

**BOROUGH COUNCIL SPECIAL MEETING
SEPTEMBER 27, 2016
7:00 PM**

The September 27, 2016 Borough Council Special Meeting was conducted on Tuesday, September 27, 2016 at 7:02 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 Mr. Bob Bennett, Mr. Herman Johnson, Mr. David Jenkins, Ms. Gerrie Carey, Mr. Patrick Williams, Mr. Dominic Scott, Mr. Vincent Cruciani, Borough Manager Virginia Kehoe, Mayor Lawler, and Solicitor Mulhern.

1. WORKSESSION: President Carey

Herman Johnson stated that a couple months ago Trevor came to Council asking if he can do something for Veteran's Park. Council agreed and tonight he would like to give a presentation to Council of what he is going to do at Veteran's Park. Trevor stated that in the park, around the newly built gazebo he would like to plant 7 azalea bushes. Volunteered to put mulch down around the trees and he is recruiting a couple more scouts and adult leaders to handle some tools. Trevor stated that he plans to work on the project October 22nd.

2. PUBLIC COMMENT President Carey

Mark Toth the owner of Summit Cigar spoke to Council. Asked Council when Frank Emmett brought the liquor license into Clarks Summit, there was speculation that was put on the liquor license stating that he would not sell liquor, just beer and six packs. He is requesting to take that speculation off of the liquor license so he can utilize the bar to its potential. The liquor control board also approved the expansion and the LCB wanted him to come to Council to see if there is any problem. Bob Bennett stated that Council had originally put a restriction on the liquor license and now he is there to get that restriction removed. David Jenkins stated that he would like to see this moved forward to put on the agenda for the Council Meeting. Virginia Kehoe stated that if this has to be advertised we won't have enough time to do this before next week's vote. Ms. Kehoe stated she was waiting for Solicitors call on the advertising, because this is on an existing license. Bob Bennett stated that Council could in theory pass another Resolution undoing the first Resolution. It is not an issue to have this done next week; their goal is to have this for the November 2016 meeting. Pat Williams asked about the second floor, outside serving area where would that be facing. You would be facing the side street. Pat Williams asked about the electronic signs with the lights, stating that we have struggled with him on that in the past, will he be using them. Mr. Toth stated that they will end up with a masonry sign, doesn't think there will be any electronic sign because it will take away from the look that they will be going for. Mr. Williams stated that doing all of the work at Veteran's Park there is a lot of litter and he stated that it is coming from Mr. Toth's place, and he doesn't want the big white eye sores, make the place look appropriate to fit into a residential area. Mr. Toth stated that they will have a garbage area and

recycling area, he will be talking to the customers also, and he has camera systems. He tries to sweep up and clean up because he doesn't like to see the litter also. Vince Cruciani thanked Mr. Toth for putting financial and personal investment into expanding his small business. Mayor Lawler stated that his staff is very nice staff. Mr. Williams stated that when he came on Council they were very reluctant to have alcohol, new licenses were not allowed but he can see now that there is going to be a lot of alcohol coming out of his building, and in it and as the Safety Chairman he is concerned about that. Mr. Toth stated that everything falls back on him because if they will card people and no one will leave his establishment that won't be able to drive or they can use Uber, there will be a sign there. This is his community also and he will be there watching. Herman Johnson stated that with the addition, it dresses up that quadrant of that town with Veteran's Park there also.

