

**BOROUGH OF CLARKS SUMMIT
BOROUGH COUNCIL MEETING
APRIL 6, 2016**

The April 6, 2016 Borough Council Meeting was conducted on Wednesday, April 6, 2016 at 7:00 P.M. The Meeting was held in Borough Council Chambers, 2nd Floor, 304 South State Street, Borough of Clark's Summit, County of Lackawanna and Commonwealth of Pennsylvania. Council members in attendance were Mrs. Gerrie Carey, Mr. Herman Johnson, Mr. Vincent Cruciani, Mr. Robert Bennett, Mr. Patrick Williams (left at 9:18pm), Mr. David Jenkins, Mr. Dominic Scott, Chief Chris Yarns, Mayor Patty Lawler, Solicitor Dan Mulhern, and Junior Council member Christian Orlando. Absent from the meeting was Borough Manager Virginia Kehoe.

CALL TO ORDER: **President Carey**

MEDITATION: **Mayor Lawler**

PLEDGE OF ALLEGIANCE: **Mayor Lawler**

PUBLIC HEARING **President Carey**

- **Ordinance 2016-02:** Herman Johnson made the first motion to approve Ordinance 2016-02, seconded by Dominic Scott, vote was 7-0.
- **Ordinance 2016-03:** Vince Cruciani made the first motion to approve Ordinance 2016-03 with 502.3 removed, seconded by Herman Johnson, vote was 6-1 with Pat Williams voting no. On the question Pat Williams stated that he couldn't disagree more and he is disappointed in Mr. Cruciani and it is not his call. The ordinance reads that you have to clean up after your animal, if they urinate, you have to wash it down, and whether Mr. Cruciani thinks it's enforceable or not is not Mr. Cruciani's call. Mr. Williams stated that this is a safety and a health issue, and it should be enforceable. Mr. Cruciani stated that he doesn't believe that this issue is in the original ordinance. Mr. Williams stated that this issue is in the original ordinance. Mr. Cruciani stated that he doesn't think this is enforceable. Mr. Williams stated that he doesn't understand why Council is taking this so lightly, it is not a light issue.
- **Ordinance 2016-04:** Vince Cruciani made the first motion to approve Ordinance 2016-04 without 503.2.D removed, seconded by David Jenkins, vote was 7-0

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

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

- **February 23, 2016 Work Session:** Herman Johnson made the first motion to approve the minutes, seconded by Dominic Scott, vote was 6-1 with Bob Bennett abstaining.

- **March 2, 2016 Regular Council Meeting:** Vince Cruciani made the first motion to approve the minutes, Seconded by Bob Bennett, vote was 6-1 with David Jenkins voting no

Mayor Patty Lawler introduced Brian Newhart as the new part time police officer. Photos were taken.

3. PUBLIC COMMENT & INPUT: President Carey

Carol Williams thanked Council for passing the fence and the animal ordinance. Gerard Hepman from Lackawanna County spoke to council. Depot Street bid opening was held on March 28th. Waco Construction was the lowest bid. They are in the process of drafting the contract, approval approx. 2nd commissioners meeting in April. Thanked Council for approving the April 20th Commissioners Meeting here at the Borough. It has to be the third Wednesday of the month. Vince Cruciani asked if their Sheriff Deputy would be here instead of our police. He would let the office know. This would be set up in Loughney Hall.

Leon Vieira spoke to Council for a request for an extension on his sewer bill. Many issues have come up and he will be able to start paying in June 2016. David Jenkins made the first motion to give Mr. Vieira some latitude to work with Jenn Basalyga on the sewer payments. Vince Cruciani made the first motion to suspend sewer payments until July, then \$152 a month July 20th on, seconded by Bob Bennett, vote was unanimous 7-0. David Jenkins withdrew his original motion. Mayor Lawler stated that he was very involved with the Second Friday and he was very generous, very honest man.

