

**Clifton Heights Borough Council
Meeting Minutes
Tuesday, December 20, 2011 Meeting**

Present:

Anthony Casadei, Council President
Ed Martin, Council Vice President
Leona Papale, Councilwoman
Harris Resnick, Councilman
Mario Alpini, Councilman
Betsy Berry, Councilwoman
Robert Penjuka, Councilman
Jane Tumolo, Councilwoman

Others Present:

Joseph T. Kelly, Mayor
Walt Senkow, Chief of Police
Frank Catania, Borough Solicitor
Tony Tartaglia, Code Enforcement/Borough Manager

Pledge of Allegiance

Prayer Led By Mayor Kelly

Chief Commendations:

Chief Senkow presented his yearly commendations and thanked his officers for their hard work.

Chief's Award for Supervisor of the Year: John Martin

Chief's Award for Officer of the Year: James Press

Chief's Award for Part-Time Officer of the Year: Kevin Schieler

Chief's Appreciation Awards: Sgt. Steve Brown & Sgt. Timothy Rockenbach

He thanked Sgts. Brown & Rockenbach for all that they did during his 11 years as Chief of Police and always stepping to the forefront during his tenure.

Mayor Kelly announced that it would be Chief Senkow's last public meeting as Chief of Police, but said that he would still be working with the Borough until December 31st. He said that he wanted to go through a little of his accomplishments. He was hired April 3, 1981; promoted to Corporal in 1984; promoted to Sergeant in 1997; and promoted to Chief in 1999. He served as a team leader for the Delaware County Emergency Response Team, was President of the Delaware County Chiefs' of Police Association, graduated from the FBI National Academy, is a lifetime member of the Clifton Heights' Fire Company, started and was the first President of the Clifton Heights' Sportsman Association and is a member of the Clifton Heights Lions' Club. He said that he has been an excellent Chief and a great person for the town of Clifton Heights. He wished him luck.

Mayor Kelly announced that Tim Rockenbach would be the acting Chief of Police, effective January 1, 2012.

Public Comment:

No opening public comment.

Meeting Minutes:

A motion was made by Councilman Martin to accept the meeting minutes as presented; seconded by Councilwoman Papale; and carried unanimously by a vote of 8-0.

Mayor's Report:

Mayor Kelly thanked the Chief again for his years of service and all that he has done for the town and the town's residents. He complimented Council and the Finance Committee on behalf of the residents of Clifton Heights for the budget that they will be passing tonight with no tax or fee increases for 2012. He thanked them for a job well done.

Mayor Kelly thanked the Police and Fire Departments for a job well done for the entire year. He said that there would be very important discussion tonight about signing the Borough's letter of intent for the County Animal Shelter. He said that effective January 1st, the SPCA would no longer be accepting any stray animals from municipalities. The County Council organized a Board that is building a shelter and in the meantime, they will be taking strays to Chester County SPCA. He reminded residents that dog licenses were mandatory and that owners of dogs without licenses would be facing State-mandated \$300 fines. He said that licenses helped with locating the owners of lost dogs. He urged Council to adopt the letter of intent tonight. He said that the \$1,250 fee also counted as credit for 5 animals and that the only people who would be able to have access to the shelter to drop animals off would be the Borough's Animal Control Officer.

Mayor Kelly wished everyone a Merry Christmas, Happy Hanukkah. He wished the two outgoing Council members who were leaving tonight, good luck and good health.

Police Report:

A motion was made by Councilman Martin to approve the police report; seconded by Councilwoman Berry; and carried unanimously by a vote of 8-0.

Fire Report:

A motion was made by Councilman Martin to accept the fire report as presented; seconded by Councilwoman Papale; and carried unanimously by a vote of 8-0.

Code Enforcement Report:

A motion was made by Councilman Martin to approve the code enforcement report; seconded by Councilwoman Tumolo; and carried unanimously by a vote of 8-0.

