

**BOROUGH COUNCIL SPECIAL MEETING  
AUGUST 30, 2016  
7:00 PM**

The August 30, 2016 Borough Council Special Meeting was conducted on Tuesday, August 30, 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 Ms. Gerrie Carey, Mr. Bob Bennett, Mr. David Jenkins, Mr. Patrick Williams, Mr. Herman Johnson, Mr. Dominic Scott, Mr. Vincent Cruciani, Mayor Patty Lawler, Borough Manager Virginia Kehoe and Solicitor Mulhern.

1. **WORKSESSION:** **President Carey**

2. **PUBLIC COMMENT** **President Carey**

- **CDBG Project:** Virginia Kehoe stated that John Petrini sent an email advising that he is not able to qualify North State Street for CDBG money for sidewalks. So Council needs to come up with another project for them to start working on. The first opportunity they can. Herman Johnson talked about using the money for Veteran's Park and that wouldn't qualify unless there was something very specific, like handicap accessibility. It needs to be used for low income, handicapped or the elderly. Vince Cruciani suggested building a sidewalk from where it bends on State Street, down to Moe's. Virginia Kehoe stated that the argument with that is that this area is used a lot more than just by the handicapped, this would benefit more than the handicapped. One other option is to allocate it for home improvements for the low income. If you have a resident who qualifies, they could use it. Or hold the money there until they come up with something. Herman Johnson stated that he likes this idea because the Borough won't lose this CDBG money. David Jenkins also agrees. This will be on the agenda next week.
- **Junior Council – Nacole Leonhart:** Virginia Kehoe stated that Ms. Leonhart is a resident of the Borough; she is very excited about this opportunity. Herman Johnson asked if this has been advertised or if there is a closing date on this. In the past they did advertise on the bulletin board. The program has been very successful. Virginia Kehoe suggested the deadline the work session in September. Virginia Kehoe stated that she will contact the Abington Heights School District. Make it clear, that they should come to the work session to meet them.
- **Telespond – renew lease** Solicitor Dan Mulhern emailed the lease committee a draft of the addendum that they added a no warrantee title and the indemnity clause. Vince Cruciani suggested adding on the indemnity is something with their agents or contractors and maybe a line that says that the addendum does not go into effect until both parties execute it. Virginia Kehoe stated that council will vote on it and then present it to them. Solicitor Mulhern stated that it wouldn't go into effect until both parties sign it. Mr. Cruciani suggested that Solicitor Mulhern make those changes and send them to Virginia Kehoe and we can get that to Warren Watkins and they can sign it and have it ready for Council by the

next Council meeting. Change the agreement to one year instead of two. Make it September 7, 2016-September 7, 2017. Delete the option to renew language. Option to renew to be approved by both parties. Should Telespond purchase the Abington Senior Center, the lease shall terminate at that time. Herman Johnson asked about the building repairs. They are the Borough's responsibility. The Senior Center will take care of the snow and ice removal, lawn care, shrub trimming and the grass cutting. Telespond will pay \$20,000 per year. Bob Bennett stated that he thinks the use of the term "past practice" offensive, stating that things change and evolve. Solicitor Mulhern stated that this means "other terms in the original lease", past practice was his term. Solicitor Mulhern stated that Telespond would have to agree to the amount of \$20,000 a year. Vince Cruciani asked if Solicitor Mulhern can have this ready by Thursday. Solicitor Mulhern said he will edit it and get it to Virginia Kehoe. Virginia Kehoe stated that the labor by the DPW at the Senior Center is about \$6,000 a year. The problem is that there is not a way of breaking out that vs. other maintenance issues at the facility. Ms. Kehoe stated that the majority of time is with the lawn care and snow removal, but if there is a maintenance issue our DPW has to go out to the Senior Center. Vince Cruciani stated that we need to know who the authorized signer is for Telespond and they need to provide us a document stating that they are an authorized signer.