4. BIDS & QUOTATIONS: President Carey

- **The Gathering Place:** Dori Waters stated that the lowest bid was A.J. Guzzi at \$429,000. Dave Degnon has reviewed the bids, it appears that they will be awarding the bid to Guzzi, but Dave Degnon has to do a debriefing first. He has to go over the whole bid package to make sure that everything is correct. We will probably have to schedule a special meeting once everything is definite. The Borough engineer should also be involved in this process. Solicitor Dan Mulhern told Dori Waters that the Borough wants documentation of their funds at this point. How much cash they have on hand, gifts in kind, what grants specifically are coming to them. A letter from the attorney or the CPA. Vince Cruciani stated that when they have to vote to approve and give them enough time to get it to the county. They can adjourn and reconvene for the limited purpose of coming back on voting on this, and not have to advertise. They will reconvene on Tuesday, April 19, 2016 at 7pm. Mayor Lawler had a question as to what is the ballpark figure of how much the Gathering Place has that is spendable. Mary Ann Nichols was not sure, wanted to look into this and will get back to her. Mayor Lawler asked why Council is reconvening, what they are deciding as a municipal body. The Borough is the landlord and The Gathering Place is the tenant. Vince Cruciani stated that if they are not on board to approve the larger state grant, the \$100,000 Gaming Grant, if we don't sign off on the contractor and the bid line items and the way it is done then their \$30,000 grant is essentially useless. Vince Cruciani stated that the \$30,000 grant will be used for a down payment on the

contractor. The county has approved that payment towards the contractor. Dori Waters introduced people that work with the Gathering Place to Council.

5. BOROUGH TREASURER’S REPORT

President Carey

Herman Johnson made the first motion to approve the Treasurer’s Report, seconded by Dominic Scott, vote was 7-0.

6. COMMITTEE REPORTS:

- **Building & Plant**

Pat Williams, Chair

Lackawanna County Commissioners Meeting 4/20 at 6pm: Pat

Williams stated that concerning the street sweeper, as soon as Medico can come and give a demonstration they will. Mr. Williams stated that he thinks this sweeper will be an asset to the Borough. Schedule him for the worksession at 6:30pm. Thanked Herman Johnson for his help, they went to Medico and Powells and watched the demonstration. Herman Johnson stated that it is just a sweeper, it can sweep up to 1 ½ of snow on the sidewalks, when we have leaf collection, can sweep the leaves closer to the curb. Multipurpose tool and it can be rented out to other communities, great asset to the DPW. The Finance Committee would need to look into this to see if they can afford this. Vince Cruciani stated that it does merit the Borough to look into what is a better investment to go with: street sweeper or the skid steer with the street sweeper attachment. Medico can probably show both pieces of equipment. Both can be rented out, is there more economic efficiency in the utility of the stand-alone unit or is there one with the skid steer with the add on sweeper. Look at both. Herman Johnson agreed, he doesn’t like the attachments with the skid steer. The sweeper is about \$22,000; the skid steer is over \$50,000 plus the attachments that worries him. He said to be fair he would like to see a presentation on both. Mr. Williams stated that they started looking around researching the area for prospective buildings for the Borough Building. Herman Johnson stated that there are rumors that the borough is looking to buy property. Herman Johnson stated that it came to their attention that they want to get the Police Station out of the basement and the condition of this building, see if we can afford to purchase another building, they are just researching. They were given the authorization from the Borough to do this. Bob Bennett asked if there is a move, what impact does that have on the Gathering Place. Herman Johnson stated that any move probably wouldn’t even happen for over two years; the contract with them is up with them in 2 years. Pat Williams was going to write a letter to the Board of Trustees concerning any area in the fire department that could be used for borough office David Jenkins asked Mr. Williams to please address the letter to him as he if the President of the Fire Company. It should go to David Jenkins and he would forward it to the Board of Trustees.

- **Finance Committee**

Dominic Scott, Chair

- **Grant Committee**

Dave Jenkins, Chair

- **Recycling Committee**

Bob Bennett, Chair

Mayor Lawler stated that they will be doing the Shred Fest on April 23rd, at Clarks Summit Elementary School, \$5 donation, proceeds go to the Pocket Park. Community Clean Up Day will be closer to the opening of Depot Street.