Treasurer's Report/Bill List:

A motion was made by Councilwoman Berry to accept the treasurer's report and pay the bills; seconded by Councilwoman Papale; and carried unanimously by a roll call vote of 8-0. (Resnick – yes, Alpini – yes, Berry – yes, Martin – yes, Penjuka – yes, Tumolo – yes, Papale – yes, Casadei – yes.)

Manager's Report:

Mr. Tartaglia said that he had nothing further to add from his report presented at the Caucus meeting. He reminded Council that they would be adopting the budget and the fee schedule for next year and adopting the resolution for the Animal Board.

Councilman Resnick asked when the court hearing would be for 500 E. Broadway.

Solicitor Catania said January 11, 2012.

A motion was made by Councilman Martin to accept the Manager's Report; seconded by Councilwoman Berry.

Mayor Kelly said that the Council reorganization meeting would be Tuesday, January 3rd.

Councilman Alpini asked if Judge Perfetti gave them permission to shut down the cell towers when he made his ruling on 500 E. Broadway.

Mr. Tartaglia said that he gave them permission to withdraw permits, but that decision was stayed once an appeal was filed.

Councilman Alpini said that an appeal was filed 28 days later and asked if they shouldn't have shut those towers for those 28 days until the appeal was filed.

Mr. Catania said no because he indicated immediately that he would be filing an appeal, it just took him that long to perfect it. If they had rushed in and shut him down, he would have just filed it sooner.

Councilman Alpini asked if that would have provided them with more leverage for the appeal.

Mr. Catania said it would not have.

Councilman Alpini said that they are back to square one.

Mr. Catania said that they are not, they are in Common Pleas Court on January 11th.

Councilman Alpini asked what would happen on January 11th if they would be holding up Judge Perfetti's ruling.

Mr. Catania said that it is a De Novo hearing in which the Borough would have the burden of showing that the citations that were issued were issued with reason. He said that both Mr. Tartaglia and Mr. Kelly would be their on behalf of the Borough.

Councilman Alpini said that he's confident that they have the necessary information for this to go in favor of the Borough since they have been fighting this for so long. He asked what would happen if the Judge ruled in favor of the Borough.

Mr. Catania said that it would depend upon the Court Order. He said that this particular proceeding is for the monetary fines, which he paid \$8,900+ in fines. The Borough has continued to cite him.

Councilman Alpini said that they are then hoping that the \$8,900 he's already paid sticks.

Mr. Catania said that and there were criminal penalties, and he's probably really appealing the 30 day jail sentence.

Councilman Alpini asked if there was anything in this process that might motivate him to do the things that he needs to do.

Mr. Catania said the 30 days in jail.

Councilman Alpini said that he would have to make another deal with the Judge for that to happen.

Mr. Catania said that this wasn't about him making a deal with the Judge, that he would have to prove that he is not guilty of the criminal act that he was found guilty of to avoid the jail sentence. He said that the criminal act is keeping the building in the dilapidated state of disrepair that makes it a danger to others.

Councilman Resnick said that Borough Council authorized the Solicitor to file a lawsuit back in October and asked if the lawsuit had been filed.

Mr. Catania said not yet.

Councilman Resnick asked what the hold up was.

Mr. Catania said that they need to monetize what they are going to ask for and show what the cost to remedy the problem would be.

Councilman Resnick asked who could provide that information.

Mr. Catania said that he could use any expert that the Borough Council selects.

A motion was made by Councilman Resnick to authorize Mr. Catania to get whomever he needs to get the lawsuit filed against the owner of 500 E. Broadway in January; seconded by Councilman Martin; and carried unanimously by a vote of 8-0.

Councilman Alpini asked if any progress had been made with the property at Penn St. & Baltimore Pike.

Mr. Tartaglia said that he reported last month that there was a pending sale for that property.

Councilman Alpini said that he was looking for any sort of update on that.

Mr. Tartaglia said that they are doing an environmental study and have not gone to settlement yet.