- **OK Tire:** Virginia Kehoe supplied Council with pictures and measurements, Pat Rogan got a copy of the engineering drawings from the 1980's. Solicitor Pat Rogan and Mayor Patty Lawler were at the site on Friday. Vince Cruciani stated that he went and looked at the area also, as did Gerrie Carey. We know that the pipes run into private property. Penndot's attitude is that because we are a Borough and it is in the right of way it is Clarks Summit Borough's responsibility. Herman Johnson stated that Penndot goes curb to curb and that is the bottom line. We have to find out when that catch basin was put in. He wants to make sure that if it is a sink hole or if the pipe sheared, we need to do an emergency repair and then go after the people that put it in and recoup our money. Someone could get seriously hurt. What is the right thing for our citizens to be safe? David Jenkins stated that at the last meeting he suggested a survey be taken on the width of the road, down the road, up the road and right at the curb. We have had discussions through the years that the width of that curb is not correct and that it should be a wider curb. He agrees that Penndot made it to their suitability; however it is up to us now to find out where we stand because if they shortened it they are wrong because it is in their right of way. Mr. Johnson stated that we have to find out who put that in there and see if we have to repair it and get reimbursed. We are letting that sit too long; all of the rain is making that sinkhole even worse. We have to come up with the solution to fix this. Vince Cruciani said what if this whole area is private property, why should the Borough do anything. Mr. Cruciani stated that it could have been built by a developer or private interest that was channeling water one way or another when they were paving. Vince Cruciani stated that the owner of OK Tire showed him the pins and he looked it up on line. The pins are corner pins so that isn't much help. This is a business where people are pulling onto it for commercial use. David Jenkins stated that there is not technically a side walk but people walk through this area on a daily basis. Vince Cruciani stated that people are invited to walk on it. Mr. Cruciani stated that the

Borough should get an easement from OK Tire to do any work there. Ms. Kehoe stated that whoever does the work will need an easement because the pipe definitely goes into private property. Alan Jones told Bill Tobin don't put a metal plate on it because once you do you are accepting liability. Herman Johnson stated that someone needs to get involved with the repair. He is confused, if we have a Borough Engineer, he should be down there checking this out. David Jenkins agreed with this. Ms. Kehoe stated that all she needed was direction from Council. David Jenkins suggested our Engineer give us an idea how much this is to fix. We have put the orange cones there to safeguard the area. Herman Johnson suggested putting a plate over the area, Bob Bennett stated that he thinks that would open the Borough up to liability. Mr. Johnson disagrees. David Jenkins stated that we need to get that opinion from a lawyer, they have had this for a few weeks, and we still don't have an opinion from Pat Rogan, what are we paying him for, he needs to make a decision, can we or can't we do this. Bob Bennett believes that if the Borough puts the metal plates down then that puts a certain amount of liability on the Borough, if the metal plate shifts, if someone trips over it. David Jenkins stated that the Borough can secure the metal plates into the blacktop so that doesn't happen. Mr. Bennett stated that by Penndot going and doing this on private property, they have opened themselves up. Mr. Jenkins suggested getting Senator Blake and Rep. Kavulich involved. They are our representatives; they need to go to bat for us so it doesn't end up costing the Borough a couple of million dollars for someone else's screw up from Penndot. We cannot do the repairs; the Borough would have to contract out. Pat Williams asked if the Borough could go in on this with Mr. Tobin. Mr. Jenkins stated that Mr. Tobin doesn't want anything to do with this at all. Mr. Cruciani stated that the Borough has to have some kind of course of action. If we are genuinely worried about short term safety, we need a temporary easement from Tobin to put a plate over the extent of it that we find necessarily and if it goes onto Mazaleski's property then we get a temporary easement from him also. If they don't want to give us a temporary easement then we tell them that it is their own private property and they can deal with it themselves. This way we have a short term measure to stop people from falling in because the width of it is going to be covered by a plate. We can bolt the plate into the concrete; this gives us time to make some other choices. Mr. Cruciani stated that the only thing the Borough would be responsible for is fixing the area that the bolts when we pull the plates out at some point. Mr. Jenkins stated that in the meantime maybe Solicitor Pat Rogan can give us an official opinion on what we can and cannot do. Mr. Cruciani stated that Tobin doesn't own that property, he has a lease to own. We need OK Holdings and Tobin's signature, in other words who it is owned by and who it is operated by. Still have Bob Naegele the Borough Engineer take a look at it. Mr. Cruciani stated that we need to go all the way from where it ends or at least where people would drive over it. Southern part of ok tire until we get to the drain pipe might need different size plates. This is OK Tire's only legal entrance.

