

**BOROUGH OF CLARKS SUMMIT  
BOROUGH COUNCIL MEETING  
AUGUST 3, 2016**

The August 3, 2016 Borough Council Special Meeting was conducted on Wednesday, August 3, 2016 at 7:00 P.M. The Meeting was held in Borough Council Chambers, 2<sup>nd</sup> Floor, 304 South State Street, Borough of Clarks Summit, County of Lackawanna and Commonwealth of Pennsylvania. Council members in attendance were Mr. Bob Bennett, Mr. Patrick Williams, Mr. David Jenkins, Ms. Gerrie Carey, Mr. Dominic Scott, Mr. Vincent Cruciani, Mayor Patty Lawler, Police Chief Chris Yarns, Borough Manager Virginia Kehoe, Solicitor Pat Rogan, and the Mayor's intern Ms. Eagen. Absent from the meeting was Mr. Herman Johnson

**CALL TO ORDER:** **President Carey**

**MEDITATION:** **Mayor Lawler**

**PLEDGE OF ALLEGIANCE:** **Mayor Lawler**

**1. APPROVAL OF AGENDA:** **President Carey**  
David Jenkins made the first motion, seconded by Bob Bennett, vote was 6-0.

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

June 28, 2016 Work Session: David Jenkins made the first motion to approve the minutes, seconded by Vince Cruciani, vote was 6-0.

July 6, 2016 Regular Council Meeting: Vince Cruciani made the first motion to approve the minutes, seconded by David Jenkins, vote was 5-1 with Bob Bennett voting nay.

**3. PUBLIC COMMENT & INPUT:** **President Carey**  
Attorney Ray Rinaldi spoke with Council regarding the changes with the new McDonalds. Penndot as of Monday requested that they forward the Borough the traffic signal plan. There is no work to be done on the Borough's side; the only work that they are aware of may be with the timing of the signal, but no physical work on the Clarks Summit Borough side. He sent Virginia Kehoe a copy of the acknowledgement that South Abington Township signed, a copy of the Resolution that he would request the Borough approve that night and a copy of the traffic signal plan. Vince Cruciani asked what the change is that is occurring. On route 6 the entryway into the shopping center is a little wider, there is a turn lane on the South Abington side that has been added, and they have 2 new openings onto route 6, exit ways. The only thing that would change on the Clarks Summit Borough side is the light on Maple Street, the timing could change. Virginia Kehoe stated that the traffic light is co-owned by the Clarks Summit Borough and South Abington Township. We have a mutual aid agreement with the light. David Jenkins asked if adjustments have yet been made on the traffic signal, the answer was no, they are waiting for the HOP. Attorney Pat Rogan asked Attorney Rinaldi why they need the Clarks Summit Borough to formally acknowledge that they received a copy of this. Attorney Rinaldi

stated that this is a request from Penndot. Because the traffic signal is in Clarks Summit they wanted to make the Borough aware that changes are being made. Bob Bennett asked if changing of the timing of the traffic light will affect the traffic flow on 6 & 11. Attorney Rinaldi stated that he hopes it will be a change for the better. Our engineer Bob Naegele stated that he cannot imagine a scenario where it makes the traffic flow worse. Virginia Kehoe filled in the specifications on the document. David Jenkins made the first motion to accept the Resolution 2016-10, seconded by Dominic Scott, vote was 6-0.

Debra Belknap, 211 Ashmore Avenue, had a significant sewage back up on her property. She filed an insurance claim which has been denied. Been at that property for about 20 years, July 4<sup>th</sup> saw sewage dripping from a pipe from her house. She called the water company; they said call the Borough Sewer Authority. She didn't get a call back. Went to ACE and covered up the pipe. Ms. Belknap stated that the downstairs toilet was clogged, and it over flowed into the first floor bathroom and family room. That evening and after a shower, the sewage was pouring into the basement. Roto roter came the next day; they didn't find the clog and charged \$404. Second time found a clog at the main; a tree root was the clog. The roots are coming from another property, and it completely clogged the opening to the main. Roto roter had to blast through the roots to open the main so that the sewage could get through; they made a 4 inch in diameter hole which needs to be repaired. It is not completely repaired as it is now. The clog is at the opening of the main. On Monday morning the sewer authority said this is not their issue, it is with the Borough. Ms. Kehoe directed her to the adjuster for Trident Risk Management, went back and forth and then she received a denial letter. In 2015 her street was paved and the adjuster said at that time, the pipes were inspected, but her position is that those tree roots were there and if that was inspected the roots should have been seen and taken care of because the tree is old. Ms. Belknap stated that her costs associated with this \$3,577 and the Roto Rooter bill is \$1,750. Pat Williams asked if she contacted her homeowners insurance. Ms. Belknap did and her homeowners did not cover this. Bob Bennett stated that the damage in the house is a different issue than the pipe issue. Ms. Belknap stated that the insurance company told her that she didn't have the necessary endorsement, she has that now, and she didn't know she needed it. If she knew about this she would have paid the extra to have this covered. She lived there for 20 years and never had an issue. This was discussed at the work session and Ms. Kehoe supplied information. Vince Cruciani stated that they do not have an answer for her at this time. Pat Rogan will look into this.

