

**BOROUGH OF CLARKS SUMMIT
BOROUGH COUNCIL MEETING
DECEMBER 2, 2015**

The December 2, 2015 Borough Council Meeting was conducted on Wednesday, December 2, 2015 at 7:02 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. David Jenkins, Mr. Dominic Scott, Chief Chris Yarns, Mayor Patty Lawler, Solicitor Dan Mulhern, Borough Manager Virginia Kehoe and Junior Council member Christian Orlando.

CALL TO ORDER: **President Carey**

MEDITATION: **Mayor Lawler**

PLEDGE OF ALLEGIANCE: **Mayor Lawler**

PUBLIC HEARING – Ordinances 2015-11 TAN: Herman Johnson made the first motion to accept Ordinance # 2015-11, seconded by David Jenkins, vote was 7-0. This was voted on reflecting the change from 1% to .84%.

2015-12 General Fund Millage: Herman Johnson made the first motion to accept Ordinance # 2015-12, seconded by David Jenkins, vote was 7-0.

2015-13 Sewer Billing: Herman Johnson made the first motion to accept Ordinance # 2015-13, seconded by David Jenkins, vote was 7-0.

2015-14 Debt Service Millage: Herman Johnson made the first motion to accept Ordinance # 2015-14, seconded by David Jenkins, vote was 7-0.

2015-15 Parking Meter Amendment: David Jenkins made the first motion to accept Ordinance # 2015-15, seconded by Herman Johnson, vote was 7-0.

1. APPROVAL OF AGENDA: **President Carey**
Herman Johnson made the first motion to approve the agenda, seconded by David Jenkins, vote was 7-0.

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

- **October 27, 2015 Work Session**
- **November 4, 2015 Council Meeting**
- **November 24, 2015 Work Session**

David Jenkins made the first motion to approve the minutes, seconded by Herman Johnson, vote was unanimous 7-0.

3. PUBLIC COMMENT & INPUT: **President Carey**

Brandy Moon was there for discussion about her sewer payment, Council agreed to remove \$140 worth of late fees, and her December payment needs to be in the amount of \$200 by December 11, 2015 and the January 2016 payment in the amount of \$102 by January 20, 2016. Vince Cruciani made the first motion to approve the above payment arrangement, seconded by David Jenkins, vote was 7-0.

Gerard Hepman informed Council of the upcoming events in Lackawanna County.

4. BIDS & QUOTATIONS:

President Carey

- **TAN – vote to accept bid from First Keystone Bank at .84%:** David Jenkins made the first motion to accept the bid from First Keystone Community Bank, seconded by Herman Johnson, vote was unanimous 7-0.
- **2015 SSES Project – vote to accept bid from Aqua Infrastructure Rehabilitation Co. for \$33,635.00:** David Jenkins made the first motion to accept the bid from Aqua Infrastructure Rehabilitation Co., seconded by Herman Johnson, vote was unanimous 7-0.

5. BOROUGH TREASURER’S REPORT

President Carey

David Jenkins made the first motion to approve the Borough Treasurer’s Report, seconded by Herman Johnson, vote was unanimous 7-0.

6. COMMITTEE REPORTS:

• **Building & Plant**

Pat Williams, Chair

Pat Williams has not heard anything on the window project in Council Chambers. Gerrie Carey stated that after the first of the year, they will come down from the High School to check out the situation. Herman Johnson stated that he had suggested that we should have sent out bids, we have been waiting since October. Mr. Johnson suggested that we go with the school because they would probably give us a break but we should still get a bid as a backup plan. Vince Cruciani stated that we can always give the school a deadline and have a bid date and if the school comes through we just don’t open the bids. Pat Williams, Herman Johnson and Gerrie Carey went to 211 North State Street, with hopes and anticipation of moving the Borough offices. David Jenkins asked if the building needs a lot of repair inside. The answer was no. That has parking in the rear. Herman Johnson suggested that we are behind the times with the police department in the basement. Mr. Johnson stated that for health reasons and safety reasons, over ten years we have been talking about a new building. Any suggestions are appreciated. It is in the talking stages because we are talking about a lot of money. Work as a team to accomplish this mission. There are some grants out there, check into that. Several years ago we had the Borough Building appraised in 2004 and it came to \$450,000. Pat Williams stated that Plan B is that we move forward and talk to Lawrence Realty who owns the old Pizza Hut. That building is beat up and it is something that would have to be knocked down and rebuild. They are anxious to sell. Vince Cruciani stated that

you would have to work with Andrew Weinberger if we are looking into the Pizza Hut site. Herman Johnson stated that if you tear that building down and you put a building in the corner, you can go down through the easement to the light. You talk to Weinberg he might help us develop it, you never know. Vince Cruciani stated that if you tear down the Pizza Hut and rebuild we would be at a 25% limitation for permeability and storm water requirements also. Mr. Cruciani suggested getting a meeting together with Andrew Weinberger and move the conversation forward. Mr. Cruciani stated that this Borough building is encumbered by the Gathering Place, so we would be selling a building that has a basement and upstairs but a tenant on the downstairs. That would affect the marketability here at this building.

