

**BOROUGH COUNCIL SPECIAL MEETING
JANUARY 26, 2016
7:00 PM**

The January 26, 2016 Borough Council Special Meeting was conducted on Tuesday, January 26, 2016 at 7:03 P.M. The Meeting was held in Borough Council Chambers, 2nd Floor, 304 South State Street, Borough of Clarks Summit, County of Lackawanna and Commonwealth of Pennsylvania. Council members in attendance were Mrs. Gerrie Carey, Mr. Vincent Cruciani, Mr. Bob Bennett, Mr. David Jenkins, Mr. Herman Johnson, Mr. Patrick Williams and Mayor Patty Lawler, Solicitor Dan Mulhern, Borough Manager Virginia Kehoe, and Solicitor Rogan. Absent from the meeting was Junior Council person Christian Orlando and Mr. Dominic Scott.

1. WORKSESSION: President Carey

2. PUBLIC COMMENT President Carey

Gerrie Carey stated that the purpose of this meeting is to prep for the next weeks' meeting; Council does not have to agree on the issues they just need to know if anyone needs any information in order to be prepared for the vote, now is the time to ask. The first few items on the agenda are the positions that were tabled at their Reorganization Meeting; they do not want to debate these positions at this time. Ms. Carey stated that she wants to ensure that we have obtained the information needed so they can vote.

Janine Port hopes that the police can help with the speeding issue on Center Street. Mayor Lawler stated that she is very proud of the police, issuing tickets and following up on this. Mayor Lawler stated that they are trying everything to stop the speeding and will continue to.

- **The Gathering Place:**
- **Employee Handbook**
- **Job Descriptions**
- **Job evaluations**
- **AARJB – Mike Hargrove and Greg Pasquale:** Gerrie Carey stated that Council will be voting next week, this gives them a week if they need the opportunity if there is something that they have an issue with they can discuss it and they will be voting next week. David Jenkins stated that they were supposed to come in and address Council, Council requested their presence; he doesn't see either one of them there. Virginia Kehoe stated that she asked several times this month how did we want this handled, who wanted what when. Ms. Kehoe didn't know whether it was supposed to happen at the work session or if there was supposed to be a special meeting. Ms. Kehoe stated that she emailed the Personnel Committee and all of council last week and nobody got back to her. Gerrie Carey stated that she spoke with both parties, they have been on the Rec Board for several years and they have a strong interest in continuing. David Jenkins stated that they have not done anything to keep our interest down where you are saving the taxpayers money, rather than continue to

agree to increase the budget which will cost our taxpayers more money. Herman Johnson stated that he thinks that it is the Borough's fault then, as Council people they should request for them to come in and then we can explain to them what Council expects. David Jenkins stated that maybe Mr. Johnson didn't hear his first statement, he requested for them to come in and he doesn't see them here. Vince Cruciani suggested that they come to the Council meeting on Wednesday. Gerrie Carey asked if Virginia Kehoe would contact them to request that they come to the Council meeting if they are interested in staying on the board. Bob Bennett stated that if they have elected to wait to come to the Council meeting that is when we would have the Q & A. Mr. Bennett was hoping for the Q & A tonight. David Jenkins stated that they were supposed to come tonight. Herman Johnson suggested having the Q & A with them earlier at 6:30pm on the night of the Council meeting. Vince Cruciani asked if we are going to advertise for 6:30 then. Ms. Kehoe stated that we will have to. Solicitor Pat Rogan said to advertise if we want. Mr. Cruciani stated that if we do the meeting at the regular time then we don't have to advertise. Ms. Kehoe stated that we will keep the meeting at 7pm and anyone that comes in they will put at the top of the agenda at least for the Q & A, then they can go into the regular meeting. Herman Johnson said that sounds good. Vince Crucian agreed that this way we wouldn't have to advertise. Pat Williams stated that he thought there was talk about incumbents not having to submit anything. Gerrie Carey stated that has been past practice. Vince Cruciani stated that incumbent implies that they were elected by the public. Pat Williams disagreed and said incumbent in this sense means that they were on the board, these were appointed positions. Pat Williams stated that when it comes to Mike Hargrove and Greg Pascale he's heard nothing but positive things, no one in the Borough has said anything negative to Pat Williams with the work that they do up there. Vince Cruciani stated that it should be a very positive experience then on Wednesday. Pat Williams said for who? Vince Crucian said for everybody. Pat Williams stated that it won't be a positive experience for him because he knows where they are coming from, they are incumbents and Mr. Cruciani gave them a hard time and from what he recalls he doesn't think that was necessary. Mr. Williams stated that he was on that board and those gentlemen work very hard. Mr. Williams said he doesn't know if Mr. Cruciani spends any time up there but he has and he thinks it is a beautiful park. Mr. Williams stated that if there is a way to keep the costs down he is in favor of that. Gerrie Carey stated that is where Vince and the rest of Council are coming from. They want to know if they are getting the bang for our buck with it. Vince Cruciani stated that he simply wants to engage in public dialogue with appointed people. Herman Johnson stated that he doesn't have any problem with the dialogue at all. Mr. Johnson suggested inviting them in we will have a discussion with them and let them know how we feel about how are taxpayers' dollars should be spent.

