

**CLARKS GREEN BOROUGH
COUNCIL MINUTES
JANUARY 15, 2014**

CALL TO ORDER: President Rinaldi called the meeting of the Clarks Green Council to order at 7:00 p.m. with the Pledge of Allegiance.

ROLL CALL: Secretary/Treasurer Brown conducted roll call. The following were present: Mr. Barrasse, via conference call, Mrs. Earley, Mr. Hughes, Mr. Phillips, Mr. Rinaldi, Mr. Williams, Mayor Thorburn and Solicitor Weinschenk. Ms. Palmer arrived at 7:09 p.m.

APPROVAL OF MINUTES: Mr. Hughes motioned, seconded by Mrs. Earley to approve the minutes of the December 18, 2013 Council meeting. All in attendance voted in favor. In addition, Mr. Barrasse motioned, seconded by Mr. Phillips to approve the minutes of the January 6, 2014 Clarks Green Borough Reorganization Meeting. All in attendance voted in favor.

MAYOR'S REPORT: Officer Scott Siegler, South Abington Police Department reported there was one weather related citation, a family domestic call, and a suspicious person investigation during the month. Mayor Thorburn reported he spoke with Gail Rees regarding the centennial clock. She mentioned there was an empty plaque at the base of the clock. Mayor Thorburn asked if members of Council could be noted on that plaque. She said they could be. The cost would be approximately \$625 which would come to \$82.00 for each council member and the Mayor. He also reported that 25 pavers have sold so far. A flyer will be included with the sewer bills in an effort to increase paver sales. The cost to include the flyer would be approximately \$250.00 which will be paid from the Centennial funds. The Mayor then discussed the upcoming Ice Festival and mentioned perhaps the Borough would like to purchase an ice sculpture. The price is approximately \$300 for the small sculpture and could be paid for from the Centennial funds. Dignitaries from surrounding communities will be invited to the Centennial and Clock dedication. The Mayor reported a \$500 donation has been promised from a Clarks Summit business owner. In addition, he has contacted the great grand-daughter of William Clark who will provide additional family names to invite to the Centennial celebration. Mr. Hughes thanked Mayor Thorburn and his committee for their work on the Centennial. The Mayor then publicly thanked his committee for all their involvement and hard work.

PUBLIC COMMENT: Attorney Pat Lavelle addressed Council on behalf of Courthouse Square Ventures which is the entity that owns the property at 319 N. Abington Road. They are seeking Conditional Use Approval of the rectification of the conditions that exist at the property, namely the demolition of the two (2) existing structures and the construction of a new structure with the same footprint. Members of Council have received copies of revised drawings which show differences in coloration of the building. These drawings had also been submitted to Council at their December 6, 2013 Work Session. He reminded Council that on September 11, 2013, the Planning Commission recommended approval of the Conditional Use Application and on October 16, 2013 the public Hearing was held. Following the Hearing, discussion ensued regarding abandonment. No proof to establish abandonment was presented at the Hearing or thereafter. In addition, he discussed letters of support which had been sent to Council.

Mary Hvezda, 316 N. Abington Road, addressed Council to discuss her editorial in the paper, as well as issues about neighbors who have not been notified of the construction. In addition, she discussed letters which were received by the Borough in favor of the construction and of her disapproval of the construction. Eric Hvezda, 316 N. Abington Road, spoke about the use of the building and the safety of children. In addition, he spoke about the letters of support which the Borough has received, the residents who have asked for support of the renovation, the timing at Council meetings to discuss this renovation matter, the abandonment issue, parking, lighting and compatibility of the surrounding neighborhood. John Arcangelo, 719 Highland Avenue asked Council to consider the possibility of reinstating a 3 minute public input session at the end of the meeting which had been a practice in past Council meetings. This would allow visitors to discuss items which come up during the meetings. Atty. Donna Davis, representing the Hvezda's, reported she filed a lawsuit the prior evening in the Middle District of Pennsylvania against Clarks Green Borough and former Zoning Officer Willard Ziesemer. She discussed paperwork in connection with the filing of the lawsuit. In addition she discussed her request to re-open the Hearing and items, including Right-To-Know requests, regarding the Courthouse Square Renovation project. President Rinaldi asked Atty. Davis for a copy of the receipt of the filing of the lawsuit. She allowed Attorney Weinschenk to look at her copy. Stephanie Dinger, 206 Green Street asked Council if she could use the Council room as a meeting space. Her request will be discussed under Building & Grounds later in the meeting.

