

**BOROUGH COUNCIL SPECIAL MEETING  
NOVEMBER 29, 2016  
7:00 PM**

The November 29, 2016 Borough Council Special Meeting was conducted on Tuesday, November 29, 2016 at 7:02 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. David Jenkins, Mr. Frank Besten, Ms. Gerrie Carey, Mr. Patrick Williams, Mr. Dominic Scott, Mr. Vincent Cruciani, Borough Manager Virginia Kehoe, Mayor Johnson, Solicitor Rogan, and Jr. Councilmembers Mr. Carey and Ms. Leonhart.

**1. WORKSESSION: President Carey**

**2. PUBLIC COMMENT President Carey**

- **Thank you to Trevor Sablan:** Council presented a letter to Trevor thanking him for his hard work on Veteran's Park. He was working on his Eagle Scout project with Boy Scout Troop 160.
- **ARWA update:** Harry Jenkins and Paul Murphey were both present. Construction of the plant is complete. Small items to finish up. In the process of renewing their permit with the DEP expect to have that done by the 3<sup>rd</sup> quarter of next year. They are working on the odor that is coming from the plant. Vince Cruciani asked if they use internal labor or do they contract out in this case. Mr. Jenkins stated that they contracted out in this case. They found an overabundance of grease in the grid chamber. David Jenkins asked how much they removed. They removed 3,600 per truck load, 9 trucks. Ms. Kehoe stated that there is an ordinance does ban restaurants so they must recycle their grease. The three communities need to go out and start doing inspections and that might require an additional ordinance, giving Code Enforcement permission to do that. David Jenkins asked do we need direction on how and who should enforce this that way they can get something with the 3 municipalities. This is exploratory right now. Herman Johnson suggested a Health Inspector. This is just for commercial properties. David Jenkins stated that this is mostly commercial grease from fryers than oil changes. It was food processed. Their director will go out and see if other plants are having the same issue. David Jenkins asked if anything is in line to take care of their grease in the grid chamber. They are keeping an eye on it now. Pat Williams asked why this is happening with the new system. It went through the system and got filtered a little more than everything else, but it didn't get separated before, now it does, this is state of the art. The plant can take 18 million gallons and the most they have had was 4 million gallons. There has been no bypass in 13 months. Paul Murphy gave an update on the finances. The budget was reduced by ARWA to the three municipalities by 4.2%, about \$140,000. They saved over \$700,000 on the financing and all three municipalities were excellent. This plant when it came in for bid was a couple million dollars less than what the Engineer had expected. They were able to take 2 million dollars and not

finance it over 20 years. The Borough has a 5.2% reduction in our amount because South Abington had more EDU's. He doesn't anticipate a raise for next year either. David Jenkins stated that we have sewer bills that go out where we put information on them so if they need to get the word out let us know. The EDU count is very important. Council thanked them for a job well done.