- **Shade Tree – 2nd seat Michael Sulzinski:** Gerrie Carey stated that Donna Zagraban would love to have Michael Sulzinski on the Shade Tree Commission. Gerrie Carey asked Council if they want Mr. Sulzinski to come in and express his interest in this or do they just go ahead and vote them in. Pat Williams stated that we seem to be under the thought that we are going to grill them; we need to be thankful for the volunteers that work in this Borough. If the Chairman of this Shade Tree Commission feels this gentleman is up to doing the job, he has no concern over that. Pat Williams asked what the difference was between the AAJRB and the Shade Tree members. Vince

Cruciani stated that the distinguishing element is the AAJRB has appointed authority that requests money from the Borough and the Shade Tree operates on the Borough's budget. Pat Williams disagrees stating that they both use the Borough's money. Herman Johnson told Pat Williams that Vince is addressing the Council President and Mr. Johnson said alright. Vince Cruciani thanked Madam President. Ms. Kehoe asked Council if they wanted Mike Sulzinski in at the Council meeting. He did submit his letter of interest that was forwarded to Council. Gerrie Carey stated that she thinks Council should go on Donna Zagrapan's recommendation.

- **TCC – alternate – Virginia Kehoe:** Gerrie Carey stated that no one has come forward. Ms. Kehoe stated that she is not looking to be replaced but she doesn't mind not having an extra evening meeting to go to, but she does feel that the position is important and Council should not just put anyone in that seat. It should be someone who understands the financial implications of the vote. Ms. Kehoe stated that she is more than willing to continue as the alternate until they find someone. Herman Johnson stated that he thinks Council should try to keep Virginia in there because she is the Borough Manager and she is representing our Borough and he has a good handle on the finances, Mr. Johnson stated that he thinks it would be wise to keep her on the TCC. This will be up for a vote next week.
- **EMA Assistant – Tanisha Jagoe:** Gerrie Carey stated that the EMA is very happy to have her on board and Council has between now and next week to decide on her appointment. Ms. Jagoe has expressed a strong interest and is very devoted to the EMA. Ms. Kehoe stated that she is a rare individual who has experience.
- **Senior Site Council – Bob Gilbert:** Gerrie Carey stated that Bob Gilbert sent his email in and he would like to continue on the Site Council. Ms. Carey stated that she spoke with Warren Watkins and he thinks Bob Gilbert has been a big asset to the Site Council.
- **Borough Manager:** Gerrie Carey stated that they would like to recommend Virginia's contract to be solidified and have her on for the next year she already has a contract. They are happy with everything she is doing, considering voting next week.
- **DPW Foreman:** Gerrie Carey stated that Neil Bartholme has expressed that he would like to stay on for one more year, if his health permits it. They would like to reappoint him and have him on as our DPW foreman. Vince Cruciani asked if they are going to retroactively appoint him because he was paid under his current wage, not under the collective bargaining wage. Gerrie Carey and Herman Johnson stated that he is not in the union. Herman Johnson said Neil is an employee at will. Vince Cruciani stated that he wasn't appointed as the DPW Foreman which is our only employee at will position under the contract and he was not paid under the collective bargaining agreement. He was paid under his previous rate but he wasn't appointed to his previous position which was the only non-collective bargaining position allowed in the contract. Mr. Cruciani stated that he was over paid by about \$80 a week and then the union/association as underpaid \$15 a week. Herman Johnson stated that he doesn't pay into the union. Mr. Cruciani stated that he has to if he is not a foreman, under the collective bargaining agreement. Mr. Johnson said Neil was the foreman. Mr. Cruciani stated that as a matter of clarity the vote on 1/4/16 did not in fact appoint him, Virginia's contract was voted to be extended by a month but Neil was not voted to be extended by a month. Neil was not approved to be the foreman for an additional month. Solicitor Rogan stated that they will look for a way to ratify it for next week. Mr. Cruciani asked in the meantime are we going to owe the