LACKAWANNA COUNTY COMMUNITY RELATIONS: Gerard Hetman discussed the "Code Blue" countywide program, in conjunction with Emergency Management and the National Weather Service, which provides awareness of the extreme cold when wind chill temperatures are predicted to drop below 20 degrees F. Alerts will be posted on the County's website and social media outlets which will provide safety advice and wellness tips. In addition, Mr. Hetman distributed handouts pertaining to upcoming community events. Mrs. Earley asked when the grant applications would be available for the Centennial Celebration. Mr. Hetman responded it should be a couple of weeks and he will contact our office when they are available. Mr. Phillips asked about the availability of funds for the Lackawanna County Reinvestment Grant which he is working on for handicapped accessibility for the Borough Building. Mr. Hetman replied the funding rolls over to 2014.

SOLICITOR'S REPORT: Solicitor Weinschenk discussed Resolution 1-2014 regarding the adoption of Standard Construction and Material Specifications for Sanitary Sewer Extensions. Ms. Palmer motioned, seconded by Mrs. Earley to adopt Resolution 1-2014. Mr. Barrasse, Ms. Palmer, Mrs. Earley, Mr. Hughes, Mr. Williams, Mr. Rinaldi, and Mr. Phillips voted in favor.

CLARKS GREEN BOROUGH
LACKAWANNA COUNTY, PENNSYLVANIA
RESOLUTION NO. 1 of 2014

**A RESOLUTION OF THE BOROUGH OF CLARKS GREEN,
LACKAWANNA COUNTY, PENNSYLVANIA, ADOPTING STANDARD
CONSTRUCTION AND MATERIAL SPECIFICATIONS FOR SANITARY
SEWER EXTENSIONS.**

WHEREAS, pursuant to the Borough Code, the Clarks Green Borough Council hereby adopts for the public good and welfare standard construction and material specifications for sanitary sewer extensions; and

WHEREAS, the member municipalities of the Abington Regional Wastewater Authority (the "Authority") are adopting the same uniform standards for the protection of collector sewer lines, the sewer systems and the sewer treatment plant owned by the Authority.

NOW, THEREFORE, BE IT RESOLVED by the Clarks Green Borough Council as follows:

1. **Adoption.** The Standard Construction and Material Specifications for Sanitary Sewer Extensions which have been presented to the Clarks Green Borough Council with this Resolution and incorporated herein by reference are hereby adopted for the Borough of Clarks Green.
2. **Effective Date.** This Resolution shall be effective upon adoption by the Clarks Green Borough Council.
3. **Severability.** The provisions of this Resolution are severable. If any section, subsection, or clause of this Resolution is held, for any reason, to be invalid, such decision shall not affect the validity of the remaining provisions of this Resolution.

DULY ADOPTED the 15th day of January, 2014 by the Clarks Green Borough Council.

ATTEST:
/s/ Janice F. Brown
Secretary

BOROUGH OF CLARKS GREEN
BY: /s/ David J. Rinaldi
President, Borough Council

(Corporate Seal)

Solicitor Weinschenk reported he just received the revised Stormwater Ordinances from Borough Engineer Jack Scheuer. Solicitor Weinschenk anticipates the adoption of these Ordinances in March or April.

TREASURER'S REPORT AND BILL APPROVAL: The Treasurer's report was presented by Mr. Hughes and was filed for audit. Current fund balances are as follows:

Capital Fund Money Market	\$	23,514.57
Centennial Checking		1,687.79
General Fund Checking		184,441.50
General Fund Money Market		35,240.48
Sewer Fund Checking		218,967.12
Sewer Fund Money Market		84,916.23
State Funds Checking		<u>3,052.51</u>
Total Checking/Savings	\$	551,820.20

Checking account balances were reviewed by Mr. Hughes with figures compared to last year's and last month's amounts. With no questions from Council, Mr. Hughes motioned, seconded by Ms. Palmer to accept the Treasurer's Report and ratify the payment of the bills for December. Ms. Palmer, Mrs. Earley, Mr. Hughes, Mr. Barrasse, Mr. Rinaldi, Mr. Phillips, and Mr. Williams voted in favor. Additionally, he reviewed comparison amounts on the Budget vs. Actual report. He discussed year ending balances which indicated the Borough had a favorable variance. In addition, he added the year-end figures in the various account balances indicated nothing of any consequence in variance from the projected figures which were adopted in the 2014 Budget. Mr. Hughes motioned, seconded by Mr. Phillips to approve Ms. Palmer's attendance at the Lackawanna County Association of Borough's meeting which will be held tomorrow night at a cost of \$15.00. Ms. Palmer, Mrs. Earley, Mr. Phillips, Mr. Williams, Mr. Rinaldi, Mr. Hughes, and Mr. Barrasse voted in favor. Mr. Hughes then discussed Ordinance 1-2014 establishing the Real Estate Tax millage at fifteen (15) mills for the year 2014 and re-enacting the Wage, Local Services and Real Estate Transfer Tax Ordinances. Mr. Hughes motioned, seconded by Ms. Palmer to adopt Ordinance 1-2014. Mrs. Earley, Mr. Phillips, Mr. Rinaldi, Mr. Hughes, Mr. Williams, Mr. Barrasse and Ms. Palmer voted in favor.