- **Florence Street:** Solicitor Dan Mulhern stated that the deed is recorded.
- **Employee Handbook:** Solicitor Dan Mulhern stated that the estimated 10 hours that he will work on the handbook should be with the committee. Bob Bennett is the only Council member working on the handbook. Vince Cruciani stated that he would like to know the time and date and if he couldn't be there he could call

in. Solicitor Mulhern state that the overall intention is eliminate liability. Solicitor Mulhern stated that he would talk to the PSAB see if they have any recommendations.

- **Resolution 2016-11 LSA Share – Police Equipment:** David Jenkins stated that they as a Council and with the Mayor, are applying for computers, cameras, tasers, batteries and Chris Yarns is checking through the vests to see how many they need to replace. This will be the local gaming grant. Chris Yarns feels that we have an excellent chance of getting the grant simply because of the dollar amount. They only have 2 tasers, we need to get tasers for the other officers and extra batteries. Cameras and computers for all police cars, DVD camera system which records and downloads information and goes on DVR. Uniform cameras are too expensive right now. Maybe within the next couple of years. These will be mounted inside the police car. This may result in a lowering of insurance costs. The police officers are in favor of the cameras also. We are the only department in the County that doesn't have car cameras. Need the Resolution in by the 30<sup>th</sup> of September, which is the deadline. Mayor Lawler stated that she is all for this. Picture taking at Sickler's at 4pm tomorrow, christening of the bike patrol. Mayor Lawler stated that they will put 2 vehicles on the market that have been replaced. Is it necessary to have the extra car, the old unmarked car? Should this be sold? Herman Johnson stated that they should think about this seriously. They kept one car, for the Borough Manager, EMA Officer, or Code Officer all may use this car. It doesn't cost much for the car, but if they are running out of space, park it over at the DPW. Mr. Johnson stated that this car may come in handy. Mayor Lawler stated that they do have a new unmarked car that they can use. They cannot use that car that is strictly a police car. They will get a list together because there is a dump truck at the DPW and the parking meters that should be sold also. Pat Williams asked who does the maintenance on the vehicles, checking the oil and the coolant. Mayor Lawler stated that the officers keep an eye on this when they go to the gas station. Mr. Johnson stated that they used to have a sheet, for mileage, gas and oil, car wash. Sign off on it and give it to the chief and he reviews it. The officer on duty Sunday is the one to take care of this. Pat Williams asked about the tasers, stating that they should be yellow not black. The purpose is that they are visible, it is a deterrent. Suggested that they buy yellow tasers. Mr. Jenkins stated that the handles are plastic and might be interchangeable. Mr. Jenkins stated that the standard color of the taser is yellow. Herman Johnson stated that the officer should check the oil daily, make sure the car is clean, no contraband in the vehicle. The one vehicle is having the engine rebuilt, do we have a warrantee on that.
- **Summit Ave property:** Virginia Kehoe stated that we did get the appraisal and Celeste Dennison is waiting for a response on her proposal. Vince Cruciani stated that Celeste Dennison's argument is that they were making the land productive is simply an admission that they were trespassing for a long period of time. There was trespassing on Borough property that is actually what was going on. So that is not a legitimate argument, in anyway shape or form. Mr. Cruciani stated that the land has value as conservation space to the Borough far more than it does getting \$50 more on the tax rolls. Ms. Kehoe stated that the appraisal is as a developable land, she is arguing the price because the Borough put a restriction on building. Mr. Cruciani stated that Ms. Dennison counter offered with the price

that she gave, less the restrictions. Ms. Kehoe stated that if the Borough advertises this, putting it back up for somebody to build. Ms. Kehoe stated that it is counter intuitive to advertise this if they want this as conservation land. Mr. Cruciani disagrees. They have to make a value judgement with a minimum threshold. Mr. Cruciani suggested to make this land conservation space but if they want to run the advertisement why sell it for less than the appraised value. Mayor Lawler stated the Borough has run out of space, we are looking to build up the tax base. Mr. Cruciani stated that we have so many houses on the market, how do we help anybody by putting another house on the market. Pat Williams suggested splitting the property and offering one half to the one neighbor and half to the other neighbor, at no charge, but they would not be able to build on it. Bob Bennett stated that we were not able to sell this land for \$40,000. The Borough would have to pay to split the land. Gerrie Carey stated that we have cut this price in half. Using this as green space would be most helpful for the MS4 Initiative. Vince Cruciani stated that Ms. Dennison wants to buy the land because she wants to put a gazebo there. Ms. Kehoe stated that the other reason she wants to buy it is so no one else will build on it. If the Borough issues a Conservation Easement on it, it eliminates all of the problems. Ms. Kehoe said the other problem is the Borough going to allow her to use the land. Mr. Cruciani said as long as there are no structures on it, what's the big deal. Ms. Kehoe suggested getting something in writing from her acknowledging this is the Borough property and we are just allowing her to use it. Might want a 5 minute executive session.