- **Insurance Committee** Vince Cruciani, Chair
 Vince Cruciani stated that Todd Zimmerman and Bob Knowles asked if they could provide the Borough with a quote. They will meet with Virginia to give an analysis as to what they can offer and what Jim Henkleman and Mark Young offer. Our policy ends June 30, 2016. They need to get their report by May 19th and Council can look at it. If not we would renew.
- **Personnel Committee** Gerrie Carey, Chair
Hire part time police officer - Brian Newhart: Vince Cruciani made the first motion to hire Brian Newhart, seconded by Herman Johnson, vote was 7-0
Permanent Assistant Foreman: Herman Johnson suggested going into executive session regarding a personnel issue. Vince Cruciani stated that he doesn't disagree but the actual nature of the position could be discussed. Will this affect the collective bargaining? Herman Johnson stated that it is a union position, it's built into the contract and it is only kicks in if Neil is off for a certain amount of time. Mr. Johnson stated that with this position, the DPW can split their work in half with the Foreman taking one group of workers and the Assistant Foreman taking the other group. Solicitor Dan Mulhern stated that Neil is outside of the union, there are provisions in the contract where the Assistant Foreman gets paid more. Vince Cruciani asked, in the contract what is the mechanism for choosing the Assistant Foreman. Solicitor Mulhern stated that it doesn't say in the contract but it does give Council very broad discretion to manage the DPW. You could assign someone or hire someone new. Vince Cruciani asked if they don't pick the next senior man at the DPW is there a problem. Vince Cruciani stated that if they feel that the best person for leadership in the union isn't the next senior person, does the Borough have the discretion to make that decision or are we bound to elevate the next senior person. Solicitor Mulhern stated that in the contract there is no mechanism for who is the Assistant Foreman. Solicitor Mulhern stated that you have to take into consideration past practices. Vince Cruciani suggested talking to the union about amend in the union contract to allow it to be council's discretion. David Jenkins thought that might open up a can of worms. Herman Johnson stated that they should go into executive session after the regular meeting and discuss it more.
- **Public Safety/Safety:** Pat Williams, Chair
 Pat Williams stated that he and Herman Johnson are working diligently with Lori Harris on a lot of issues that are going on in the Borough. If anyone sees something that needs to be checked out, please contact Lori the Code Enforcement Officer. Thanked Eric Williams for taking care of junk cars in the Borough, he works hard on that.
- **Public Works** Herman Johnson, Chair
 Herman Johnson stated that the DPW has been blacktopping the potholes, doing a commendable job, picking up brush periodically. They will be starting shortly on the storm sewer projects. Herman Johnson asked about the DPW report. Jenn

Basalyga stated that there is a written report from the DPW and Ms. Kehoe will get a copy to Council.

- **Recreation** Dominic Scott, Chair
- **Sewer Billing:** Dominic Scott, Chair
Jenn Basalyga asked Council's opinion on the sewer account for 417 Harwood, Ron Enslin is the landlord. They agreed that the certified letter needs to be sent out to the renter and let the landlord know.
- **The Gathering Place** Gerrie Carey/Pat Williams
- **Banner Committee** Gerrie Carey/Herman Johnson: Solicitor Mulhern stated that the contract is with Matt Cottengim, his lawyer is reviewing it.
- **Depot St Project** Herman Johnson
- **Stormwater Committee** Herman Johnson
Herman Johnson stated that there is going to be a presentation on storm water/MS4 at the Rotary tomorrow at noon. Virginia Kehoe will present the information.
- **ACOG Representative** Patty Lawler/Gerrie Carey/Dom Scott: Mayor Patty Lawler will be attending.
- **Police Negotiations** Gerrie Carey/Herman Johnson
- **Additional comments from Council:** Pat Williams and Herman Johnson are mentors at Judge Barrasse's drug treatment court, meets every Tuesday. He wants veterans that have these concerns, bring this into the magisterial level. Judge Keeler will have the pilot program for the whole county. May 26th at the VFW at 7pm, Judge Barrasse and Judge Keeler will both be there to do their presentation. They will be inviting all of the county police chiefs. Bob Bennett discussed the alley between Electric and Midway. We get liquid fuels based on the amount of roads we have. We plow the alley, the ownership is in question. It should be added to the mileage that we submit to liquid fuels. It is well over 600 feet long. Wants to know what committee can follow up on this. President Carey suggested that maybe Virginia Kehoe knows which alleys we do have and service. She asked Bob Bennett and Virginia Kehoe will work on this.