ORDINANCE 1-2014

AN ORDINANCE OF THE BOROUGH OF CLARKS GREEN ESTABLISHING THE REAL ESTATE TAX MILLAGE AT FIFTEEN (15) MILLS FOR THE YEAR 2014 AND RE-ENACTING THE WAGE, LOCAL SERVICES, AND REAL ESTATE TRANSFER TAX ORDINANCES.

BE IT ORDAINED by the Borough Council of the Borough of Clarks Green that the Real Estate Tax millage for the calendar year 2014 be established at fifteen (15) mills, and that the Ordinances levying a Wage Tax at one-half (.5%), a Local Services Tax at fifty-two dollars (\$52.00), and a Real Estate Transfer Tax at one percent (1%) be re-enacted for the year 2014.

ENACTED this 15th day of January, 2014.

ATTEST:

/s/ Janice F. Brown
Secretary

BOROUGH OF CLARKS GREEN

BY: /s/ David J. Rinaldi
President, Borough Council

APPROVED BY:

/s/ William Thorburn
Mayor, Clarks Green Borough

Mr. Hughes then reported on numerous sewer account balances. Twenty-nine (29) additional properties exist which are six months or more delinquent. He is asking that a letter be sent Certified mail to these property owners notifying them that a lien will be filed against their property unless they bring their balance current or enter into a payment plan. Mr. Hughes reported on requests received from the Clarks Summit Fire Department as well as the Abington Little League. The Finance Committee is not prepared to recommend any action on the two non budgeted requests. Mr. Hughes then discussed the six (6) month contract with Next Era Energy which expires at the end of January. Denny McGraw who spoke to Council six (6) months ago will address Council this evening. Mr. McGraw discussed the street lighting contract which saved the Borough \$553.00 over the past six (6) months. He has found Direct Energy who offers the best opportunity to save at this point. Direct Energy would offer an eleven (11) month contract effective February through December 31, 2014. He reported that South Abington Township has also entered into a contract and discussed more municipalities participating in December which would result in even more opportunity to save. Mr. Phillips asked if these commercial rates could be leveraged for residential use. Mr. McGraw reported that at this point it is not available. Regarding the Abington Council of Governments, Mr. McGraw stated that everyone would have a separate contract for the same price offer. Ms. Palmer asked Mr. McGraw to speak to ACOG in the future. Mr. Rinaldi asked if individual residents would have to agree. Mr. McGraw replied the residents would have to have their own individual contracts. Mayor Thorburn reported that PP&L currently maintained the street lights and asked if, under the contract, this would continue. Mr. McGraw replied that it would continue. Mr. Hughes motioned, seconded by Mr. Williams to enter into an eleven (11) month contract with Direct Energy ending December 31, 2014. Ms. Palmer, Mr. Barrasse, Mr. Williams, Mr. Hughes, Mr. Rinaldi, Mr. Phillips and Mrs. Earley voted in favor.

BUILDING & GROUNDS: Mr. Phillips reported he is finalizing the grant application for handicapped accessibility for the Borough building. He is working on the grant with Mr. George Kelly. He then discussed the request from Stephanie Dinger to use the Council chambers for a meeting. Ms. Palmer replied she is opposed to granting the request as there are venues other than government buildings. She suggested churches, schools, and the library which could be used. She doesn't think it would be a good precedent to set. Mayor Thorburn suggested Ms. Dinger contact Charles Wirth regarding the use of the Masonic Hall. Mr. Hughes suggested the room at the library which is available for meeting use.

