick Williams, Mr. Dominic Scott, Chief Chris Yarns, Mayor Patty Lawler, Solicitor Pat Rogan, and Borough Manager Virginia Kehoe. David Jenkins was absent from the meeting.

CALL TO ORDER: **President Carey**

MEDITATION: **Mayor Lawler**

PLEDGE OF ALLEGIANCE: **Mayor Lawler**

OATH OF OFFICE – TOM KELLY – ARWA REPRESENTATIVE **Mayor Lawler**
Mayor Patty Lawler swore in Tom Kelly as the Borough's ARWA Representative.

OATH OF OFFICE – CHRISTIAN ORLANDO – JUNIOR COUNCIL **Mayor Lawler**
Mayor Patty Lawler swore in Christian Orlando as a Junior Council member

1. APPROVAL OF AGENDA: **President Carey**
Herman Johnson made the first motion to approve the agenda, seconded by Dominic Scott, vote was unanimous 6-0.

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

June 30, 2015 Council Work Session
July 1, 2015 Regular Council Meeting
Herman Johnson made the first motion to approve the minutes, seconded by Dominic Scott, vote was unanimous 6-0.

3. PUBLIC COMMENT & INPUT: **President Carey**
Gerard Hetman Lackawanna county Community Relations dept. Update on the CDBG money. Mayor Lawler stated that she spoke Mrs. Sacco from the county, our money is secure and waiting to be distributed. We are looking at 4 years of monies that have been set aside for the project, the estimate is we have \$291,000 waiting for us and it will not be taken away from us. Next fall to get ready, 90 day period for the bids to go out, should be ready for spring project. Vince Cruciani asked about 10(a) the Residential Antidisplacement and Relocation Assistance program. Mr. Cruciani asked if we have heard back from the county about some of the liabilities regarding this program. Virginia Kehoe stated that she reached out to Sandy Opshinski and she didn't hear back. Mr. Cruciani stated that there have been some general open liability questions that haven't been answered and he realizes the county's approach might be

that they wouldn't put it to bid unless we pass it. Ms. Kehoe stated that we have questions that need to be answered before Council will vote on it. Ms. Kehoe asked Gerard Hetman to follow up on this. Gerard Hetman continued with his update on events happening in the county. Dominic Scott will assist with the Clarks Summit Tire Recycling event on September 19, 2015 from 9am-Noon.

4. BIDS & QUOTATIONS:

President Carey

- N/A

5.

6. BOROUGH TREASURER'S REPORT

President Carey

Herman Johnson made the first motion to accept the Borough Treasurer's Report, seconded by Dominic Scott, vote was unanimous 6-0.

7. COMMITTEE REPORTS:

- **Building & Plant**

Pat Williams, Chair

Pat Williams stated that we need to set up a meeting with Dori Waters and Mary Ann Nichols. Pat Williams, Gerrie Carey and Virginia Kehoe will attend the meeting next week.

- **Finance Committee**

Dominic Scott, Chair

Dominic Scott stated that we are still within budget and there is a summary of cash balances.

- **Grant Committee**

Jim Klein, Chair

Received awards from LSA – Monroe County for The Gathering Place and the Abington Library. Virginia Kehoe stated that the AACC and the Library got the LSA grants; the Borough sponsored them so we are officially the grantees. They will give us their submissions for reimbursement; we will do the submission, get reimbursed and give the money to them. Ms. Kehoe stated that she has worked with Melissa Jones the Borough Treasurer on setting up the book keeping for it. Ms. Kehoe also forwarded them the standards for bidding.

- **Recycling Committee**

Jim Klein, Chair

- **Insurance Committee**

Vince Cruciani, Chair

- **Personnel Committee**

Dave Jenkins, Chair

Executive session after meeting

- **Public Safety/Safety**

Pat Williams, Chair

Pat Williams stated that the paving, curb cuts which he is thrilled to see, raising the man holes; they are really doing what they are supposed to be doing. Herman Johnson asked if the curbs get damaged do we have to pay for their repair. Be aware of this.

- **Public Works**

Herman Johnson, Chair

Herman Johnson commended the DPW they finished on High Street and did a professional job in short period of time. Blacktopping is super, hope it holds up. This company is really good.

- **Recreation**

Dominic Scott, Chair

Vince Cruciani stated that we should make a decision one way or the other if we are going to use the beams at Carol Drive and Lewis Lane parks. We should either commit to using them or not and take them down. Mr. Cruciani was surprised the DPW left them up. Virginia Kehoe was going to go over the pricing

for the new signs at the next Finance Committee meeting. Herman Johnson stated that he thinks they should be taken down. Vince Cruciani made a motion to remove the beams, a motion isn't necessary they can just be taken down. Mayor Lawler stated that "Shop Around Clarks Summit" to help Saint Josephs will be on August 13, 2015. The Pocket Park will have a mini craft-artesian affair that same day. Next time the Finance committee meets she would like to make a presentation.