7. **POLICE REPORT:** Mayor Lawler
Council would like a letter of thanks to Eric Williams for helping with the drug takeback program. Discussed Drug Takeback Program.
8. **VENDOR PAYMENTS TO BE RATIFIED:** President Carey
Dominic Scott made the first motion to pay the bills, seconded by Herman Johnson, vote was 7-0.
9. **OLD BUSINESS:** President Carey
 - **E Greenwood – replace Pipe – written scope of project:** Kimberly on behalf of her mothers' estate at 302 East Greenwood Avenue spoke to Council. Perspective buyers are interested in the scope of work. If possible they would like a copy of that. Waiting to see what is planned. Virginia Kehoe was reached by telephone

to discuss the situation. Greg Pascale stated that they are trying to get an idea of when this work is going to be done, he was under the impression that this was going to be done by the Borough to divert about 1/3 away from this area. Ms. Kehoe stated that Neil is going to start as soon as they take the salt spreaders off, within 2 weeks if not sooner. Ms. Kehoe stated that they received the drawings of the work but as far as anything written up Ms. Kehoe would have to work with Solicitor Dan Mulhern on that. Solicitor Mulhern stated that what the Borough would want to do is have some type of easement there. Vince Cruciani stated that we need a temporary easement first, then a permanent easement also. Greg Pascale said they can get that done within the next ten days to two weeks. They need to check and make sure they can get an easement with the neighbor as well regarding the 18 inch pipe. Vince Cruciani suggested doing an easement with a separate letter agreement and a separate letter agreement after the nominal consideration was the performance of the work. Ms. Kehoe stated that we are doing the work on Clarks Avenue redirecting the water. We would probably contract out the work that might need to be done on East Greenwood because the DPW doesn't have the equipment to do that. Bob Bennett stated that if the project on Clarks Avenue is successful, that would solve the problem, but we should get the easement issue cleared up too. Greg Pascale would like to see in writing what work is going to be done on Clarks Avenue which will avert approximately 1/3 of the water from the drainage area on East Greenwood. Ms. Kehoe will get that information together. The 18 inch pipe touches another property, need the easement from that property. Solicitor Dan Mulhern stated the first thing that needs to be done is proof of ownership of the Borough pipe. Next they need a vote by Council to approve the work. Ms. Kehoe stated that Council can make a conditional vote, if the work is needed they can go ahead once the easements are taken care of. Does Bob Naegele determine if the work needs to be done, or is it strictly Council. Bob Bennett stated that Bob Naegele would advise Council. Greg Pascale stated that he is going for a permanent easement on the property. Council can vote conditionally approving this based upon what Bob Naegele says and based upon the proof of ownership. Herman Johnson made the first motion that in the event that the repairs on Clarks Avenue don't solve the problem, in condition on the borough getting the necessary easement from the property owners, the Borough will then come in and replace the 18 inch pipe between the properties. Vince Cruciani asked what is the determination as to whether or not the work on Clarks Street works. Greg Pascale stated that the condition would be on the Engineer Bob Naegele's approval. Refined the vote so it states that when the Engineer looks at it, if the replacement of the pipe, a second time necessitates permanent easement then all of the easements have to be permanent. Mr. Cruciani doesn't want to use Eminent Domain. Vince Cruciani seconded Herman Johnson's motion, vote was unanimous 7-0.