- **TAN bid opening Ordinance 2016-06:** Virginia Kehoe read off 8 bids for the Tan. Need to review the bids to compare them apples to apples. If all things are equal it looks like First Keystone Bank has the lowest bid. They have been supplying our Tan for the last several years. Vince Cruciani asked how they came up with needing \$300,000 for the tan, is it arbitrary? Ms. Kehoe stated that is a good question but it is the number they have always asked for. Mr. Cruciani stated that they are paying at best \$3,000 for this so are we using it, do we need all of it. Herman Johnson stated that this question came up last year also. Ms. Kehoe stated that she would talk to the borough treasurer about this. Mr. Cruciani asked if we could loan money out of our Capital Reserves to the General Fund. Ms. Kehoe stated that would be a question for Solicitor Rogan but she would think absolutely not. Mr. Cruciani said why pay interest to someone else if you can pay it to yourself. Frank Beston asked what the money is used for. Ms. Kehoe stated that a tax anticipation note is needed because from January to April the Borough has very little cash influx. The Real Estate Taxes are the primary income for the Borough and we don't begin to see that money until the end of March/beginning of April. Bob Bennett asked about changing the due date of the taxes to January. Ms. Kehoe stated that she doesn't think it is physically possible, she doesn't know, it is coordinated through the county. Mr. Cruciani stated that even if they moved the date up they will still have a gap at some point. Ms. Kehoe will see what our options are. Ms. Carey asked what the balance is in the Capital Reserve Fund; Ms. Kehoe said it is in excess of \$175,000.
- **Ordinances 2016-07-2016-10 Review of budgets:** Ms. Kehoe stated that these are the ordinances allowing the borough to collect the money needed for the budgets. Council has a copy of all of the budgets. The ordinance indicates that we are at 27 mills for the General Fund, 2 ½ mills for Fire, 4 mills for Debt Service, and \$52 a month for sewer. David Jenkins moved that this be put on the agenda for the next meeting. Vince Cruciani stated that he thinks increasing Debt Service to 5 mill this year and increasing the Debt Service to 5 mill next year eliminates any need for the Debt Service the year after where we are only anticipating to pay it off in April or May. Thus us just something to consider otherwise we are going to have to levy another year's worth of Debt Service. Or next year, raising it by two for the final year and having it be over. He thinks they should make sure that it is not on the 2019 tax bill. David Jenkins stated that he would be in favor of that. Mr. Cruciani stated that we can leave it alone this year but consider it for next year.
- **Ordinance 2016-05 zoning amendment:** Vince Cruciani stated that elected people changed the ordinance and unelected people want to change it back which he has a problem with. Mr. Cruciani stated that at the very least they all sat in Council Chambers and said that R-1 should be 15,000 square feet. The whole idea was that if you had an acre you could subdivide it into two lots, not four. The elected people in the room decided they wanted conservation land in the borough and an unelected people decided they want development in the borough and his suggestion for them is to run for Borough Council. With the remaining big lots, they didn't want quarter acre lots. They took everything they passed and they said no, they want development.

Some of the other stuff they did with a fine tooth comb he thought was reasonable. Their discussion about what was permeable and some of the procedural things he thought was a little bit different but he didn't see a major problem with it. Mr. Cruciani stated that you can tell a lot of this came from their consultant. Mr. Cruciani asked if they wanted to see the other big lots in the borough chopped up into anything less than ½ acres. David Jenkins agreed and said that was their discussion a long time ago. Herman Johnson stated that the people that brought this to Council are only a recommending body. Mr. Johnson stated that as elected officials why don't they just put it back to 15,000 square feet and leave the rest alone. Virginia Kehoe stated that they are suggesting that Council amends it again. Mr. Cruciani stated that out of respect for them, some of their definitions on what is permeable and what is not he thinks item #1 merits some consideration. He thinks item #2 does merit some consideration. Mr. Cruciani stated that they don't need to decide this today; he suggested tabling this and let them look at this more in depth. David Jenkins moved to table this for further consideration. Vince is correct we did discuss this a long time ago and he thinks they are only recommendation to begin with. Add this to the January work session.

- **Weinberger donation:** Vince Cruciani stated that Weinberger doesn't want the land and it is going to go to Sheriff Sale, the land is going to come back to us anyways. Ms. Kehoe stated that it will go to the county conservation. Mr. Cruciani asked do we want to aggravate Andrew Weinberger over what is essentially what is going to cost a railing. David Jenkins said no. Mr. Cruciani asked if we want to alienate somebody that we have a necessary business relationship with considering the access behind Pizza Hut. His thought is take the gift, if you want to deed it to the guy that owns Formosa for a dollar. Ms. Kehoe stated that Formosa doesn't own the property. It is currently owned by Sam Lomeo but it is for sale. Mr. Cruciani stated that he doesn't think they are not wise if they alienate one of their biggest entrepreneur land owner's business partners. David Jenkins stated that he would like to put this on the agenda for next week and thank Mr. Weinberger and wish him a Happy Hanukah. Maybe the borough could put up a rail there. Vince Cruciani asked about the property on Marion Street that the borough was offered. We don't want that to slip away, we want to add this to our banking of undisturbed land. David Jenkins asked if we can forgoe the taxes for this year. Ms. Kehoe stated that we could only do that for property taxes. But they may have paid it already. Bob Bennett asked about liquid fuels. We are talking close to 7/10 of a mile equals \$3,500 dollars that we should be getting. Solicitor Rogan stated that they are making progress. We are late for getting money for 2017, make sure we get the money for 2018.
- **Work Session December 2016:** Ms. Kehoe asked if we should we post that there will not be a worksession in December in the spirit of the holidays. David Jenkins stated he would like to move ahead with this. Vince Cruciani stated that as long as if Council doesn't pass budgets for some unforeseen reason, Gerry Carey would have to call an emergency meeting.
- **Work Session 2017 – last Tuesday or 4<sup>th</sup> Tuesday or last Wednesday:** Virginia Kehoe will talk to the Shade Tree Commission as they meet the last Wednesday of the month as of right now. Council does want to change it to the last Wednesday.
- **Mayor Request for new officers:** Mayor Herman Johnson stated that he is requesting a full time and a part time officer because Ed Orzalek is out on disability right now and his opinion is that he doesn't know if Officer Orzalek is coming back,