Dori Waters asked Council if there were any questions or concerns. Virginia Kehoe asked about the light in the hallway up the stairs and the hot water. They would be addressed.

#### **4. BIDS & QUOTATIONS:**

**President Carey**

- **2016 Paving project:** Vince Cruciani made the first motion to approve Pennsy Supply, seconded by David Jenkins, vote was 6-0. Vince Cruciani asked when they sit down and figure out that our budget, are they going to penalize us with

change orders. Ms. Kehoe said no, they won't and they have been notified that is our intention.

- **Payment Network Services/ACI Merchant Services:** David Jenkins made the first motion to allow Virginia Kehoe to notify Gov Teller of our intentions, seconded by Dominic Scott vote was 6-0.
- **Carnation Park paving:** David Jenkins made the first motion to go with Abington Paving by May 20, 2017, seconded by Vince Cruciani, vote was 6-0. Vince Cruciani stated that next Memorial Day weekend will be the 20<sup>th</sup> Year Commemoration of the Carnation Basketball Association. They will have the event at Carnation Park. This will probably get a lot of publicity and this would be good for the Borough. Mr. Cruciani stated that now that we are doing the rain garden with a grant it's important to get the paving done before that. Mr. Cruciani stated that funds are going to be raised for a commemorative plaque for the park; this will all be privately funded.

## 5. **BOROUGH TREASURER'S REPORT**

**President Carey**

David Jenkins made the first motion to approve the Borough Treasurer's Report, seconded by Bob Bennett, vote was 6-0.

## 6. **COMMITTEE REPORTS:**

- **Building & Plant**

Pat Williams, Chair

David Jenkins suggested that the carpeting in the borough office needs to be replaced. Mr. Jenkins stated that it is a safety issue, the way the carpet buckles.

- **Finance Committee**

Dominic Scott, Chair

- **Grant Committee**

Dave Jenkins, Chair

David Jenkins stated that the new police cars were ordered, should be in by the first of September.

- **Recycling Committee**

Bob Bennett, Chair

Mayor Lawler stated the Clarks Green's Electronic Recycling event. They allowed us to use the tonnage that the DPW collected towards our recycling. Mayor Lawler also stated that The Gathering Place, PS Mortgage and the Parker Hill Church sent lunch to the police officers.

- **Insurance Committee**

Vince Cruciani, Chair

Vince Cruciani stated that Kilmer Insurance Company came forward and asked to look at our plan. Mr. Cruciani stated that anyone that wants to come and provide the Borough with a new estimate and propose to us how they are more efficient by all means we will give them the information. Mr. Cruciani stated that to address the objections that occurred when they voted on this two months ago, his suggestion would be for next spring if they have any ordinances on the agenda that we throw in an advertisement with the ordinances so we don't have to pay any extra money; Stating that insurance comes up ever June 1<sup>st</sup>, feel free their bid.

- **Personnel Committee**

Gerrie Carey, Chair

**Seasonal Worker:** David Jenkins made the first motion to remove Casey Mushno from his position due to his tardiness and lack of responsibility towards the job, seconded by Dominic Scott. On the questions Pat Williams asked if they worked through everything that this is being done legally. He is part of the union; they wanted documentation in his file. Ms. Kehoe stated that the union is not

opposed, we are an at-will state and we do have justification. David Jenkins stated that in the future, with the Personnel Committee, tell them three strikes and they are out. He seems to have had more than his fair share. Vote was 6-0. Vince Cruciani made a motion to give Mr. Mushno the opportunity to resign before he is fired, he is young this might be a lesson learned, seconded by David Jenkins, vote was 6-0. This will be taken care of tomorrow by Virginia Kehoe. Vince Cruciani suggested that he put this in writing. Pat Williams asked if we want to hire someone else. Vince Cruciani asked about Christian Orlando, if he could do more hours. Ms. Kehoe stated that Mr. Orlando goes to college soon. Ms. Kehoe stated that the second choice was Michaelangelo Verdetto. David Jenkins made the first motion to hire Mike Verdetto in the same capacity as the seasonal part time to end at the end of November, seconded by Vince Cruciani, vote was 6-0.