HEALTH & SAFETY: Mr. Barrasse reported the Fire and Ambulance Contract was signed and delivered to the Borough on January 7, 2014. He reported the fire chief from Chinchilla will attend the Work Session in February to show his appreciation, to accept a donation and to have a photo taken. Mr. Barrasse reported on January 3, DPW worker Mike Pehonich was able to be on the scene of a call to Fairview Road where an individual suddenly fell, hit his head and was lying in the snow. Mr. Barrasse reported that Mike, in his DPW truck was only seconds away and was on the scene in less than forty (40) seconds. Mr. Barrasse wanted to know if Council is aware that he is stopping to assist a call and furthermore, it would be an advantage if he had a trauma kit with him in the DPW truck. The price of a kit would be less than \$430. He is working on getting donations. Mike was able to assist the individual until the Clarks Summit Ambulance arrived approximately three (3) minutes after he was already there. This individual was laying in the snow unconscious when he arrived. It would be a tremendous dis-service if he drove by in the plow truck knowing he could help this individual. Mr. Barrasse wants to personally thank him now and at the end of February thank him at the meeting. More will be discussed at the February Work Session. He also discussed a request which the Borough office received at the end of December from a resident requesting to have a display of fireworks. He is asking the Borough Solicitor to consider an Ordinance regarding providing permits for fireworks. This would be considered at the Work Session. Mr. Barrasse asked Solicitor Weinschenk for his thoughts. The Solicitor replied that residential fireworks are prohibited in the Borough. Ms. Palmer reported that she was at a residence where one of the fireworks went through the door of a home into the house which should never be allowed in Clarks Green. Mr. Barrasse agreed. He reported that he contacted South Abington Police as well as the fire company; however, the Borough has no Ordinance to support prohibiting fireworks.

PUBLIC WORKS: Mrs. Earley reported that she sent a letter to the Vassar Avenue resident asking him to let Council know by the February Council meeting what his plan is, otherwise Council will have to take action as he has not been cooperative.

REFUSE & RECYCLING: Mr. Rinaldi reported that the Borough received two (2) complaints. One complaint was from Mr. Mitchell who complained about how the hauler's office was treating him. Mr. Barrasse was in the office when Mr. Mitchell arrived. Mr. Barrasse called the hauler who indicated their side of the story. Mr. Barrasse contacted Mr. Mitchell and told him that he would receive the best service possible. The second complaint involved a missed Christmas tree. Secretary Brown called the hauler who picked up the tree. Mrs. Hvezda said that her tree at 316 N. Abington Road was not picked up. Secretary Brown reported that she spoke to County Waste and was told they would come to the Borough and make one more pass for Christmas trees on the following day, Thursday.

PERSONNEL: Mr. Williams discussed creating a master calendar for all employees to use to indicate their major tasks and responsibilities. This will allow for Personnel to better work with Health & Safety and Building & Grounds for issues dealing with time off requests, emergency time, duties which need to be performed, and emergency Borough road repairs. This will allow for better coordination among the three committees.

AAJRB: Ms. Palmer reported there has not been a meeting since the December meeting.

ACOG: Ms. Palmer stated the last ACOG meeting was the Reorganization meeting. The officers remain the same as last year. The COMCAST issue was discussed. ACOG is hoping to get more municipalities involved. President Rinaldi acknowledged Ms. Palmer's involvement as Vice President with the State Council of Governments and thanked her for serving.

OLD BUSINESS: Mr. Rinaldi called for an Executive Session at 8:20 p.m. to discuss the pending litigation regarding 319 N. Abington Road. The Council meeting reconvened at 8:50 p.m. Mr. Rinaldi stated that members of Council take the decision for the Conditional Use Application very seriously. Their decision lies in the best interest of the Borough in its entirety. Mr. Rinaldi asked Solicitor Weinschenk to list the three possibilities for the decision. He replied by stating that members of Council have reviewed the Standards and Criteria for consideration of a Conditional Use which are set forth in the Zoning Ordinance in Section 27-1109 which are the criteria to be considered in connection with their decision. There appear to be three possibilities: After deliberation Council can (1) Deny the Application; (2) Council can approve the Application with conditions; (3) Council can take no action which, as of January 31 would be deemed Approval of the Application and there would be no condition; or (4) Council can ask for a further extension of time for the Borough to consider this and take no action this evening which would require consideration of the Applicant and the Borough. He stated delaying the decision with an extension does not resolve any of the issues because the litigation has already been filed by Eric Hvezda. Although the Borough has not been served, we are aware that there has been a filing. Mr. Rinaldi asked if any Council members would like to discuss approving the application without Conditions. With no response from Council he asked if there was any discussion on approving the Application with conditions. Mr. Hughes discussed first the Condition of the front building being accessible with an elevator. The second Condition was the Highway Occupancy Permit; the third was meeting the requirements of the soil and water retention and finally that the first floor of the front building would have two (2) tenants and the second floor of the building would have no tenants. He suggests to his colleagues that these conditions be a requirement as well. In addition, he discussed three other Conditions. The first is specifically the objections which were raised at the Hearing which are contained in pages 34 to page 56 in the transcript. The Court Reporter transcribed, on page 29, under Mr. Roger's testimony, concerning the lighting. It is printed as low lighting of the walkways and on the building to "eliminate" the back parking area. Mr. Hughes, Solicitor Lavelle and Solicitor Weinschenk reviewed the statement and agreed the word should be "illuminate". The three issues in the objections which were raised are: (1) Lighting - that it would be low lighting and it would not extend beyond the property, as opposed to high lighting; (2) Safety - the issue which was raised not only concerning pedestrians who walk in the community but school children from OLP and try to mitigate the speed with which cars are ingressing and egressing from the property once it is developed. Install and maintain speed bumps at both ingress and egress. He discussed the testimony given by Mr. Kane when he described one car coming into his property and knocking the engine off the block. In addition, Mr. Hughes discussed the issue of, for at least two school years, yellow safety crosshatching be painted on the entrance and exit to that property which would allow school students to notice a change. In discussing the concern from property owners who live across the street with regards to looking at a 2 story building across from them, a green shield in front of the property will be required. Mr. Hughes suggested deciduous trees which would grow, and to some extent, break the definition of the building as it will exist, as opposed to what is there now. He is also suggesting green shields on the sides and in the back.