Mr. Johnson is just not sure. If he goes out on Heart and Lung the insurance is going to pay his salary but this is leaving a big hole in the scheduling. By the time they fill these slots we will be in a financial burden with open shifts. Asking to put it on the agenda for a vote. If it is approved make it for late December or early January to hire someone. Mr. Johnson stated that Don Williamson was here and he makes a good point on the MMO that we need younger officers paying into that. David Jenkins stated that he feels that with Officer Orzalek being out brings a few questions into play. Officer Orzalek will not be on the street and will not be inspecting the commercial vehicles which we need to consider. He suggested over a year and a half ago that they train someone else on the commercial vehicle inspection and Mr. Jenkins was told that Officer Orzalek was the man and they didn't need to train anyone else. Every day and night they come through with violations, need to have someone else trained in commercial vehicles. David Jenkins stated that when it comes to hiring a full time officer he thinks they are going to put the cart before the horse he doesn't think they need to do that. Wait until they get into a situation where Ed Orzalek submits his retirement/disability, for police they could hire part timers. The part timer is a lot cheaper than a full timer. Mr. Jenkins stated that Pat Gibbons is next on the list for a full timer; he has no problem with Pat. He thinks when the time comes he thinks Pat Gibbons will be the next in line, he has faith and confidence in him, but at the moment he thinks to ask for a full timer for this reason is a little beyond the scope of what they are ready to do and he doesn't think we are financially set to hire a full timer. Vince Cruciani stated that he and the Police Chief were talking today and the Civil Service has extended it out one more year so we don't have as much of a rush, but we still have the issue at hand. Whatever happens in Clarks Green is going to weigh very heavily on his opinion. Mr. Cruciani suggested that before they all get into it they should wait to see what happens in Clarks Green and then they can have a real serious conversation. Herman Johnson agreed with that but he wanted to answer to Councilman Jenkins first question, they might be on the verge of losing the commercial vehicle inspection certification because they have to have a certain quota every month and Mr. Johnson doesn't know if he met that quota for this month but that is the first question that he wanted to answer. Mr. Johnson stated that with the second issue, the problem is the Chief has part timers and other municipalities are giving them a lot more work, that is why we don't have an active part time schedule for these people. Hiring many part timers doesn't pay out in the end and it doesn't help with the pension. Mr. Johnson stated that for the past year and a half they have been doing great with their overtime, years ago it was up much higher. Vince Cruciani stated that the MMO's reduction is going to hit the budget of 2019 and there should be a sever decrease as it is but if they hire Pat Gibbons there should be an even more severe decrease. Mr. Cruciani stated that without raising taxes they have been able to through cuts bear a \$150,000 MMO increase plus basically \$100,000 salary and wage increase and they are still going to have to contend with COLA increases. Can they bear the \$70,000 cost to hire Officer Gibbons full time. They agreed to see first what happens in Clarks Green and they don't need to decide next week or next month, but in January 2017 if Ed Orzalek is not back yet they really have to look at the numbers because it could mean Bob, Ed and Eric getting overtime shifts not a part timer. David Jenkins stated that if the Finance Committee comes back and says that the borough can do this without raising taxes then he is ok with this and he doesn't have an issue with it. Mr. Cruciani stated