- **Junior council applicants:** Nacole Leonhart and Will Carey are both applicants. Next will Council will vote. They are both juniors at AHHS. This will be on the agenda next week.
- **OK Tire – stormwater in state roads:** Virginia Kehoe stated that there are three different samples of releases. The first is for Ed Mazaleski who owns the neighboring property that may or may not be affected by us putting this metal sheeting down. David Jenkins asked if they can come to the conclusion that this is on the Borough's dime. Ms. Kehoe said no, we are temporarily installing metal sheeting intended to reinforce the asphalt parking lot until a more permanent solution is agreed upon. Therefore no ownership is accepted here. Bill Tobin was given a copy, he runs OK Tire. A copy was also given to Mike Salak who is the owner of the property who is in the process of selling, but is the current owner of the property. Ed Mazaleski has signed and dropped off his copy. Lisa Tobin stated that one of their customers is a lawyer and he said that all of the responsibility is being dumped on them, and he would take a look at it. Ms. Kehoe stated that we do have the metal plates to put down once the releases are signed. Best to have both of them to sign it. If they don't then the Borough is out of this. David Jenkins suggested putting a time limit on this. Vince Cruciani suggested going on sight and see if a plate could be placed flush with Mazaleski's property line. Ms. Kehoe stated that Mr. Mazeleski doesn't feel that any of this is on his property, because we don't have a survey we are playing it safe. Bob Bennett stated that his concerned if one signs and the other doesn't, can we still put the plate there. As long as we have the owner, Mike Salak we are in good shape, all three would be better. Herman Johnson suggested when writing a letter like this we should put a suspense date. They have to respond by a certain date.
- **CDBG Project:** Virginia Kehoe stated that we received the responses from Wayco to the Borough's punch list. Herman Johnson stated that he looked at the punch list and if they go by this then we will be in pretty good shape. David Jenkins asked if we send copies to the county also, the answer was yes. Vince Cruciani stated that there is a discrepancy over the performance on the Depot Street project, the punch list is referring to the remaining items to do before the remaining funds can be released. Virginia Kehoe stated that the Borough stopped Wayco from working at this point until we have issues worked out to our satisfaction. Now we have an official written response back from Wayco concerning the punch list. Herman Johnson suggested putting on the agenda for the meeting is when we have contractors coming into our Borough and they are working for us, we hire an inspector. This is why we didn't

have the workmanship that was up to par on Depot Street. We didn't have people inspecting that daily. David Jenkins asked what kind of qualifications are we looking for and are we talking about having someone who is already under the employ of the Borough or a side contractor to hire. Herman Johnson stated that he would have a separate side contractor that has some experience in blacktopping and concrete work. Ms. Kehoe suggested the Personnel Committee prepare a job description and qualification list for the meeting next week and if everyone is on board we can advertise it. David Jenkins stated that he thinks that is a waste of taxpayers' dollars, for every hour that we have someone there to stand around and watch and make sure everything is correct that is going to bang up the budget quite a bit. Mr. Jenkins stated that is going to come out of our money that is not going to come out of CDBG funding. Mr. Jenkins stated that we could better use our money wisely in the Borough for the benefit of the community and the residents fixing the roads instead. Mr. Johnson stated that in a way he agrees with Mr. Jenkins but for example this project on Depot Street was around \$170,000, they are 30 days over the contract now. Say that they don't want to fix this, look at the money that you are going to be spending in legal fees. We had the same situation down by the Fire Company by Sprouls, the company put extra black topping in there and they weren't supposed to. It took the county 3 years to fight that lawsuit. If you want to spend money on legal fees he understands what Mr. Jenkins is saying, if you want to spend money not on an inspector, he can see why. Mr. Johnson said to look at all of the pave cuts through town, they are like a rollercoaster, and we are still arguing with these people to get them fixed. When we have a company in here doing substandard work then we have a problem. David Jenkins stated that this is filtering through the county not through the Borough. If we hire an inspector it is going to come through the Borough. They didn't meet their commitment contractually; let the county go after them. Vince Cruciani stated that he agrees with Mr. Jenkins, good inspectors are very expensive, but what we could do is create a list and qualifications and then we can decide if we want to hire an inspector for a project and then we will have a list available. Then Council can vote on it project by project. David Jenkins asked if Herman Johnson wanted to hire someone on a full time basis, Mr. Johnson said no he never said that. Mr. Johnson said that for our projects we should hire someone. Mr. Jenkins stated that he can see what Mr. Cruciani is talking about creating a list; he would be in agreement with something like that. Mr. Johnson stated that he would too. Mr. Johnson stated that they do not need an inspector all of the time, but it's nice to have someone that they can go to that knows what to do if something goes wrong. Bob Bennett asked what about our Borough Engineer, isn't he supposed to be on top of this as it is progressing, do we need an inspector if the Borough Engineer was doing his job. Mr. Johnson said that is a good question, maybe the Borough needs to go back and ask the Borough Engineer why he wasn't down there looking out for the Borough's interest. David Jenkins asked if he has someone in his office that can do this, that is qualified, on our behalf. Herman Johnson stated that there are a lot of questions that need to be answered, might need executive session especially with them dumping over the bank. Mr. Johnson stated that when they are pouring concrete they are supposed to put an expansion joint up against the next property. Mr. Johnson stated that the Engineer is supposed to design it, and look out for the Borough's interest. Bob Bennett asked what the Engineer's exposure is on this, if he drew up the diagrams and he is supposed to be down there seeing that it is properly being done.