- **Sewer Billing**

Dominic Scott, Chair -

payment plan for Len Santarsiero.

Dominic Scott stated that 15 new liens were placed. Virginia Kehoe stated that all of the houses but one are empty. Vince Cruciani asked if Kimble is empty. Jennifer Basalyga stated that the DPW thought it was empty. Mr. Cruciani stated that he hasn't seen activity there either. Virginia Kehoe stated that Len Santarsiero, last fall he came before Council and he was granted a \$100 monthly payment arrangement. He did not make all of his payments on time. The day before the shut off Mr. Santarsiero called Mayor Lawler and Dominic Scott was called. He made a 50% payment, he was told to come to the Council Work session or the Council Meeting to make a new payment plan. Jennifer Basalyga asked Council to take note of information before them concerning his account; Ms. Basalyga also stated that Mr. Santarsiero rejected our certified letter calling for full payment of his account which is what led to the shutoff. Council recommended sending him a certified letter and go through with the shut off. He didn't abide by the first payment plan. The 1/2 payment was to bid him until this Council meeting. Ms. Kehoe stated that Jennifer Basalyga was very specific when speaking to Mr. Santarsiero on the phone that he needs to attend the either the Council meeting or the Council worksession and that we will hold off until then. He needed to come in to make a new request to council. Herman Johnson stated that he doesn't think it's fair to the other residents; let the shut off go unless he pays before that.

- **Depot St Project**

Herman Johnson

- **Stormwater Committee**

Herman Johnson

Virginia Kehoe held a meeting before the Council meeting which counts for MS4 requirements. Every 6 months to inform the general public of the MS4 plans for storm water control.

- **The Gathering Place**

Gerrie Carey/Pat Williams

- **Banner Committee**

Gerrie Carey/Herman Johnson

Herman Johnson stated that he was very impressed with the banners. Virginia Kehoe stated that she asked Matt Cottengim to give Council a rendering of what one of the banners might look like. This is his first draft and he can do whatever Council wants him to do. Ms. Kehoe stated that he made adjustments to the agreement and he provided a letter that he can sent out the businesses. We would have to sign the agreement first. Vince Cruciani asked if we are responsible for hanging and maintaining. Ms. Kehoe stated that we would hang them; Mr. Cottengim is responsible for the maintenance. Vince Cruciani stated that if they get put up by the DPW, what if there is a storm and the banner comes down. Ms. Kehoe stated that we would put the banner back up. Ms. Kehoe also stated that the other choice is to have him responsible for the installation but that would increase the costs. Mr. Cruciani stated that his concern is that if the DPW puts

them up then we are subsidizing merchant advertisement with taxpayer money and that's the problem. If he does put the banners up then we would need some kind of indemnity and he trusts Solicitor Pat Rogan's opinion on that. Herman Johnson suggested getting a price on this and tabling this right now and discuss this at our next work session in depth. Mayor Lawler asked if our banners are not worth putting up. The DPW said that the banners we have now are threadbare. Mayor Lawler asked if we need banners on the State Street.

- **ACOG Representative** To be assigned
Virginia Kehoe stated that the first Thursday in September is the ACOG meeting. Mayor Lawler suggested Council members take turns. Herman Johnson said as long as no one is an officer with ACOG that would be fine. Virginia Kehoe stated that she would find out.
- David Tompkins from 615 Timber Lane spoke to Council. They don't live there, but his daughter and grandchildren do. They put up a fence with a privacy section. The Council decided to make the whole thing privacy or none. That was a request. He has a request to leave the privacy slats only in the sections that they want private. Mr. Tompkins doesn't want a problem with the neighbors or the township but Lori Harris sent him the request and that is why he is here. If anyone has any questions about the fence or the reasoning they are welcome to ask. Herman Johnson asked how high the fence is. Mr. Tompkins replied, 6 feet. Vince Cruciani stated that he respects the fact that he followed all of the ordinances. Mr. Cruciani also stated that he is a proponent of private property. Mr. Cruciani stated that he was the one who thought that maybe the uniformity of covered or not covered would be a good idea. If Mr. Tompkins agrees or disagrees that's ok too it is his property. Mr. Cruciani stated that he heard the argument over a 4 foot or a 6 foot fence, if you need a 6 foot fence, then that's that. If you wanted a 6 foot fence and the ordinance says it then it's alright. Mr. Cruciani stated that he has a 6 foot fence in his back yard. Mr. Tompkins wanted a front yard fence and the ordinance allows for that, and if it suits the needs for his property, you are the one who pays property taxes and sewer fees on it. Mr. Cruciani's reasoning is that it doesn't actually provide privacy if you don't have the privacy slats along the whole fence. Mr. Cruciani stated that he was not trying to give Mr. Tompkins a hard time when he said to put in the privacy slats or don't. His reasoning was if a person wants privacy then they want privacy and if they don't want privacy then they don't want privacy. It might be good to complete the process either way in a matter of time. Mr. Cruciani understands if Mr. Tompkins disagrees. Mr. Tompkins stated that the reason for the privacy section of the fence is because they have a grill there and they are able to sit out there in that section, but still be able to look out. Mr. Tompkins asked if anyone wanted to know the reasoning for the fence. Solicitor Pat Rogan stated that we don't need to know all of that. Solicitor Rogan's opinion is that it is an open question and he agrees with Vince and he is still looking into it, he doesn't know if it is still an issue. Solicitor Rogan does wonder if it is a finished fence. He is not giving an opinion because it is an open question. Mr. Tompkins stated that he planted bushes there also. Mr. Tompkins stated that he doesn't want any problems and he is willing to go by whatever it ends up to be. Vince Cruciani asked if he feels he has privacy from the slats there. Mr. Cruciani wouldn't want Mr. Tompkins to think someone was going after him. Mr. Tompkins stated that