Herman Johnson stated that we were supposed to meet with the members of the Gathering Place with all of Council present so we can ask them questions. Mr. Johnson had questions about the EMA office; the Mayor also had some questions. Virginia Kehoe stated that The Gathering Place did get the minimum required \$200,000, but the question is we haven't seen proof of it. Gerrie Carey needs to sit down with them and get this information.

- **Finance Committee**

Dominic Scott , Chair

Dominic Scott stated that we have a budget with no increases in taxes, there will be a surplus at the end of the year and we will be able to vote on how to allocate that at the end of the year. Herman Johnson asked what the surplus amount was. Vince Cruciani said about \$80,000. Ms. Kehoe stated that we don't know until the final expenses are done at the end of the year. Vince Cruciani stated that if we put \$50,000 of the \$80,000 surplus into debt service but do not apply it in a lump sum payment that solidifies us at the current rate through the end of the term without having to raise taxes. Vince Cruciani made a motion that if there is a surplus of at least \$50,000 at years end that \$50,000 goes into the debt service account, seconded by David Jenkins, vote was unanimous 7-0. Pat Williams suggested that Old Lackawanna Trail Road be striped down the middle with at least one line. Virginia Kehoe will get a price. Would the DPW do that? Do we have the equipment to do that? Herman Johnson stated that you would have to bid that out because that has a special paint. Vince Cruciani suggested incorporating that into the paving bid, mention that to Borough Engineer Bob Naegele.

- **Grant Committee**

Jim Klein, Chair

Jim Klein stated that the Grant application for Carnation Drive is being reviewed and a formal announcement is to be made December 14th. Virginia Kehoe stated that we have to work on storm water repairs at Carnation Park. The plan is to make it a raingarden at Carnation Park that works as detention system. The grant application is for \$171,000. It's looking good. Herman Johnson stated that the MS4 Stormwater Committee should be informed about this kind of information so they are up to date. Vince Cruciani stated that if we will be doing grant funded restoration of the park, the basketball court needs to get resurfaced. If we get the grant that resurfacing should be added to the road project. He would hate to see money spent then later the basketball court ripped up. TAP Grant is going to be resubmitted. Virginia Kehoe stated that we had applied for \$270,000 for

sidewalks on North State Street; we did not make the cut last time. Improve upon last year's application and rewrite the grant. The deadline is January 8, 2016.

- **Recycling Committee** Jim Klein, Chair
- **Insurance Committee** Vince Cruciani, Chair
Vince Cruciani stated that next month or February, he will talk with Hinkleman about the renewal. We did get a \$6,500 rebate last year. Virginia Kehoe stated that the budget does reflect the new price of the employee medical coverage.
- **Personnel Committee** Gerrie Carey, Chair
Police
David Jenkins made the first motion to hire Matthew Sims as Part Time Police Officer, seconded by Herman Johnson, vote was unanimous 7-0.

David Jenkins made the first motion to hire Nicole Kelly as the part time secretary in the Police Station, at \$12 an hour, with 6 month probation period and include job description with statement that duties may change and include other duties as assigned by the chief , seconded by Herman Johnson, vote was unanimous 7-0.

- **Public Safety/Safety** Pat Williams, Chair
Pat Williams asked about a street sweeper. He talked to Sid Kavulich's office and he was told that they will be able to get a street sweeper from Hazleton. Need a flatbed to get it here. Steve Armillay promised Pat Williams that it would be here by the end of the year. They will bring the street sweeper here and do the work, they would need a police escort. Virginia Kehoe stated that we always try to have this done in April, not during the winter. Pat Williams stated that he would like to get everything cleaned up for the Ice Festival. Herman Johnson stated that the weather is forecasted to be above average until January, if the weather is good let's sweep, if it isn't good, don't sweep. Mr. Johnson asked where this could be stored. Vince Cruciani asked about insurance for the sweeper. Ms. Kehoe stated that whenever we rented the street sweeper it was added to our coverage with no additional charge for the term that we had it. Pat Williams stated that they are still working on the manholes they are almost done, there are a few more to be done. They will be meeting with pennDOT and Virginia Kehoe asked to go along for the meeting because she has some issues that need to be addressed. PennDOT is responsible for the sign that was knocked down by Calvey's. Herman Johnson said that the catch basins are too low all the way through town. Pat Williams stated that the state holds the Borough responsible for the curb storm drains. Herman Johnson stated that there is a fine line between what is the Borough's and the state's responsibility. This meeting should be helpful to get this information. Herman Johnson stated that it is good management to review these contracts; there is some language that might be missing. That is when the responsibility is pushed on us. We need an inspector. Vince Cruciani stated that you need to have an inspector. Herman Johnson stated that we need an inspector and we need to have these documents reviewed, have Solicitor Dan Mulhern review the contract for paving. Mr. Johnson stated that every time we come up with a situation someone always says let the Solicitor check it out, his expertise is above us. We need to review our contracts and documents that they are voting on. They spend money with the Solicitor that they could be saving some times. Virginia Kehoe stated that Borough Engineer Bob Naegele has a standard contract and she would