that the other evaluation is as they stand, the open shift by Ed Orzalek vacating it, currently can be paid out if they so elect to do so in overtime to Kevin, the Chief, Bob and Eric, so not necessarily a part timer. Herman Johnson stated that the full timers have first choice because of the contract in place. Herman Johnson stated that he would appreciate it if they would hire a part timer next week, after next week he would like to see the Finance Committee and the Personnel Committee review what he is asking and go over the numbers and then Council votes. Mr. Cruciani stated that he will not vote for anybody but Pat Gibbons because he is the most qualified dedicated person on the force. Mr. Cruciani asked if there is somebody that the Chief and the Mayor is ready to recommend for the part time position. Mr. Johnson stated that yes there is someone in the wings. David Jenkins stated that he would move forward to hire no more than 2 part timers at the Mayor's request. Mayor Johnson stated that he would ask that they just consider one part timer right now and down the road consider a full timer. Dominic Scott stated that they don't want to hire a full timer if Officer Orzalek is coming back. Bob Bennett stated that they will get an answer about the Clarks Green situation tomorrow night, the second thing is they don't know when Officer Orzalek will come back and the third issue is that he is not personally interested in hiring a full timer because they have a temporary situation where Officer Orzalek as of right now may be coming back in two months. Mr. Bennett needs Officer Orzalek's status confirmed one way or the other. Mr. Cruciani stated that theoretically a less expensive full timer is always less expensive under the current contract. Mr. Cruciani stated that it is better to have two names given as possible part timers. Mayor Johnson stated that everyone that left on heart and lung in the police department never came back. Ed is in bad shape right now. When they go off the list to hire someone else full time, there is a 60 day ride along before he is fully left on his own. You have all the full timers that can take the over-time and that is where you end up spending a lot of money. They are looking into any and every way to keep the costs down. Mr. Cruciani asked to have the resume's emailed to them by Tuesday or Wednesday.

- **Frontier franchise agreement:** Virginia Kehoe stated that we got a request from Frontier. Vince Cruciani asked if Comcast was exclusive. Ms. Kehoe didn't know. Comcast should have either an exclusive or non-exclusive clause. Solicitor Rogan stated that Comcast is non-exclusive but there are restrictions. Herman Johnson stated that he thought last year they went to ACOG and they had all the municipalities in the Abington area sign a contract with Comcast, for 5 years. Mr. Cruciani suggested that if they do have exclusivity they would have to get a letter of no objection. Mr. Cruciani stated that there is nothing to lose as long as they are not exclusive. The same revenue comes in to the borough either way. David Jenkins stated that if Frontier comes in he would like them do the borough building including downstairs as well as the garage, because if they have a TV down there they can see what the weather forecast is, also the Fire Department and possibly the Library. Mr. Cruciani stated that he wouldn't have Frontier come in and upset what we already have with Comcast if we are not already paying for it, he would suggest that Frontier come in an outfit the buildings that Comcast hasn't. Mr. Jenkins agreed. Mr. Cruciani suggested an added stipulation page. Frank Besten stated that this gives the residents more options.
- **Borough Manager contract:** Gerrie Carey stated that Virginia Kehoe has expressed that she would like to take over the responsibilities of our DPW Foreman at the rate

of \$5,000 a year. Virginia Kehoe explained that she is willing to try this out. This would be a 6 month trial period. Vince Cruciani suggested wording in the contract to be changed from “will” to “may decide to continue.” Ms. Kehoe stated that the contract at this point is a draft, subject to change. Ms. Kehoe stated that she has not received a specific offer from Council, just some ideas. Ms. Kehoe stated that Council can tune the contract, make her an offer and then she can respond. Frank Bested stated that this kind of job it would be very difficult to write down into exactly what she is supposed to do, that job changes by day, by season. Mr. Besten stated that as far as a job description, we are going into winter, how do you regulate that. In the spring everything changes. Ms. Kehoe supplied Council of a list of duties that she is expecting. Vince Cruciani stated that the bottom line is in terms of supervising the DPW the buck stops with Neil. The documentation of that data is something that he does want to be specific. This way it will be Council’s discretion to appropriate value to her reactions to the data. David Jenkins stated that the initial job description, Ms. Kehoe stated that she would be there at 6:45am and at 3:15 pm, Mr. Jenkins stated that he doesn’t think that is necessary because we do have an assistant foreman. Mr. Jenkins stated that this should be delegated, because he is doing whatever we tell him to do. Ms. Kehoe is the overseer, he reports to her, calls her in the morning at 7am, with information. Ms. Kehoe stated that if she is responsible for the productivity of the crew she thinks she has to be a little bit more conscious. Our assistant foreman is part of the union. Mr. Cruciani stated that it’s not that she can’t be down there at those times it is that she doesn’t have to be down there at those times. Mr. Cruciani stated that the job description should include tracking in and out times of the assistant foreman and personnel and variables in personnel. They need a weekly activity spread sheet, and macro finance report on a monthly basis. Frank Besten stated that he has heard of such things as the workers being at a doctor’s office and that they don’t really work that hard, but these are only rumors. If you have an issue with someone coming in late, someone has to be there to say, you are late. They punch time clocks. Ms. Kehoe stated that arrival and departure is not in question, it is effective use of time. Ms. Kehoe stated that if someone calls and states that they saw 5 DPW workers standing around, she is going to want to know why. Mr. Cruciani stated that in that situation the spread sheet should show how this kind of situation is addressed. Ms. Kehoe needs to be able to document and show all of this. Herman Johnson stated that Council needs to come up with a contract for Virginia with a job description. Also they may need to change the assistant foreman’s job description because he needs to play a part in this too. The assistant foreman is Ms. Kehoe’s eyes. Not having a good job description is going to get them in trouble down the road. Vince Cruciani stated that it will be helpful after 6 months to review and make changes if necessary. Herman Johnson stated that you need a job description and an evaluation for Virginia Kehoe. Solicitor Rogan asked if the start and stop times are the same at the DPW as they are at the Borough office. Ms. Kehoe said no, the borough closes at 3pm and the DPW closes at 3:30pm. They both start at 7am, office hours are 9am-3pm. They need to make sure they are in line with the DPW contract if more/different responsibilities are added to the assistant foreman position. Council needs to talk to Jay Miller about the impending changes, Gerrie Carey and David Jenkins should talk to Jay. Mr. Cruciani stated that Jay Miller and David Thorne should both be included in the meeting. Vince Cruciani stated that it might be important to make it clear to the union that the borough doesn’t really care which one