Virginia Kehoe stated that he was there and the punch list is from the Borough Engineer. Mr. Bennett stated that they now have this punch list three months later, where has he been all along following up. Mr. Johnson said that the Borough Engineer stated at our meeting that he came down periodically and looked; he doesn't know how good he looked. We have a lot of substandard work there. Mayor Lawler asked about a timeline. We have this punch list and for them to complete. The Mayor asked if Bob Naegele be on the job daily, watching them carefully. Virginia Kehoe stated that Bob Naegele will do as much as Council authorizes him to do and are willing to pay him to do. Mr. Naegele did say that he was there every day to check in on the job. Mayor Lawler stated that the result of bad communication, the foreman told Patty that he was trying to get in touch with our Engineer. Many people told the Mayor that this was not a good job on the project and she would defend the Engineer. Ms. Kehoe stated that in this case the foreman heard what he wanted to hear as evidence of the blame that he was throwing. The foreman was saying that people said things that she knows for a fact were never said. Vince Cruciani stated that there should only be one single point of communication and all things must be communicated in writing. We pay the engineer good money, if he comes and sees something going wrong, he should stop the work. Vince Cruciani stated that they have to establish a process with a written daily report with documentation. Mr. Cruciani stated that whatever our response is it should say all contact regarding all activity should go through this person and the seeking of any approval for clarification needs to be sent in an email to the contact and no verbal statements will be considered approval. Gerrie Carey and Herman Johnson agreed. Mayor Lawler stated that she likes Bob Naegele and it was a difficult street to maneuver. They are told they forgot the expansion joint and the foreman said they forgot them, then it is inspected and they are told they love it way it looks. Mr. Cruciani stated that the step in between it is that you say that, take a picture, go back to the office, mark up the email and send it to the foreman on the project and say "As I referenced in our 2:00 meeting today...." The one that counts is the written one. Mayor Lawler said should the Engineer know that. This is spending extra money to do this, but the Engineer will work off of what Council says. Council has to be clear about their expectations. Bob Bennett stated that they want the work monitored.

- **Summit Ave property:** No update, Solicitor working on the deed.
- **Junction St paving:** David Jenkins stated that there is a lot of ambiguity there, suggesting to table this until we find out what is going on. Vince Cruciani suggested asking Mr. Senofone to pay for a survey of what he believes to be his property line. Then we can assess the situation. Ms. Kehoe stated that Mr. Senofonte said that the property was dedicated but he didn't have any paperwork. Ms. Kehoe stated that if he has any paperwork, we would happily accept it and move forward. David Jenkins stated that if there is nothing this is a moot point and it goes away. Herman Johnson stated that from what he understands they are taking that off the blacktop list. Council agreed. When are they going to start blacktopping, Monday they are going to do the sewer repair, then the paving will be done. David Jenkins asked why we waited until October when there could be snow. Mr. Johnson stated that we would have to go back to the Borough Engineer. We got away from blacktopping early in the summer. When we do it towards October and November, the blacktop doesn't adhere that well and as soon as the first snowfall comes, you can see the blacktop peeling. We do have a maintenance program, but we have to do this earlier in the