Councilman Alpini asked if they had an agreement of sale.

Mr. Tartaglia said that they do have a signed agreement of sale and that they are going through the process with the mortgage company. He said that they received a notice that an environmental study was being completed on behalf of the mortgage company.

Councilman Alpini asked about the zoning hearing on the Davis Ave. property.

Mr. Tartaglia said that he had not heard from the zoning hearing board or the applicant on the outcome of the hearing for 234 Davis Ave.

Councilman Alpini asked if Mr. Tartaglia was at the hearing.

Mr. Tartaglia confirmed that he was.

Councilman Alpini asked if he could bring them up to speed on what was discussed.

Mr. Tartaglia explained that the applicant brought in their designer to explain that they were proposing 10 single family dwellings in the form of 5 twin structures along the face of Davis Ave. and along the back the last 50-70 feet they are proposing a row of 10 garages to face High St.

Councilman Alpini asked if the garages would be under separate deed from the houses.

Mr. Tartaglia said they would be an 11th lot under separate folio number and would be a storage facility.

Councilman Alpini said that would be the 1st independent business on that street because all of the other garages are attached to the houses in front and asked for confirmation.

Mr. Tartaglia said that he believed that to be correct.

Councilman Alpini asked if that was what they needed special clearance for.

Mr. Tartaglia said that they went to the Zoning Hearing Board because what they were proposing does not exactly fit into the area, so they were presenting for relief. They asked the Board to allow them to do the 10 homes in the front and the garage in the rear. He said it would be up to the Board to decide what level of relief they would like to allow. They can give them everything or nothing or something in between with conditions. He said that he has not heard anything from a member of the Board since that night.

Councilman Alpini said that the lot seems wide enough to him. He asked what the problem fitting them in was.

Mr. Tartaglia said that it was a technical problem and they are about 50 feet short in total length of what they needed for a matter of right.

Councilman Alpini asked if they could get 8 in by right.

Mr. Tartaglia said that they could get 8 or 9 in by right, but not 10.

President Casadei said that this would not be something that they could solve tonight.

Councilman Alpini said that no matter what the Zoning Board rules, they usually have the right to either go along with it or object to it. He said that they were not informed of this Zoning Hearing as Council members.

President Casadei said that it was in the newspaper.

Councilman Alpini asked Councilwoman Tumolo and Councilman Penjuko were aware of a hearing in their ward.

President Casadei said that he was at the hearing, along with Mayor Kelly and Councilman Martin. He said that it was posted.

Councilman Alpini said that he has concerns with it and someone putting commercial development on a street where there has never been commercial development, especially considering the narrowness of the development. He said that he would worry about a fire truck getting down that street.

Chief Kneass said that they would be able to get the truck down there as long as they were off of the main thoroughfare.

Mr. Tartaglia said that they have a 25 foot setback from the edge of High Street.

Chief Kneass said that they have to use that road to get the 200 block of East Baltimore.

Councilman Alpini asked if that was zoned as R-1.

Mr. Tartaglia said that the front part of Baltimore Pike is all commercial and Davis Ave. is R-1. He said that the two districts meet somewhere in the vicinity of High Street, and from what they show on the drawing, the line was beyond where their proposal was on High Street, so it would be residential ground in that area. He confirmed that they were asking for an easement from the Zoning.

Councilman Penjuko asked Mr. Tartaglia if they ever got their bond.

Mr. Tartaglia said that he believes that they have completed the necessary paperwork, and they may have it in place by February or March.

Councilman Penjoke asked what the foul up with the paperwork was. He asked if it was Liquid Fuels related.

Mr. Tartaglia said that there was no foul up. He said that there was a lot of documentation required for a municipality to borrow money, and they were just going through the process.

Councilman Penjoke said that he was asking because he knew part of the bond issue was to buy the Scally property on Baltimore Pike. He said that they wouldn't be able to buy that without the bond issue.