his daughter and grandchildren like the little bit of privacy they have now. Virginia Kehoe stated that Pat Williams feels that it's possible that a partial slat could be considered an incomplete fence. That would be the tact you need to peruse. The type of fence is grandfathered. Does Council want to invest time and money into determining if the fence is complete or not. Herman Johnson stated that he really looked at the fence and got his thoughts together, he went to another area of town where there is another fence of property that has a white plastic fence that is 6 feet. The problem is that we don't have an ordinance for a front yard fence. Mr. Johnson feels bad for the residents who live on that street and he feels bad for Mr. Tompkins also. He is going back and forth after seeing the other white fence. Vince Cruciani stated that you would have to define front yard and the definition would have to be whatever your mailing address is on. You would have to uniform it. Virginia Kehoe stated that the Planning Commission does have this for review and they will be meeting in two weeks. Mr. Cruciani stated that he thinks it is the height and style mix. Pat Williams stated that it is really about the height. Mr. Cruciani stated that we should take time go around look around and see what works, give other examples. Pat Williams stated that we don't need examples. A six foot fence in a front yard in a residential area is ridiculous. It's taking down the property values. Vince Cruciani asked what if you don't have a back yard. Mr. Williams stated that if it was Mr. Cruciani's yard he would back him 100%. Ms. Kehoe stated that you have to look at each scenario, when you write the ordinance. Mr. Williams asked when Lori Harris ok'd the ordinance she didn't look at all the scenarios. Ms. Kehoe stated that she looked at the ordinance and the ordinance allowed for it. Mr. Williams asked about the Nuisance Ordinance. Vince Cruciani stated that the Nuisance Ordinance is the most unconstitutional ordinance that we have on file after the curfew. The curfew is directly unconstitutional. The Nuisance Ordinance is lingering out there as applied unconstitutional. A heated discussion continued between Mr. Cruciani and Mr. Pat Williams until broken up by Council President. Vince Cruciani then apologized for raising his tone of voice. Vince Cruciani stated that the issue of fencing including the privacy slats to protect our liability in light of the occurrences in the last month is probably best handled in an ordinance. Mr. Cruciani offered a motion to rescind the resolution to have the privacy fence be all or nothing and rescind the moratorium motion and if it must be handled, have it handled in an ordinance format where it is completely legal, seconded by Herman Johnson, vote was unanimous 6-0. Pat Williams stated that you can't believe half of the things that Mr. Tompkins just said. If you want to know the true story, give him (Mr. Williams) a call, he'd be more than glad to tell him and all of Council. Vince Cruciani stated that he is not trying to say that one view or the other is right, he said to protect ourselves and after a months' worth of reflection and examination and the advice of the Solicitor, if there was an ordinance then there would be no question with the matter that we passed in the resolution. It will protect us to let the matter be handled by an ordinance. Mr. Williams stated that he agrees with that. Mr. Williams stated that no one here would want to have a 6 foot galvanized steel fence in the front yard, that is a disgrace and everything he (Mr. Tompkins) said he is full of baloney up to his neck and it's very unfair. He would not want a 6 foot fence in the front of anyone's yard. Mr. Williams asked if Mr. Tompkins has a 6 foot fence in the

front of his yard, Mr. William's guarantees he doesn't. To be a wise guy and get even with the neighbors, everyone on both sides are coming to him. It's a disgrace in a residential town to put a 6 foot fence. It's a spite fence. Vince Cruciani asked Virginia Kehoe to call Mr. Tompkins and tell him this is no longer an issue.