- **Public Safety/Safety** Pat Williams, Chair  
Pat Williams asked about pothole patching and if the DPW are doing that work. Ms. Kehoe stated that they are in between brush pickup and storm water work. Pat Williams asked about the Grove Street Bridge, should be patched soon. There are 32 manholes that we will need to see if they need to be raised.
- **Public Works** Herman Johnson, Chair

**DPW Monthly report**

**2016 Paving:** Virginia Kehoe and Bob Naegele met with the Public Works Committee because the bid came in so much higher than they had budgeted. They redid the spreadsheet based on the actual costs that were in Pennsy's bid and they re-prioritized the roads and therefore they eliminated Marion from the work and prioritized the others. Melrose was on the list but the water company will do the work and pave that road that will also save us money. Vince Cruciani asked if Division Street end at Marion Street, the borough needs to make that decision, not Pennsy. The Engineer would make a determination on that.

- **Sewer Billing** Dominic Scott, Chair  
Dominic Scott stated that 145 notices of delinquency were sent out.
- **Stormwater Committee** Herman Johnson
- **ACOG Representative** Patty Lawler/Gerrie  
Carey/Dom Scott
- **Alley Research** Bob Bennett  
Bob Bennett stated that Solicitor Mulhern is looking into this. Another mile could be added to liquid fuels, which means an extra \$5,000. Bob Bennett would like this for next year.
- **Employee Handbook:** Mr. Bennett stated that Solicitor Mulhern was going to come up with an estimate as to how many hours it will take him to peruse the handbook and the changes that they both discussed with Virginia to make the handbook complaint with Federal and State law. Solicitor Mulhern did give those hours, 10 for him and ten for Labor Solicitor O'Brien. Vince Cruciani made the first motion to allocate 10 hours for Solicitor Mulhern wait for him to come back before they bring it to the Labor Solicitor, seconded by David Jenkins, vote was 6-0.

- **Additional comments from Council:** Vince Cruciani stated that they received an impasse letter from the representative for the police department. Virginia Kehoe stated that arbitration has been requested by the police department and everybody on council received a certified letter today. Virginia Kehoe stated that she would like council's permission she would like to respond to it with the name of the Borough's Labor Solicitor Joe O'Brien, which they were asked for in the letter. Vince Cruciani stated that before the next work session, they should have another executive session. Virginia Kehoe stated that Joe O'Brien suggested that it might be a good idea for him to come and talk with council about this. They will try for August 15<sup>th</sup>. Mr. Cruciani stated that Joe O'Brien is going to need to respond to the association based on the letter and that needs to occur, then the borough has the latitude to respond to them, separate from O'Brien's response, with his council, but a separate response regarding, perhaps avoiding the arbitration. So they need to give Joe O'Brien enough time to formally give the association the respect they need for their legal presentation.

Pat Williams stated that they asked for a couple hundred dollars for mulch for Lackawanna Trail. The bus stop was painted by the drug treatment court on the inside and outside and it looks brand new. Mr. Williams stated that they replaced 6 or 7 of the uprights that were broken. They extended 3 or 4 lengths in the back. Mr. Williams stated that he would like to put mulch around the 7 trees and Pat and Herman would do the work. Mr. Williams asked for \$200 to put some mulch around the trees. Dominic Scott stated that he would pay for the mulch. David Jenkins suggested a truck load instead of bags. A lot of work has been done that our DPW did not have to do. Council members thanked Dominic Scott for his donation.

**7. POLICE REPORT:**

**Mayor Lawler**

Chief Chris Yarns stated that they did an inventory of everything in the office that had a serial number for insurance purposes. Will put parking meters back in on Depot Street. All meters in the Borough are new. Discuss auctioning off the meters. Receiving letters of support from the community.

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

**President Carey**

David Jenkins made the first motion to ratify the vendor payments, seconded by Dominic Scott, vote was 6-0.

**9. OLD BUSINESS:**

**President Carey**

- **Street Light on Bissell Street:** Virginia Kehoe stated that Mr. McGoff spoke with her and he was not interested in the street light, he called back and stated that he thinks the street light would be beneficial and he was now interested in having the light. The only person who first responded with a no to the street light has changed his opinion and now is in favor of it. David Kaufman was at the meeting and he is also in favor. David Jenkins made the first motion for a street light on Bissell Street 100 watt with a cobra head with a shield and when that gets

replaced it will be with an LED when the agreement is signed with PPL, seconded by Bob Bennett, vote was 6-0.