Mr. Tartaglia said that their 1st settlement date with Mr. Scally is for February 28th of 2012. He said that with that date, they are hoping to be able to do that with the proceeds of the bond. He said that they may have to push it back to wait for the funds from the bond.

Councilman Penjoke asked if he signed.

Mr. Tartaglia confirmed that Mr. Scally signed the preliminary agreement and sent it back with a list of conditions, which he presented to Council and got okayed and sent back to Mr. Scally, to which they have not received a signed copy on the 2nd agreement.

Councilman Penjoke asked about the EPA on that property.

Mr. Tartaglia said that Mr. Scally needed to get a company out there to complete the environmental testing to assure that it passes.

Councilman Penjoke asked if there would be issues since the property was once a gas station.

Mr. Catania said that they do not have a signed contract with Mr. Scally, there have been offers and counter offers. He said that he went through an Act 2 clean up, and he was required to put in his deed what went on there. He said that he provided information that he went through Phase 1 and Phase 2 clean up of the property, but they have not seen that information yet.

Councilman Alpini said that if they did not receive that information then by law they would not be able to buy the property as a municipality.

Mr. Catania said that they shouldn't but again, they do not have a signed agreement yet from the last set of terms they presented to Mr. Scally.

Councilman Alpini asked about the raising of the taxes last year and how much they were raised.

Mr. Tartaglia said that it was a .25 millage increase.

Councilman Alpini said that part of the reason why they raised taxes was to pay for the bond issue.

Mr. Tartaglia said no, that they were well behind in their contribution to the Police Pension Fund, and every penny of the tax increase went to making up the gap between what they owed the fund then and what they owe the fund today.

After questions, the motion to accept the manager's report was carried 8-0.

Engineer's Report:

J.P. Kelly said that JMC Contractors completed the excavation and plugging of existing pipe joint portions of the contract and subsequently submitted an invoice in the amount of \$33,000. He recommends that Council authorize the release of \$29,700. He said that this was basically for the sink hole repairs, and the total contract is for \$77,500, so this is basically 1/3 of the contract.

A motion was made by Councilman Martin to authorize the release of \$29,700 to JMC Contractors for the completed portion of the contract for Baltimore Pike sewer line repairs; seconded by Councilwoman Papale; and carried unanimously by a vote of 8-0.

Mr. Kelly said that the A.F. Damon completed the punch list items for the Road Program, and he recommends the release of \$8,115.64 and authorization for his office to complete the final reports.

A motion was made by Councilman Martin to authorize the release of \$8,115.64 to A.F. Damon for the completed Road Program and for the Engineer to complete the final reports for the Road Program; seconded by Councilwoman Berry; and carried unanimously by a vote of 8-0.

Mr. Kelly urged Council to make the payment before the end of the year so that there would not be a lapse in Liquid Fuels.

A motion was made by Councilman Martin to approve the Engineer's Report; seconded by Councilwoman Berry; and carried unanimously by a vote of 8-0.

Solicitor's Report:

Mr. Catania said that he had action items; the first being the 2012 calendar year budget, which reflects no tax increase.

A motion was made by Councilman Martin to adopt the 2012 budget which has been duly posted for 30 days and which reflects no tax increase; seconded by Councilwoman Berry; and carried by a roll call vote of 6-2. (Resnick – yes, Alpini – no, Berry – yes, Martin – yes, Penjucke – no, Tumolo – yes, Papale – yes, Casadei – yes.)

Mr. Catania said that the next item would be the tax ordinance supporting the budget, ordinance # 828, which sets the tax 12.0010 mills.

A motion was made by Councilman Martin to adopt Ordinance #828, setting the tax millage rate; seconded by Councilwoman Papale; and carried by a roll call vote of 7-1. (Resnick – yes, Alpini – no, Berry – yes, Martin – yes, Penjucke – yes, Tumolo – yes, Papale – yes, Casadei – yes.)

Mr. Catania said that the sewer rental ordinance would be ordinance #829, setting the sewer rental rate at \$282/unit, which reflects no increase.