of them is the assistant foreman, but one of them will be. Whoever the union chooses to put forth into that position according to their rules as long as they give us a letter stating who they choose that is fine with Council.

Ms. Kehoe asked if she can advertise for the permanent part time position with the DPW. They must have a CDL. Council agreed to a 25 hour work week.

- **Agility program:** Pat Williams stated that he and the Mayor did speak to Penndot pertaining to the Agility program. It is just an exchange of services. Mr. Williams asked them to email the borough the applications. Mr. Williams feel that the borough should be involved with this; it is a win win for us because if we do something for them then they do something for us especially pending some of the storm water issues. You can drop out at any time, just sign up for what we want to do and he thinks this is something to look a little bit more in depth. Herman Johnson stated that he thinks the agility program will work well for Clarks Summit. They will pay you for snow plowing, it would be a win-win situation. There are a lot of storm drains that fill up with leaves and Penndot has the equipment to clean them out for us. That might ever prevent more flooding in certain areas. Mr. Johnson stated that it would be Council's decision to review the program to make sure we are making the right decision. Frank Besten asked if we picked up this extra area, is that going to impede the streets in Clarks Summit. Mr. Johnson stated that they would only assign us to an area in Clarks Summit like Route 6. Virginia Kehoe stated that the state is responsible for West Grove Street, our section of East Grove State Street, the Morgan Highway and Winola Road. We would pick up some of that plowing in exchange for services for the state. David Jenkins stated that he thinks the Solicitor should look over this and come back with a recommendation. Vince Cruciani asked Pat Rogan to check into the liabilities with accepting this, what those risks would be. Bob Bennett stated that he would like to know if this is an all or nothing package. Pat Williams stated that you can pick and choose. David Jenkins stated that he was curious if something like the OK Tire situation, if we were to get involved in the agility program, would that either help or hurt us. Vince Cruciani stated that it is pick and choose on how the borough acts but does the state also pick and choose how they will help the borough. Herman Johnson stated that once you sign on with the program you both discuss this situation. Newton has opted for the agility program and it has worked for them. Ms. Kehoe stated that if we want to participate in the program a Resolution would have to be passed. They asked for an answer from Solicitor Pat Rogan by next month. David Jenkins stated that he doesn't want to get connected to OK Tire and get burned. Solicitor Pat Rogan stated that he met with Attorney Pat Lavelle and Lavelle believes the OK Tire situation is Penndot property and responsibility and he would send Penndot a letter accordingly. David Jenkins stated that he is thrilled to hear that. Ms. Kehoe stated that the problem is the state says that cover curb to curb and all of the underground storm water is the borough's responsibility. So even though it is their storm water system and they installed it, they say that by state law the borough has to maintain it.

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

**4. ADJOURN:**

**President Carey**