- **Additional comments from Council**

8. POLICE REPORT:

Mayor Lawler

Pat Williams stated that the aggressive driving doing a fantastic job. Thank the mayor and the chief for reaching out for those grants. Chief Yarns stated that the situation with Hemlock Park is the fence has eliminated the problem; the only problem is that the group of juveniles has moved elsewhere. One person was arrested on just a few hours ago. Chief Yarns stated that the parking meters have been priced out and a request was sent out the guy was on vacation. All the domes have been replaced, they were hard to read. George Karros took care of that. Virginia Kehoe stated that PPL would make it a priority to fix the broken street lights. Herman Johnson suggested starting a program where you put all the pole numbers down and the date one goes out then ask PPL for a credit or a rebate then they are going to do something. Ms. Kehoe told Chris Yarns to let her know when they are turned back on or not because they will be requesting a credit. Vince Cruciani said there is a dual credit to that but it all comes back to the Chief. That is good management by the Chief and the Chief and the Mayors excellent presentation for a full time officer. May vacations are coming up in September 2015. Herman Johnson stated that he is doing a commendable job. Officer Karam has resigned also. Mayor Lawler read a letter from Chief Graziano appreciation that assisted to give assistance to Officer Wilding's funeral. Thank you for Hemlock Park help.

9. VENDOR PAYMENTS TO BE RATIFIED:

President Carey

Herman Johnson made the first motion for vendor payments to be ratified, seconded by Dominic Scott, vote was 6-0.

10. OLD BUSINESS:

President Carey

- **Border Realty Agreement:** Virginia Kehoe stated that we have a final draft. Herman Johnson made the first motion to pass the Border Realty Agreement, seconded by Dominic Scott, vote was 5-1 with Vince Cruciani voting nay.
- **Ordinance 2015-06 Zoning amendment:** Ms. Kehoe stated that Council can only vote on the Zoning portion of this amendment which is what documents are before them this evening. Herman Johnson made the first motion to pass Ordinance 2015-06 Zoning Amendment, seconded by Vince Cruciani, vote was unanimous 6-0. We can run the subdivision change with advertising next, run it for the work session. They have to be in conjunction.

11. NEW BUSINESS:

President Carey

- a) **Resolution 2015-11 Residential Antidisplacement and Relocation Assistance:**
Tabled
- b) **Resolution 2015-12 Borough Support for the Legalization of Medicinal Cannabis:** Vince Cruciani made the first motion to pass Resolution 2015-12, seconded by Herman Johnson, vote was 5-1 with Pat Williams voting nay.

- c) **Resolution 2015-13 LSA Grant Application:** Herman Johnson made the first motion to pass Resolution 2015-13, seconded by Pat Williams, vote was unanimous 6-0.
- d) **Parking Meters:** Vince Cruciani asked what the turnaround time is for the installation. If fees are raised the fee to .50 cents an hour, we need to make sure the roads are plowed, to allow people to park there once it's changed. Virginia Kehoe stated that the state roads are state plows, we do go in and plow but we are working around existing vehicles which makes it difficult.

12. SOLICITOR'S REPORT: Solicitor Mulhern

Solicitor Pat Rogan stated that he has some information about measuring and monitoring water runoff. He's working on that. Vince Cruciani asked about drones. Where does the ability to regulate that fall under the ability to protect privacy because that is the whole issue. Possibly a time, place and manner permit so a neighbor would be informed that at this time on this day, a permit was issued for the drone to go up. We have to do a balancing act of preserving privacy but it does have some utility for a homeowner. Mr. Cruciani doesn't think the FAA is as aggressively regulating as much as we thought they were going to last fall. The question is can we more heavily scrutinize or would that be a conflict with the federal law. How much ability to we have to regulate it. Herman Johnson agreed that it is a good idea to look into this.

13. CORRESPONDENCE:

- **Planning Commission communication re: Chickens:** Virginia Kehoe stated that the Planning Commission did discuss the request from Council whether or not to pursue allowing residential chickens. By unanimous vote the Planning Commission does not recommend adopting an ordinance at this time.

14. EXECUTIVE SESSIONS: President Carey

- **Prior- July 28, 2015 Potential Litigation**
- **During- None**
- **Subsequent- Personnel committee**

Recess: 8:48pm

Reconvene: 8:57

Gerrie Carey stated that Council received Barbara Blackledge's Letter of Resignation on December 26, 2015. Pat Williams made the first motion to accept the letter of resignation, seconded by Herman Johnson, vote was 6-0. Mayor Patty Lawler stated that she wants to express gratitude to Barbara Blackledge because she will be missed; her loyalty to the Borough and her love to all of the police officers she served with for 27 years was second to none. We will have brunch in her honor.

15. ADJOURN: President Carey

Vince Cruciani made the first motion to adjourn, seconded by Dominic Scott, vote was unanimous 6-0.