Vince Cruciani discussed what happened behind the Pocket Park, he is very unhappy about this. Mr. Cruciani stated that there are two areas where the ground flattens behind the Pocket Park on the South end. One is dirt one is grass. There are two slopes and on the one slope they probably effectively put junk concrete there for erosion control on the other one they dumped some junk concrete but it wasn't effective. What you should have is engineered rock at a slope or on a cliff but this is just garbage dumped. Ms. Kehoe stated this is the old concrete that they ripped up from the road and the sidewalks. Mr. Cruciani stated that there two issues, one was there an original erosion control plan, no, so they didn't even account for erosion control. Mr. Cruciani stated the he thinks the Borough should take the CDBG money and use it for erosion control, because we are going to have major issues with erosion control, and the railroad is not going to tolerate that. Herman Johnson stated that he is now very discouraged with the Depot Street project, and he thinks the CDBG people are discouraged with it too. Mr. Cruciani stated that there is a danger there. Mr. Johnson said someone should have been down there checking every day and this is where they the elected official let the people down because this is a disgrace. David Jenkins asked who told them they could dump there. They didn't ask, they just did it dumped there. Mr. Cruciani stated that even if they pull all of the junk material out, we still need an erosion control plan on the bank. Herman Johnson suggested getting a letter to Wayco from the Solicitor. David Jenkins stated that is their issue they should be made to come down and take it out. Vince Cruciani suggested asking Wayco to come to the Council Meeting Wednesday and also not release any funds. Ms. Kehoe stated that the County has not paid them anything yet. Mr. Johnson stated

that when you have a change order it should be done through the county because that is where you are getting your money from. Mr. Johnson stated that there are certain people that are upset. Ms. Kehoe stated that John Petrini was aware of all of the change orders as they came up. She knows that Brenda Sacco wasn't aware of them but that is a problem within her department because John Petrini was included on every discussion. Mr. Johnson stated that he would like to see the signature on that then. Ms. Kehoe stated that there is nothing in writing and that is the problem. This is an internal issue with the county. Mr. Johnson stated that this is an internal issue here too with Council. The Chair of that committee should be informed too. Mr. Johnson stated that he was not informed about any change orders, except for one. It should be like a chain of command, he is there to protect the citizens and if they do something wrong, and it is that much harder to get other grants through the county. Ms. Kehoe stated that Wayco pulled up sidewalk and apparently there was rebar that ran through the sidewalk, through the curb and into the road. As they pulled up sidewalk they pulled up curbing that was not supposed to come up because they had no idea that it was attached. That was one of the change orders. They called Bob Naegele and said they had a problem. Mr. Johnson stated that they poured the sidewalk, further down the road, they had a little extra concrete they poured their sidewalk all the way up to the building and they did it because it would be easier for them. But they did not do this to everybody's property. Ms. Kehoe stated that as far as she knew everybody was paying for it, she is not aware of them pouring the concrete for free for anybody. They will have to check on it. Mr. Johnson stated that we should have an inspector. Vince Cruciani stated that there should be something in Wayco's design for the Pocket Park that addresses the removal of waste and their responsibility there should be an item that we can point to.

Bob Bennett stated that this is the third meeting, 90 days that he has been asking about the Liquid Fuel and getting credit for the roads we don't have credit for. Solicitor Mulhern stated that he is still working on this. Solicitor Mulhern stated that you have to determine public use of the roads, have these right of ways been for public use. Bob Bennett stated that these are not all right of ways some of them are streets. Vince Cruciani suggested admitting some that we know for sure that are definitely no brainers. Ms. Kehoe stated that we cannot submit anything until we get proof of ownership and Solicitor Mulhern has people doing the search. They will move forward on the streets that they can use.

Council went into Executive Session

**3. REVIEW OF SEPTEMBER 7, 2016 AGENDA**

**4. ADJOURN:**

**President Carey**