be getting that from him. Herman Johnson asked about Mr. Naegele and does he have a current and up to date template. That is what we will have to see. David Jenkins asked Pat Williams about the 500 block of Greenwood, it looks like we are starting to drop a sewer line there; there is a drop in the line. A subsidence has developed. Pat Williams would check it out.

- **Public Works** Herman Johnson, Chair
Herman Johnson stated that Monday was our last day for leaf pickup. If residents do have leaves it is their responsibility to bag it or can it. We have to have our storm drains clear because we have a lot of rain coming down lately. The DPW did a commendable job this year
- **Recreation** Dominic Scott, Chair
- **Sewer Billing** Dominic Scott, Chair
Dominic Scott stated that they received a report showing that 29 residents have payment arrangements. In 2014 there were 76, very good reduction. Total number of sewer payments 2700 EDU's about 2200 accounts. Sent out certified letters, 4 shutoffs will be sent in the morning. Sometimes the water company will post the house first before the Borough. Jenn Basalyga stated that the certified letters went out to people who have not made their payment arrangement and were not responsive to phone calls.
- **The Gathering Place** Gerrie Carey/Pat Williams
Vince Cruciani stated that at some point Ms. Waters and Ms. Nichols are really going to have to think about some design changes that may be a little more modest. Maybe the classrooms without the coffee bar. Their architect may need to look at a lower cost plan to make \$100,000 worth of improvements and get baseline operational. At some point we may need to confront them that their dream may not be realistic. Herman Johnson stated that is a commendable idea, but Council members and the Mayor has questions that need to be answered he would like them to come to the work session. We are not following up and we need to. The \$100,000 is done through reimbursement. Gerrie Carey stated that the work that was done through Highland Associates was pro bono. Once the project starts they will be billed for the new architect bills. Don't want to see that money go to the architect. It needs to go towards the infrastructure of the building. David Jenkins stated that we need to, in a nice and forceful way, say that the first thing that needs to be done is the heating and the air conditioning system taken care of because if you are not warm people will not be showing up. Vince Cruciani suggested Virginia Kehoe send them a letter strongly requesting their presence at the next work session in January 2016.
- **ACOG Representative** Patty Lawler/Gerrie Carey/Dom Scott
Dominic Scott can attend the meeting.
- **Additional comments from Council :**
Herman Johnson asked if they were going to discuss the Police Pension. They will have a conference call with the actuary and Bob Shedlock. They will meet Thursday at 3pm. Reconvene of the Police Pension board with Bob Shedlock, Ed Orzalek, Herman Johnson, Gerrie Carey and the actuary on conference. They need to discuss the COLA. Mr. Johnson stated that they are very solid with the pension and he is proud of the Police Pension Board.