collective bargaining unit their amount out of his pay. Pat Williams stated that he has no idea what Mr. Cruciani is talking about, just bringing this up now at this meeting. Vince Cruciani stated that he brought it up three weeks ago. Pat Williams will check into it and let Vince know. Gerrie Carey stated that they would check into it for next week. Bob Bennett asked how they are going to get the information about this between now and the meeting next week. Vince Cruciani stated that the information is that the Borough overpaid Neil \$2 and change an hour more than he would have gotten. Solicitor Rogan said they would ratify that. Mr. Cruciani asked if the union contract will allow that. Solicitor Rogan said they will look into it and give Council the information next week. Mr. Cruciani said he doesn't understand why the information wasn't available at this meeting when it was brought up at the other meeting. Pat Williams stated that Virginia is the Borough Manager and she will look into it with Solicitor Pat Rogan. David Jenkins stated that Gerrie Carey is running the meeting she is the Council President. Pat Williams said thank you Gerrie Carey stated that they want to make sure that this is handled correctly. Solicitor Pat Rogan will look into this.

- **Zoning Hearing Board Solicitor:** Gerrie Carey stated that from what she understands Bob Sheils was appointed as the ZHB Solicitor. Virginia Kehoe stated that Ms. Scanlon sent in a letter rescinding her letter of interest. Vince Cruciani asked what the hourly rate is that the Borough pays for this position. It has been \$110 which is in contrast with what we pay our General Solicitor, by about 20%. \$700 is charged for any ZHB application and the Solicitor's fees are taken from that. Vince Cruciani stated that he recalls from last year's budget expenditures that we paid out about \$10,000, he stated those are two different issues. Mr. Cruciani asked if we are charging enough with the ZBH meetings because some cases involve a greater amount of work than other cases. Ms. Kehoe stated that the fee for the ZHB was raised from \$500 to \$700. What is the expenditure for allowing per hour for whoever the attorney is? Solicitor Rogan stated that the question is what is the rate and he doesn't know. Mr. Cruciani stated that the rate at which we are paying the General Solicitor and what we are paying our Zoning Solicitor is not marginal, it is substantive. Solicitor Pat Rogan stated that in the previous years, before he became on as Solicitor the rates were kind of high. The previous Borough Manager Barbara Grabfelder asked Solicitor Rogan if he would take the position at a different rate, which was lower than our previous rates and because of the financial situation of the Borough following the Grandview situation he agreed and he never asked for anything different. Mr. Cruciani stated that since we had a bit of an issue with the Zoning Board last year regarding Grove Street is it fair to set the rate and not have the rate dictated to us. Solicitor Rogan said he would check into this. David Jenkins stated that the whole idea with the last meeting trying to change the Solicitor over by appointing it because we would have been able to get the rates lowered rather than where they are now for the benefit of the Borough. Solicitor Rogan stated that he tried to accommodate them but there is a case that says we can so we can. Vince Cruciani stated that the Zoning Solicitor is making \$25 more an hour than our General Solicitor. Virginia Kehoe stated that the Borough has to pay for the advertisement and the stenographer when there is a ZHB meeting. David Jenkins stated that the bottom line is for that Solicitor is more than what we are paying our General Solicitor. Solicitor Pat Rogan will look into this. Bob Bennett stated that