- year. Ms. Kehoe stated that she needs the list of roads from the Public Works Committee earlier. Mr. Johnson stated that some of the blacktopping that we see this year he guarantees that some of it will peel and that is a waste of our money.
- **2017 MMO:** Vince Cruciani stated that the MMO is a Municipal Obligation that the Borough has to pay towards an actuarial calculation towards a fund for the Police Pension. It is an unfunded mandate handed to municipalities by Act 600 by the state government. If you look at the 2011 police budget to the projected 2017. The projected 2017 numbers are as if we were keeping the current police contract, even small incremental increases in a police contract wouldn't have a material effect on this. From 2011 to 2017 projected, cost of living increase with the CPI has been about 15% over that period of time. Employee police wages are up 32%, it's not outrageous and it is negotiable with the police department. Benefits are up 29%, not outrageous and negotiable with the police department. Municipal contribution to the pension mandated by unfunded state mandates are up 575%. It has gone from 7.9% of our police budget to 27.6% of our police budget. Mr. Cruciani stated that he doesn't care how many paltry gifts the state wants to give us in the form of grants, when they put us in a compromised situation, we have a variable element in our budget climbing 575% and we cannot collectively bargain in it, the state is failing on their responsibility to fund what they are forcing municipalities to incur and they are basically imposing an absolutely unfair burden on the taxpayer. It went from \$35,302.00 to \$203,475.00. Mr. Cruciani stated that the police provide excellent service to the Borough, the Borough Council works to provide quality well priced services to the taxpayer. We negotiate with the police in good faith, we work with them, we do give they do give. They could give us 2 police cars that add up to be \$100,000-\$150,000 that we could pay in one year if we didn't have this unfunded mandate and he thinks the public needs to know what the state is doing to municipalities. Herman Johnson stated that Don Wilkinson has been preaching about this for the last couple of years and they have been going down to Harrisburg arguing this point and our legislators are not listening and that is the whole problem. Herman Johnson suggested going to the COG and have them write a letter to the legislators to help us out. Mr. Cruciani stated that it is not a steady increase, it has skyrocketed and this goes to further display of irresponsibility and unresponsiveness at the state level. You have small and rural municipalities that refuse police coverage, who rely on the state police; we pay for that and that is one thing. To go and impair our ability to collectively bargain with our police and impose this mandate on us, it's going to break the taxpayers. It went up about 18% last year but the year before it almost doubled. Mr. Cruciani stated that even if you look at the police's contribution, the ability to collectively bargain with the police is something where they would engage in good faith. But unfortunately even if the police contributed the maximum amount that they could, you still have an unfunded mandate that is multiples above what they can contribute. Pat Williams asked Vince Cruciani what he wants to do about it. Mr. Cruciani stated that he wants the public to be aware that the state is breaking the banks of municipalities, making people aware is very important. Gerrie Carey stated that she did speak with our state representative on this and he has a bill in Harrisburg just for the Fire Company not the police. Mr. Johnson stated the lobbyists are the problems. Mr. Cruciani stated that it is their responsibility as elected officials to make the public aware of certain things. They hope that the newspapers at this meeting will publish this information.

- **10-29 block party:** Virginia Kehoe stated that the ABPA is asking if we can close off the side of the building, Spring Street from 10am-5pm. Mr. Johnson and Mr. Jenkins both stated they would like this put on the agenda for the next meeting.
- **School Street Wall:** Ms. Kehoe stated that the engineer contacted her and he has the bid ready to go. Ms. Kehoe stated that the only way we are going to get this done is if we can award the bid in October. But there is no way to advertise it in time to have the documents for the meeting next week. He is asking if they can consider one of two things. The earliest deadline that we can have for them is October 13th, either Council can have a special meeting on or about October 13th or 14th where they would vote to accept the bid. Or it can be authorized for him that if the prices come in under budget and they meet the bid specs, allow him to authorize the work and we can ratify it in November. Herman Johnson asked what they have in the budget for this. Ms. Kehoe said \$60,000. Mr. Cruciani stated that they will go with the low bid with the Engineer's approval. If they meet the specs and he gives the approval and we need the authorization, we are going to lose 9 days. Herman Johnson stated that he would wait until next year, they are talking about a wall and a road, when the cold weather comes they are going to be stuck there. Vince Cruciani agreed with Mr. Johnson and asked if it can wait another year. Mr. Johnson stated that it has been like this for 50 years. He thinks they are better off waiting next year and let that be the first project of the year. Mr. Johnson stated that we need an action register, and he has been saying this for many years, because he remembers when we talked this a long time ago. The plants close the first week in November. He doesn't know why everyone is refusing to have an action register. They as elected officials are not on top of everything and he is sorry to say that. Mr. Johnson stated that he talked to the Borough Manager years ago about an action register. Ms. Kehoe stated that she would need a format of what he wants and she would be happy to work on that. Mr. Johnson suggested looking on Google and see what they have. Mr. Johnson stated that he talked to different Mayors about this also.

Mr. Cruciani explained what a mill/millage is. There are certain amount of mills assessed times the evaluation of the house. There is millage in the county, the school and the Borough at 29 ½ for the basic operations. What we are paying on the pensions because we basically generate \$30,000 a mill, is 6 ½ mill are going to pay the pension this year. That means it is almost 20% of the total revenue of what we charge in millage. Millage is how people are taxed on their property