7. **POLICE REPORT:** **Mayor Lawler**
 Vince Cruciani told Chief Yarns great job for a successful first year and everyone on Council is extremely appreciative. Chief Yarns stated that Bob Reese resigned and they will be having more grants available for Aggressive Driving. David Jenkins stated that there are an excess amount of school busses that come down Haven Lane. Mr. Jenkins asked the chief to use the unmarked car in that area around 3:20pm. Herman Johnson stated that Chief Yarns is doing a commendable job with the overtime. Mr. Johnson suggested making a spreadsheet/graph to show the overtime. Also, cars #4-1 and #4-5 have high mileage, could we look into grants to replace those vehicles. Mr. Johnson is looking for the safety of our officers.
8. **VENDOR PAYMENTS TO BE RATIFIED:** **President Carey**
 David Jenkins made the first motion to approve the vendor payments to be ratified, seconded by Dominic Scott, vote was unanimous 7-0. Herman Johnson asked about the elevator saying that it always jerks. Virginia Kehoe stated that it has to do with the cold weather and the heating in the room. The elevator is inspected 4 times a year; there is a mechanism in the elevator room by the police station that needs to be plugged in. When you have an elderly person in the elevator when it is shaking, that could be an issue. Don't think anyone in the police department has plugged it in yet.
9. **OLD BUSINESS:** **President Carey**
- **2015 budgets:**
 - **General Fund**
 - **Sewer Fund**
 - **Debt Service Fund**
 - **Liquid Fuels Fund**
 - **Capital Reserve Fund**
 - **Ordinance 2015-11 TAN**
 - **Ordinance 2015-12 General Fund Millage**
 - **Ordinance 2015-13 Sewer Billing**
 - **Ordinance 2015-14 Debt Service Millage**
 - **Ordinance 2015-15 Parking Meter Amendment**
10. **NEW BUSINESS:** **President Carey**
- A. Employment Contract – Chief Yarns:** David Jenkins made the first motion to approve the 2 year employment contract for Chief Chris Yarns, seconded by Herman Johnson, vote was 6-0 with Pat Williams unavailable to vote at that time, he was out of the room.
- B. Part-Time Police Office – new hire**
- C. Part-Time Police Secretary – new hire**
- D. Sewer Ordinance update:** Virginia Kehoe has a draft that she would like Council approval to go ahead and advertise for a vote in January. Solicitor Dan Mulhern is going to make a slight change in the first paragraph. This is for the responsibility of the owner. The Ordinance is effective immediately the billing will effective January 1, 2017. David Jenkins made a motion to advertise this with Solicitor Dan Mulhern's edits, seconded by Herman Johnson, vote was unanimous 7-0.

E. Resolution 2015-18 Parking Meter Fees: David Jenkins made the first motion to approve Resolution 2015-18, seconded by Herman Johnson, vote was unanimous 7-0. Just the fees are changed by Resolution. Solicitor Dan Mulhern wants to rework the Parking Ordinance as soon as possible.

Herman Johnson stated that we need to look through all of our ordinances. Some of the ordinances are out dated and aren't worded properly. Most of the ordinances are on the website. Herman Johnson asked whose responsibility it is. Virginia Kehoe stated that Council sets the ordinances and if they want changes it is up to Council to change them. Herman Johnson doubts it, a lot of it is up to the Borough Manager to bring this to Council with a draft and see what they want to put into it because they are the ones voting on it. Herman Johnson doesn't have a problem with going over and reviewing the ordinances and putting in his input but we keep on getting in a jam because some of the ordinances have issues. Virginia Kehoe stated that for the past 11 years there have been improvements every year. Mr. Johnson stated that it has been like this for 11 years but maybe for 11 years it's been wrong. Ms. Kehoe asked what Council specifically wants. Vince Cruciani suggested over the next year lets step one get a comprehensive list of what our ordinances are. Every month Virginia can take a look at a couple of them and Council can have a committee to have a further discussion on it.

11. SOLICITOR'S REPORT:

Solicitor Mulhern

Solicitor Dan Mulhern stated that he has spoken with the representative from Community Prestige, they are in contract negotiations now. There are some substantive changes that he wants to make and Solicitor Mulhern will bring that before Council first. Vince Cruciani asked what the substantive changes are. Solicitor Mulhern state that the replacement banners were supposed to be a 60 day window, Community Prestige wants 90 days. All of the other changes would go in our favor, the indemnity, all the work and the installation. David Jenkins stated that he didn't think the additional 30 days would make a big difference. Pat Williams stated that he thinks 90 days is a long time. Mr. Williams stated that he is always concerned with how the downtown looks and if we are a going to allow a ripped banner to be up for 90. David Jenkins explained that if the banner is ripped, they would come and take it down within 10 calendar days, but have 90 days to replace it. Solicitor Mulhern stated that he waits for Council's guidance on ordinances. Regarding the drone issue, he has throttled back on that as requested. Vince Cruciani suggested letting that sit for another month.

12. CORRESPONDENCE:

- **Barbara Evers etal.:** Virginia Kehoe stated that Barbara Evers has some land on Florence with a PPL right of way, but it is in the estate, that has to be settled separately. David Jenkins made the first motion to accept the gift from Evers as a donation to help our MS4 program, (Vince Cruciani added...) with the understand that when we receive the deed, within an appropriate period of time, that we encumber the land with a conservation clause, seconded by Herman Johnson, vote was unanimous 7-0.