- **Summit Ave Appraisal:** The appraised value is \$19,000. Celeste Denison, 318 Summit Avenue spoke to Council. She wrote a letter to Council last month expressing her opinion. Vince Cruciani asked Ms. Denison what her reservation was on the restriction clause for the no greater than 120 square foot structure. Ms. Denison stated that because she feels that if it is her property she shouldn't have restrictions on it, and she thought the restrictions were ridiculous. Vince Cruciani stated that the Borough's perspective is that the area for sale would be merged into her current lot and to her yard, not a place to build a garage, or a place to build onto her house. This way it would be preserving more green space in the Borough because it is overdeveloped and one of the major initiatives that the Borough is dealing with is an unfunded mandate by the Federal Government to handle stormwater and the more that the Borough allows development and impervious surfaces the more it is going to cost all of the taxpayers money. Ms. Denison stated that if she wanted a gazebo and a shed, she doesn't think that would be unreasonable. Virginia Kehoe stated that our Zoning Ordinance maximum lot coverage is 25%. Because this is a non-conforming property, by our ordinance this is deemed merged with her property. So for Ms. Denison to put up a shed, a gazebo or a garage, she is maxed out at 25% total. It could turn out that the numbers don't even allow her to up a 10 x 10 up. Pat Williams asked what Ms. Denison's last bid was, it was \$6,000 with no restrictions. Vince Cruciani asked Solicitor Rogan what has to be posed and when. Solicitor Rogan stated that this was advertised quite a while ago. Ms. Kehoe stated that the property has been advertised for a couple of years. Solicitor Rogan doesn't believe there are any time constraints due to the appraisal. Mayor Lawler stated that Ms. Denison took this 1/2 of lot, she thought she purchased that along with the house. She took it and made it into a really good green space, she cultivated and gardened it. Mayor Lawler stated that she is very nature friendly, she takes great care of her property, on behalf of Ms. Denison, she doesn't think it would be a lot that everyone would want, but it she took care of it. Pat Williams asked if the Borough should put this out for sale now to see if we can get more money for it. Ms. Kehoe stated that it has been out for sale for 4 years. Pat Williams stated that the amount as \$40,000 and now it is \$19,000. Vince Cruciani stated that he doesn't have problem at 2/3 the market rate and removing the restrictions after the point that Virginia made because it will be merged and subject to lot coverage restrictions stating that is fair. Vince Cruciani stated that 2/3 is \$12,000, he appreciates the fact that when she bought it she under the misrepresentation of the lot size, before she makes a decision to buy it from the Borough she needs to think about what her impervious limitations will be. Vince Cruciani stated that we are under significant pressure from the Federal Government to control and mitigate storm water. The Borough has been given 2 properties that have been deeded over to council which amount to about an acre or more and what they did was put restrictive covenants and deeds to dedicate them over to conservation land to count towards the mandates. Vince Cruciani stated that they would like to revisit the communications; council will work on a counter proposal to Ms. Denison. David Jenkins suggested this is tabled until the work session.

Vince Cruciani property at the end of Florence, Dan was waiting on their attorney to add in the conservation language, Solicitor Pat Rogan stated that he would look into that.