- **Parking on Park – Ash to Walnut – one side:** Virginia Kehoe stated that there was a football game on Saturday, the parking on Linden is limited to one side. The problem is on Park Avenue we allow parking on both sides of the street. When the police went up there they found cars parked so poorly that there was no room to get between them, so they had to shut the road down. They ticketed the people that were parked the wrong direction and the ones who parked too far away from the curb. But parking is legal there. Vince Cruciani asked if one side of the road has a curb and the other side doesn't. Ms. Kehoe doesn't recall. Mr. Johnson stated that there is a curb on the far side. Mr. Johnson asked how many police officers were out there. Mr. Johnson said years ago they used to block off Linden and have an officer walk Linden and go down a block up and down from Park, so an ambulance can get through there if there was a problem. He thinks they should eliminate the parking on one side. Mr. Cruciani thinks they should allow the parking on the side with the curb because then

they are not parking on the side in people's lawns. Ms. Kehoe stated that what Chief Chris Yarns is asking is we amend the parking ordinance to limit parking to only one side of the street. They discussed putting up cones or horses to limit the parking on game days. Ms. Kehoe will talk to Chief Yarns about this. Mayor Lawler stated that the parking has become more complicated, more careless, it is getting worse. Mr. Jenkins stated that he would be for eliminating parking on both Linden and Park entirely. Mr. Williams thinks it should be more temporary where they put cones or horses up for the games and that is it. Ms. Kehoe stated they can try using the cones and see how that goes for this year. David Jenkins suggested having Chris Yarns call Chief Gerrity in South Abington and say we need to borrow cones, cone off the whole block including Park Avenue that would be a viable experiment. Suggested that maybe the Junior Councilperson, Will Carey talk to the Boy Scouts to let people know that if they park there, they will be ticketed or their car will be towed. Dominic Scott stated that when people come from out of town they have no idea where to park. Herman Johnson stated that teachers and coaches tell them there is limited parking. Behind the administration there is space. Once you let up on the enforcement they will park anywhere. Mr. Scott thought if the school could tell people where to park. That should be done through the Superintendent.

Virginia Kehoe stated that in addition to Mark Toth with the liquor license, Gerrity's is also applying for the transfer of a liquor license. There will be an official public hearing. Vince Cruciani asked who they are getting the license from. They bought the license from a business in Scranton. This would be legal if Council approves it. Millett owns the property at Gerrity's. David Jenkins suggested moving forward with this and put it on the agenda. First a public hearing has to be advertised, they can't vote on it in October.

Herman Johnson wanted to remind the public of the October 15th 9-12 Recycling Event, the football team will send football players to help.

Pat Williams wanted to give a shout out to the First Presbyterian Church cleaned up Hemlock Park. These people did a fantastic job, power washed the equipment etc. they pulled all the weeds. Melba Fialko was the driving force.

Bob Bennett stated that he is pleased that the Police Report was moved up on the agenda before all of the committee reports. Mr. Bennett asked where we stand with the arbitration, do we have a date set and is it possible to have our attorney give us a layout of his game plan. He doesn't want to go into it blind. Ms. Kehoe stated that a date has not yet been set for the arbitration. Herman Johnson agreed with Mr. Bennett. Ms. Kehoe suggested having Joe Obrien come in next Wednesday before the meeting at 6pm.

David Jenkins stated that it is his unfortunate duty to inform everybody that former Fire Chief in the Borough Larry Waters, Jr. passed away. Please keep the family in their thoughts and prayers, Herman Johnson suggested putting the bunting up in the front of the building.

Gerrie Carey received a letter from Patty Lawler stating that on October 6, 2016 she will take up residence in the Borough of Clarks Green. In doing so she must resign her position as Mayor. Her service will end October 5th at the close of the Council meeting. Council gave the Mayor a round of applause.

Herman Johnson stated that maybe they should call a special meeting and have Don Wilkinson there, because they have to make a move on this, get a hold of COG and get the word out to the public. They have to start a movement, bring this up with Lackawanna County Association of Boroughs. The police under Act 600 contribute anywhere from 0%-5% of their salary towards whatever the actuarial figure is. Ms. Kehoe stated that under Act 600 they contribute between 5%-8% of their salary. In 2002 an act was passed allowing municipalities to let them give less if they chose. They contributed 3% for many years now it is 4%. Mr. Cruciani stated that contribution is just a drop in the bucket towards what is mandated. That can be collectively bargained. Herman Johnson stated that this started in the late 70's and nobody did anything about it. Vince Cruciani stated that even if they gave 8% it is still a fraction. Out of the \$203,000 obligation even if the police contribute 5%, it is still \$13,000 out of \$203,000. Ms. Kehoe stated that the Municipal Obligation is \$217,000, the anticipated contribution; the \$203,000 is after the police contribution.

Bob Bennett asked Solicitor Mulhern if he has made any progress on the streets for Liquid Fuels, we need a surveyor and title search, his guy cannot do this it is too complicated. Some property owners may own some of the alleys. It is on hold at this point.

3. REVIEW OF OCTOBER 5, 2016 AGENDA

4. ADJOURN:

President Carey