13. EXECUTIVE SESSIONS:

President Carey

- **Prior-** **November 24, 2015 Personnel**
- **During-** **None**
- **Subsequent-**

David Jenkins made the first motion to approve the General Fund, seconded by Herman Johnson. On the question Vince Cruciani stated that he has a problem with the line item for the AAJRB receiving a 2% increase and with no COLA going to anyone. Herman Johnson stated that he wanted to make a correction on his seconding the motion; Mr. Johnson rescinded his second motion. David Jenkins then rescinded the motion he made. David Jenkins made the motion to approve the General Fund with no increase of 2% to the AAJRB. David Jenkins stated that they are asking for a 2% raise and no one else got a raise. Gerrie Carey stated that Clarks Summit Borough is the pace setter for this. Vince Cruciani agreed and said that the park is growing at a rate that is too expensive for the community. Herman Johnson stated that on the Pension Board, there is a person asking for a pension COLA, and we are probably not going to be able to give it to him. Vince Cruciani stated that we have parks in our own borough that need repair and we are not raising taxes; Council is accountable to the taxpayers. The amount being asked for is about \$500. Pat Williams stated that we have a contract with them and they do a fantastic job. Mr. Williams also stated that he was on the AAJRB and he said that they needed to tone it down, maintain what they have. That fell on deaf ears. Vince Cruciani stated that if they want to do what they are doing, have it be user based revenue source. Have the users pay more not the taxpayers. Herman Johnson stated that he asked the Solicitor to check into the language of that contract. Instead of pushing all of this onto the Municipalities, make it more user based. We had the same question last year, and we did contribute. He believes it doesn't make sense to give the AAJRB a 2% increases and not give a COLA increase to a retired police officer. Vince Cruciani stated that whether or not we have to pay or they can force it on us is somewhat ambiguous. It does say that Council has to object when presented with a budget so the passing of this motion would serve as the objection. If we end up having to pay the \$500 then we do. There are a lot of things in that document that need to be examined and cross referenced. The other issue is with the Senior Center and that agreement has yet to be found. As Bill Risse said so curtly, that he wants us off his grass if we can't find the money. Mr. Cruciani stated that speaks to the mindset of someone entrenched in unaccountable power for too long of a period of time. There is good intention but there is an alienation from the fiscal realities that we deal with on a daily basis. Pat Williams stated that he doesn't know how this is going to look for us with the other Municipalities if we turn this down. David Jenkins stated that it looks like we are the only ones concerned about our taxpayers. Pat Williams stated that the taxpayers use the park. David Jenkins stated that the taxpayers elected them to have fiscal responsibility in their judgement. Pat Williams doesn't want this to be a black eye for us all. If the other Municipalities are paying, let's call Bill Risse, maybe instead of 2% maybe offer 1%. Instead of just cutting them off because we are worried about the taxpayers. Vince Cruciani and David Jenkins stated that we are not cutting them off we are just rejecting the increase. Pat Williams said that the park is wonderful, and he has donated a few things to them and he knows that they watch what they spend. Vince Cruciani stated that he doesn't think that anyone doubts the efficiency of the operation. They draw up a grand plan that the taxpayers are going to pay for

and then they tell us what that plan is, instead of them coming and discussing the ideas and funding for a plan and then working on it. At some point in time if we reject it maybe the other Municipalities will follow along. Solicitor Dan Mulhern stated that he hasn't seen this contract. Roll call: Pat Williams opposed the vote, Gerrie Carey opposed the vote, Dominic Scott opposed the vote, David Jenkins is in favor of the vote, Herman Johnson is in favor of the vote, Vince Cruciani is in favor of the vote and Jim Klein apposed the vote. Virginia Kehoe stated that the opposed have it.

Dominic Scott made the first motion to approve the General Fund Budget, seconded by Pat Williams, the motion passed with a 4-3 vote with Herman Johnson, David Jenkins and Vince Cruciani voting no.

David Jenkins made the first motion to approve the Sewer Fund, seconded by Dominic Scott, vote was unanimous 7-0.

Herman Johnson made the first motion to approve the Debt Service Fund, seconded by Vince Cruciani, vote was unanimous 7-0.

Vince Cruciani made the first motion to approve the Liquid Fuels Fund, seconded by David Jenkins, vote was unanimous 7-0.

Herman Johnson made the first motion to approve the Capital Reserve Fund, seconded by Pat Williams, vote was unanimous 7-0. The motion includes approving the wall on School Street as an expense on the budget in the Capital Reserve Fund also the \$23,000 for the police vehicle is coming out the Capital Reserve Fund if we get the grant.

14. ADJOURN:

President Carey

Herman Johnson made the first motion to adjourn, seconded by Pat Williams, vote was unanimous 7-0.

Mayor Patty Lawler thanked Councilman Jim Klein for his service to Council.