He is asking his colleagues to consider these suggestions as reasonable in an attempt to address the issues raised by neighbors at the Hearing. Ms. Palmer stated the building is not what was discussed to begin with and the design is much larger looking than what was talked about. She feels this will set a precedent for other property owners to do the same thing and change the whole atmosphere of Clarks Green. She cannot envision this for safety reasons and everything. Mr. Rinaldi responded that he appreciated her comments but had asked for anyone on Council who had any additional conditions. Mr. Barrasse discussed the condition of occupancy of the second floor which would require Courthouse Square Ventures to return to the Borough to get approval. Mayor Thorburn asked about considering the days and hours of operation. Mrs. Earley stated the structure should be more consistent with the neighborhood and objects to the size and appearance and would like to see a different plan. Mrs. Earley stated that when Zoning laws are reviewed for what is allowed in a neighborhood commercial district she sees a different structure. Solicitor Weinschenk replied that this could be a condition which to include as the property has to blend with similar properties in the area. Mr. Barrasse asked for the condition of no hours of operation on Sunday and the hours on Saturday are limited to 4:00 p.m. due to church services and activities at the schools. It would help to alleviate traffic issues and fit within the safety guidelines. Conditional hours for patient services would be Monday through Friday 6:00 a.m. to 8:00 p.m. with Saturday hours until 4:00 p.m. Mr. Rinaldi then summarized the conditions discussed.

1. Occupancy of the first floor of the structure is limited to two (2) physicians licensed to practice medicine in the Commonwealth of Pennsylvania and ancillary office staff.
2. Any occupancy of the second floor space is subject to the prior approval of Borough Council so that Council may consider the standards, criteria and review factors for any proposed additional occupancy.
3. Installation of low level exterior lighting to illuminate parking area and walkways which shall not illuminate areas beyond the perimeter of the Property.
4. Installation of speed bumps on the entrance and exit driveways at locations determined by Applicant.
5. Yellow cross hatching shall be painted on the sidewalk crossing the entrance and exit drives and shall be maintained for a period of two (2) years following completion of construction.
6. Applicant shall submit a landscape plan for the Property to Borough Council for approval. The landscape plan shall provide for green shields for the front, sides and rear of the Property to the extent possible.
7. The hours of operation during which the building is open for business to the public shall be limited to 6:00 A.M. to 8:00 P.M. Monday through Friday and 6:00 A.M. to 4:00 P.M. Saturday. The building should not be open for business on Sundays. The foregoing hours of operation do not restrict access to the building by physicians and staff when it is not open for business to the public.

Mr. Hughes motioned, seconded by Mr. Barrasse to approve, with the preceding seven (7) conditions, the Conditional Use Application for 319 N. Abington Road. Mr. Williams, Mr. Rinaldi, Mr. Barrasse and Mr. Hughes voted in favor. Mr. Phillips, Ms. Palmer and Mrs. Earley voted against.

MOTION FOR ADJOURNMENT: Mrs. Earley motioned, seconded by Mr. Phillips to adjourn the meeting at 9:20 p.m. All in attendance voted in favor.

Janice F. Brown, Secretary/Treasurer