- many bills are itemized, but the attorney's fees come in a block sum. Virginia Kehoe stated that we have the specific information about what is being billed in the invoices.
- **Walter Morgan sewer request:** David Jenkins suggested that they move forward with this. Lori Harris did her inspection and he has complied.
 - **Ron Koldjeski – Lackawanna County Tax Claim:** David Jenkins stated that they should move forward with this.
 - **Planning Commission recommendations - Ordinance 2016-02 and 2016-03:** The question is does Council want this to move forward if so it needs to be advertised. Vince Cruciani stated that he thinks there are deficiencies in both documents. He asked if the final copy has to be available for advertisement. Ms. Kehoe said no it could be amended right up to the vote. Gerrie Carey suggested putting it on the agenda next week and that is when Council could talk about the Ordinances. Ms. Kehoe stated she will not run an advertisement until Council looks at them next week.
 - **Resolution 2016-01 Thank you to Jim Klein:** Jim Klein is coming to the meeting next week. Ms. Kehoe provided the draft for Council.
 - **Clarks Summit Borough Tradition Health Insurance Plan**
 - **Police Negotiations:** Gerrie Carey and Virginia Kehoe agreed that they need to get a committee together. Gerrie Carey stated that the Police Department is running on a good track and they would like to keep it going in that direction. Mayor Patty Lawler thanked Council for all of the support that they have given them. Herman Johnson and Gerrie Carey agreed to be on the Committee.

Gerrie Carey stated that Mike Cowley sent a letter to the Council President. This was a letter of interest for the Planning Commission Solicitor. The last Planning Commission meeting Attorney Hayes was here and he did an excellent job. So at this point it is between Mr. Hayes and Mr. Cowley. Ms. Kehoe stated that Attorney Cowley has been here over 11 years, over 16 years. Vince Cruciani asked about the rate for Mr. Cowley. Mr. Hayes rate was \$105 and Mr. Cowley was \$125. Gerrie Carey stated that Mr. Cowley doesn't charge the Borough every time he is called. Vince Cruciani asked if we set the rate. Herman Johnson suggested that they back off a second, they want to check some of these rates, and Vince has a valid argument. Mr. Johnson said he would rather see the Planning Commission pick their solicitor to take Council off the hook as long as they are not over charging their residents, because the Planning Commission is only a recommending body. Mr. Johnson stated that there are lawyers that work for the Borough that don't charge us for half of the stuff we ask them. Vince Cruciani suggested that the Borough Accountant we had a rate with them, reasonably significant bills were accrued by the consultant for the Planning Commission last year, Carson Helfrich and Mr. Cruciani doesn't know if they want to bid that out or do they want to get a pre-determined rate on that. Before he does any more work we should probably have an idea of what it is going to cost. David Jenkins asked if Carson Helfrich is the biggest game in town. Ms. Kehoe stated that she is sure there are others but he is the biggest game in town. He does this throughout NEPA and he works with a lot of our local communities as well. Bob Bennett asked when they get involved with attorneys and attorney's fees does the Borough put out a bid and say how much we are willing to pay per hour to see who responds, or do we take responses and take their rates. Bob Bennett is interested in who determines the rate. Vince Cruciani stated that for the Planning Solicitor and more important for the Zoning Solicitor if you open up doors of unaccountability if

the rate isn't predetermined, Mr. Cruciani stated that he agrees with the Vice President that we wait until next week. Herman Johnson stated that this is getting a little too out of hand, you can talk about rates but if we are going to battle we want the best even if we have to spend a little extra money to protect our citizens. Mr. Johnson doesn't want a lawyer representing our town when he is just learning the ropes. He wants an experienced lawyer. Solicitor Rogan stated that lawyer fees are an issue for a lot of people. Solicitor Rogan explained the way that his firm has operated. Solicitor Rogan stated that they can dispute fees and how much you bill a minute or two minutes or ten, there is some subjectiveness in that because there are only 24 hours in a day, and when he is thinking of the Borough he is not thinking about the guy sitting in the jail. They try to be fair about it. Some of these rates were probably set some time ago and he doesn't know if they have gone up or down. They don't do this as a profit center; they do this as somewhat of a service. He doesn't interject himself into the business. If they talk enough they are going to get to the right opinion. They bill \$85 an hour, they don't bill for calls. Vince Cruciani stated that he doesn't think there is one person on Council who thinks his firm is unaccountable. Solicitor Rogan said they don't bill for worksessions, but they do come to see what is going on. Solicitor Rogan said shortly after Grandview he knew the Borough was short on money and he didn't bill the Borough for 6 months even though he did do work. Solicitor Rogan said the more contentious it gets the more they pay attention to the billing. Vince Cruciani stated that he appreciates him coming out and laying out the framework of it.