- **Abington Little League lease – ratify previous use – establish short term lease til 7/15 and work on longer term lease:** Vince Cruciani made the first motion to approve the lease, seconded by David Jenkins, vote was 7-0.
- **Marion Street Property Donation:** Vince Cruciani made the first motion to accept the donation with a surveyor takes the part that is not currently used for staging, the rest of the property must be restricted in the deed to conservation land, that way no one can say that they redirected water, seconded by David

Jenkins, the area was informally steaked out. We need a formal survey on the two different parts of the land. The one part for staging and the other part is for conservation. Vote was 7-0. Mr. Cruciani made a motion that the previous motion is pending clean title, seconded by David Jenkins. As long as it is under the bidding threshold we go with the same surveyor to prepare the deed. Mr. Cruciani combined the motions so as long as the deed is clean that we are clear to proceed and we use the surveyor as long as it is under the bid threshold, seconded by David Jenkins, vote was 7-0.

- **Florence Ave Property Donation:** Solicitor Dan Mulhern stated that they are still waiting on the title for this property. Council wanted to address a tax issue in the meantime, should they pay the 2016 taxes while they are waiting for a clean title. Herman Johnson suggested tabling this. Vince Cruciani made the first motion to suspend the 2016 payment of the Borough taxes pending the resolution of the title search comes to fruition, if the title does not check out Council can reconvene on whether or not they are going to suspend it if the title does check out we waive the taxes, seconded by David Jenkins, vote was unanimous 7-0.

10. NEW BUSINESS:

President Carey

- A. **Telespond Lease Renewal:** Bob Bennett asked why we want to turn the Senior Center over to Telespond. Vince Cruciani stated that we are losing \$8,000 a year on it. Bob Bennett asked about turning it over to the AAJRB. Vince Cruciani stated that is who he wants to turn it over to. Herman Johnson disagrees with Mr. Bennett because the Borough generated over a million dollars taxpayers money plus grant money and he would not like to see the AAJRB have the building because you don't know what they are going to do and he doesn't want to take our Senior Citizens Center away from our community. Pat Williams suggested that Vince Cruciani come up with some ideas on how we can save money over there. Vince Cruciani stated that the main point is where is the lease agreement for the building that is current occupying AAJRB land. Pat Williams stated that they are working on that. Then Mr. Williams asked other than that what is Mr. Cruciani's issue. Mr. Cruciani stated that is the issue. Mr. Williams asked Mr. Cruciani what his concern is about the money. Mr. Cruciani asked how Mr. Williams is working on it; Mr. Cruciani asked Solicitor Mulhern if anything has come up. Solicitor Mulhern said they are still waiting. Vince Cruciani stated it is a ghost. Pat Williams stated that they didn't have problems with the Abington Senior Center, until Mr. Cruciani came on board which is the bottom line. Mr. Cruciani stated that the bottom line is that we are subsidizing the Senior Center and the community and it's costing us \$8,000 a year. Pat Williams stated that they are working on that, we met with them. Mr. Cruciani asked what happens when the AAJRB says our lease is up. Pat Williams stated that he doesn't know anything about the AAJRB and Mr. Cruciani got us into a problem that he hopes we can get out. Mr. Williams stated that they can tell everybody that he was the problem that we lost the Senior Center; it is Mr. Cruciani that is digging into everything, stirring everything up. Vince Cruciani stated that it is not a front yard fence, it's a little bit bigger, and it's actually going to cost us money. Mr. Williams left the meeting at approximately 9:18pm. Vince Cruciani stated that this is actually important. What if the AAJRB says the lease is up, where is our right to be on