**10. NEW BUSINESS:**

**President Carey**

**Stormwater in state ROW:** Bill Tobin from OK Tire stated that in front of OK Tire there is a storm drain that runs into a basin, the drain pipe going into that basin has rotted away and underneath it the blacktop, all the dirt is gone. He is concerned that somebody is going to be walking down and the blacktop is not going to hold them or a car will go over the area and it will sink into the hole. Virginia Kehoe stated that Bill called the state and they said it was the Borough's responsibility. Ms. Kehoe asked Bill to put his concerns in writing. The specific problem that the borough has with this is that the state put in the storm drain to control the water off of their road, but it is on private property and it runs from his private property, through private property out back to the creek. The state may have had easements at the time that they installed the system but the Borough doesn't have those easements. The Borough doesn't have the financial backing to remedy the problem. Vince Cruciani asked how extensive the damage is. Ms. Kehoe stated that we don't know until it is cameraed, we need to decide if the Borough is going to invest money in this and accept ownership or are we going to push back. How do they do this so safety is ensured but we are not taking ownership of something that maybe shouldn't be ours to deal with? David Jenkins stated that we are dealing with private property. The state is throwing this back on the Borough, the state did this initially, so why should the Borough have to fix their storm drain break. Mr. Jenkins stated that we have the letter in to the Senator and the Representative, Ms. Kehoe stated everything has been forwarded to them. Mr. Jenkins stated that he thinks this could end up to be an emergency situation, because all we need are one or two storms and we are going to have an issue. Bill stated that it has gotten bigger with the rain. He is concerned with the kids walking on that road, and cars that go through there. Mr. Jenkins stated that he agreed and is also concerned about this and just don't know the best way at the moment on how to formulate this because if the Borough takes action then we are already committed. Vince Cruciani stated that the issue is that the state is not taking responsibility for stormwater within their own road and there is an equitable situation that has arisen because they do take responsibility when the drain is in the township not in a borough. They commandeer the borough government to fix the problem based on their standards and specifications without funding it so there are two issues. First the state isn't doing their job on the roads and secondly the state is treating two different types of municipal bodies of government completely different. Bob Bennett asked if the Borough has insurance for something like this. Virginia Kehoe stated that this would be considered general maintenance, she will ask. Where does the pipe start? It comes from another storm drain in the parking lot of Perez Design. The state told them the storm drain is in the easement. The contact is Alan Jones from the Clarks Summit Penndot office. Alan Jones told Mr. Tobin that they shouldn't touch the drainage at all; if it was theirs they would put a metal plate over it. David Jenkins suggested taking pictures of the area before sending the information to Blake and Kavulich. This is a safety issue, we don't want to procrastinate. Need a meeting with Alan Jones, whoever can attend. Pat Williams asked in the meantime should the

Borough do something. There are pylons at the area. Virginia Kehoe stated that it is private property. Pat Williams asked what we are going to do in the meantime; there are cones that say CSB on them, that he thinks looks like the Borough's responsible for this. What is the best way to resolve this, what if someone falls in or a car drives over this. Solicitor Pat Rogan stated that we need to verify this information, before he gives an opinion. Mr. Cruciani stated that he thinks its private property until we evidence that it is our responsibility, we have to wait. David Jenkins stated that we have two cones up there and Bill knows what's going on. Virginia Kehoe stated that the Borough cones are up there because Alan Jones went directly to the DPW and sent them over there. They should have gone to Virginia Kehoe first. Mr. Williams suggested taller cones stating the 2 small cones are a joke. They will set up a meeting to continue the discussion. Vince Cruciani stated that when we do the fact finding it could be as little as the decay is 4 feet into the drain. It doesn't mean that the whole drain is decayed because that part is the most exposed to the elements. Our equipment is not capable of taking care of this problem; we would have to rent the proper equipment, or contract it out.

- **Len Wesolowski – Planning Commission/SAPA**

Shannon Brown was in attendance at the meeting and introduced himself. David Jenkins made the first motion to appoint Shannon Brown to the Planning Commission, seconded by Vince Cruciani, vote was 6-0. Took a picture of Shannon Brown and Gerrie Carey.

- **Policy on sewer laterals in road:** David Jenkins stated that for future reference when we go out and mark the sewer lines that we also mark the lateral lines. Virginia Kehoe stated that the Borough's policy has always been that the laterals are the responsibility of the property owners. In the older parts of town where we installed the system at the time, we installed laterals. Since then it has been the contractor's responsibility to install the laterals so we don't have measurements on all of the properties, and it has not been policy. While Leeward was complaining that the Borough should have done that, Ms. Kehoe supplied Scott Reiner with maps to help and he thanked her for that and he doesn't expect the Borough to be marking them. Ms. Kehoe stated that if we mark it wrong then are we liable and if we mark the laterals it is going to take a lot more time. This is taking ownership of something that is not expected of the Borough. Leeward really had no right to say something about this. David Jenkins stated that is a legitimate explanation. Ms. Kehoe will supply the same information she gave to Mr. Reiner to UGI and PPL it doesn't hurt for them to have that information but it is not a guarantee.

**11. SOLICITOR'S REPORT:  
Rogan/Mulhern**

**Solicitor**

**12. CORRESPONDENCE:**

**Atty. Ray Rinaldi – McDonalds:** Discussed at the beginning of the meeting  
Public Comment

**Thank you – Heather Wagner:** Council received a thank you not from Heather Wagner.

**13. EXECUTIVE SESSIONS:**

**President Carey**

- **Prior- July 26, 2016 – Personnel - Contracts**
- **During- None**
- **Subsequent- None**

David Jenkins mentioned that at Nichols Village there was a drowning, 2 South Abington Twp. police officers, Patrolman Spagna and Sargent Tom Ksiazek, the went in the pool immediately with every think on, very admirable thing, wanted to acknowledge them as well as the first responders. Fine job was done

**14. ADJOURN:**

**President Carey**

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