Virginia Kehoe made sure that the only people she needs to invite or request their attendance to the Council meeting is Mike Hargrove and Greg Pascale. Vince Cruciani suggested inviting Bob Gilbert. David Jenkins said he is an older gentleman and he doesn't know if he can make it here. Gerrie Carey stated that Warren Watkins is the one that we really deal with and Warren is right up to speed on everything. Vince Cruciani stated that we cannot locate the lease between the Borough and AAJRB for the land that the Senior Center is on and that is a problem. Herman Johnson said that is a problem but they had an email inviting them to come up to the Senior Center on February 3rd, that would be a good time to ask them the questions. Virginia Kehoe stated that Vince is talking about the lease with the AAJRB and the Borough for the land. First is our agreement that formulates the Joint Rec Board, second is our agreement with Telespond and the Senior Center. When the Joint Rec Board leased the Borough the land that the building is on because it isn't a perpetual lease and we don't have that information so we can't we don't have that latitude to do certain forms of business arrangements with Telespond that we otherwise would if that document was located. Gerrie Carey stated that she thought it was a \$100/ year lease. Mr. Cruciani stated that might be but we don't have it in writing. Herman Johnson stated that see that was state land wouldn't the state agency have some information. Vince Cruciani stated that if you read the AAJRB purchase, if in 2027 the five municipalities decide not to do it they each get a certain percent interest and if they can't sell it off the board core it up. That land is owned by the AAJRB, part of that land was leased by the AAJRB to the Borough, that lease is not available. It is not at the recorder of deeds office. It's owned by the board and it is in South Abington. There is a HOP filed in the recorder of deeds from 1993, Ed Bush said reach out to the county, Virginia did and they didn't have it. Bill Risse's email was

not nice when they asked him for it; he says it's theirs now. This document needs to be found. The reason this is a problem right now is because the Borough is running into an \$8,000 deficit that is only growing before we move forward. Solicitor Rogan will look for it with his records also. Mr. Cruciani stated that if it was a 25 year lease that means it was over last year. Herman Johnson said Attorney John Appleton's mother was the starter of this; maybe he has some paperwork on this. Virginia Kehoe will reach out to everyone they talked about tonight.

Mayor Patty Lawler talked about the Frozen Frontier Ice Festival February 12th-15th. The trolley will be with us from 6-8pm on the 12th but for it to leave the curb an elected official has to be on board. The Trolley will lead the parade. Mayor Lawler said it would be wonderful to have all of Council there to lead the trolley. The UNICAN of the year is a doctor from Clarks Summit, put info on board and web. If they want an ad in the program-set a precedent for UNICO. Herman Johnson asked if there is free parking with the Ice Festival. Ms. Kehoe stated that is a resolution for next week's Council meeting. The parade route is safe and they have enough coverage. A resident who lives on Thurston complained about how dark that area gets and there is a pole with no light on it. There is mischief happening all over in the darker areas. Call PPL and give them the pole number, we would add a light, they don't charge us for the installation, it costs around \$11-14 a month for the electricity. It was the opinion of Council to go ahead and get the light installed by PPL. Mark Rippon won the gold medal for figure skating; put that congratulations on the billboard

Bob Bennett asked about the situation with Pat Lavelle and The Nooney's. Ms. Kehoe stated that Pat Lavelle sent something saying that he wants to sit down and negotiate. We both filed an appeal, waiting for the court process to go through; in the meantime this can be negotiated. It's up to the insurance company ultimately as to how this will be handled. The lawyer for our insurance company should meet with Council President and Bob Naegele. We have already set up a plan to reroute the stormwater down Carnation towards Carnation Park. The lawyer will protect our interest. Ms. Kehoe said if water comes down that area because of our actions then the Borough is responsible. This is where we need our lawyer to make sure that we are protected in the event of an unusual circumstance. Bob Bennett said if we give up the rights and the land in question, are the Noone's accepting the land and the responsibility for it. Vince Cruciani said if the rights occurred during the taking. Ms. Kehoe stated that Samantha Weaver is very excited at the possibility of donating the property that runs from Marion Street, back along the creek. We currently use the area as a staging area so she is talking about donating it as conservancy land. It is wetland area. She is talking about donating one parcel which does go down to the creek. Mr. Johnson suggested putting it on the agenda

3. REVIEW OF FEBRUARY 3, 2016 AGENDA

4. ADJOURN:

President Carey