this land, and then we will say past practice, they will say ok? How do we handle this before we put more money into it? Herman Johnson stated that we have a Senator looking into this to see if there is a lease. Vince Cruciani researched this and found that that property is part of the AAJRB's deeded land. He has access to the deed parcel information is overlaid and the 100 acre deed that the AAJRB is on, the Senior Center is on that 100 acres, without question. Herman Johnson stated that he has to have a good conscience to really believe that we don't have a deed, then we can do something else, Mr. Johnson would be the first one to vote against it until he is sure. Herman Johnson stated that Vince makes a good point, hold people accountable. What Councilors and borough manager let this go. Vince Cruciani stated that if Telespond is going to pay \$750 more a month in rent, in the short term he would vote yes. Mr. Cruciani's short term concern is that the Borough doesn't go \$8000 in the hole. His long term concern is what is the situation with where the land sits. Maybe a professional surveyers can show the 4 corners of the land. He is 99.999 percent sure that the property is on AAJRB deeded land. Herman Johnson stated that the right thing to do for our residents is not to get rid of the Senior Center. Short term, Mr. Johnson could agree with that but long term they need more research, he believes after talking to Site Council that they are willing to pay the more rent, to pay for the boiler repair. Vince Cruciani agreed that there should be a Senior Center but it needs to be more regionally funded. To keep it in the long term the only way to give that stability is to research, but we have to be very acute about what we are researching. Mr. Cruciani stated that we can go to the AAJRB and they exist until 2027, the building remain as the Senior Center until 2027, then everybody can decide how they want to move forward. Mr. Cruciani stated that Mr. Williams is trying to mistaken the idea that bringing up an issue that really is important to bring up is causing a problem. Mr. Cruciani stated that he is not trying to cause problems. If we could keep the same contract and add \$750 then Mr. Cruciani would vote for that. Herman Johnson doesn't feel comfortable losing our Senior Citizens Center; it's not fair to the seniors. From here on out, need structure and a chain of command you wouldn't have these problems. Mr. Cruciani stated that we need Solicitor Mulhern to draft a lease with the AAJRB and draft it through their expiration date which is 2027. Vince Cruciani stated that he wants to give Solicitor Mulhern the title run on that property. Council agreed.

B. Summit Ave property: Vince Cruciani stated that he wants to put a limitation/restriction in the deed that no structure should be on the property that exceeds 120 square feet, which basically lets her put a shed on it. Restriction of no sewer or water or driveway, the goal is that it becomes her yard. Leave the 10x12 restriction and that gives her the ability to put in a 10x12 garden bed, if she doesn't want a shed. Bob Bennett wanted to explore the opportunity to sell the land to have more tax revenue for the Borough. Vince Cruciani stated that he would rather preserve an undeveloped lot as a green space. Bob Bennett suggested counter offer of \$12,000. Vince Cruciani and Herman Johnson stated that he agreed with the idea of the counter offer. Solicitor Mulhern asked if this has to be advertised, he will double check.

C. Resolution 2016-06 - Resolution Opposing House Bill 340 Recording Executive Sessions

Vince Cruciani stated that he read the bill and he would pass a reverse resolution. You want to keep things public because it prevents “a he said she said” in a lawsuit. You only have to keep it for a year. Mr. Cruciani stated that he doesn’t think that they need to vote on this resolution one way or the other. He wouldn’t vote on it until every member of Council reads the resolution.

D. Resolution 2016-07 – PCCD Grant – Police Vehicle: David Jenkins made the first motion to accept Resolution 2016-17, seconded by Herman Johnson, vote was unanimous 6-0.

E. Land donation – Andrew Weinberger: Vince Cruciani made the first motion to accept the land donation on the condition that the title clears out and that we add a conservation restriction to the deed, seconded by David Jenkins, vote was 6-0.

Vince Cruciani suggested that upon the closing on the Marion, Florence and the land from Mr. Weinberger, the Borough sends a thank you card. Suggestion was to plant a tree with a plaque.

**11. SOLICITOR’S REPORT: Solicitor
Rogan/Mulhern**

12. CORRESPONDENCE:

- **Leon Vieira – sewer payment arrangements**
- **Sherrie Moore – reduction in EDU’s:** She sent a letter requesting that her 8 EDU’s be reduced and be applied according to the use based assumption. It would be more appropriate to talk about a reduction in EDU’s rather than applying a different formula for her property. This billing would go back to January 1, 2016. We need to see how many EDU’s they were billed through the water company. They were not charged for sewer from October 2012 through January 2016. There are 8 tenants but they are offices. David Jenkins stated that based on the fact that they haven’t paid since 2012, he thinks they should leave it as it is. Jenn Basalyga will find out how many EDU’s the water company charges. Vince Cruciani made a motion that Sherrie Moore’s account should not be considered delinquent until this is resolved, seconded by David Jenkins, vote was 6-0.

13. EXECUTIVE SESSIONS: President Carey

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

14. ADJOURN: President Carey
Council went into executive session.

The meeting was recessed until Tuesday, April 19, 2016 at 7pm.