A motion was made by Councilman Martin to adopt Ordinance #829, setting the sewer rental rate at \$282/unit; seconded by Councilwoman Berry; and carried by a roll call vote of 6-2. (Resnick – yes, Alpini – no, Berry – yes, Martin – yes, Penjucke – no, Tumolo – yes, Papale – yes, Casadei – yes.)

Mr. Catania said that the trash collection fee ordinance would be Ordinance #830, setting the trash collection fee at \$292, which reflects no increase.

A motion was made by Councilman Martin to adopt Ordinance #830, setting the trash collection fee at \$292; seconded by Councilwoman Papale; and carried by a roll call vote of 6-2. (Resnick – yes, Alpini – no, Berry – yes, Martin – yes, Penjucke – no, Tumolo – yes, Papale – yes, Casadei – yes.)

Mr. Catania said that the next item was for the Animal Protection Board. He read the stray animal census as a matter of interest – July – 1 dog & 8 cats to the SPCA, August – 0 dogs & 10 cats, Sept. – 2 dogs & 6 cats, Oct. – 0 dogs & 6 cats, Nov. – 1 dog & 2 cats for the 1st 15 days. He said that through that time period, there was a total of 4 dogs & 32 cats. He reiterated that the Delaware County SPCA would be abandoning their 100 year mission as of January 1, 2012 and will be refusing to accept stray animals from municipalities. In response to that, the County Council has formed the Animal Protection Board, a PA non-profit organization. They will be constructing a facility for stray animals in Darby Township, and while they've broken ground, the facility is not complete and construction is expected to be completed by June or July of 2012. In the interim, they've negotiated with the Chester County SPCA for the use of their facility in West Chester for strays until the Animal Protection Board's facility is completed. The County and the Chester County SPCA should be signing an agreement within the week, which would allow for the municipalities' animal control officers to bring strays. In order to be able to do that, the Animal Protection Board is asking all municipalities in Delaware County to sign a 3 year agreement. Mr. Catania outlined the agreement.

Councilman Alpini asked if this was the best solution the County could come up with.

Mr. Catania said that it was not a County issue, but a municipality issue. He said that the County has no jurisdiction for this particular issue.

Mayor Kelly said that it is not a County issue. He said that the Borough's code says that it is the Borough's responsibility to take care of animals, period. He said that the County is stepping in to try and assist with the issue. He said that the main problem is stray cats. He asked residents not to feed them and if they want to adopt them to bring them inside. He said that stray cats loose on the streets are a problem and that they would be euthanized within 24 hours in most cases.

Councilman Alpini said that with the numbers that Mr. Catania provided that would be a \$9,000+ tab for July through November. He said that there had to be a better solution.

President Casadei said that they had people working to come up with solutions to this for months and that if he had a better solution, he should share it.

Councilwoman Berry said that she agreed with Mario that it was a little ridiculous for the price, especially for cats, but that they really don't have other options.

Councilman Alpini said that a doctor would euthanize for \$40.

Councilwoman Papale asked where they would store them for the required 72 hours and who would feed them. She said that they are stuck between a rock and a hard place.

A motion was made by Councilman Martin to sign a 3 year animal agreement with the Animal Protection Board of Delaware County to pledge and pay \$1,250 on or before January 1st of each year, to pay \$250 for any stray animal (cat or dog) in year 1 and 2 and \$270 in year 3, with 5 credited animals per calendar year, and deceased animals at a cost of \$40 per animal. The agreement only applies to animals brought by the Borough's Animal Control Officer, not by residents; seconded by Councilwoman Papale; and carried by a roll call vote of 6-2. (Resnick – yes, Alpini – no, Berry – yes, Martin – yes, Penjoke – no, Tumolo – yes, Papale – yes, Casadei – yes.)

Old Business:

Councilman Penjoke asked about the recycling.

Council members confirmed that their recycling was being picked up.

Councilman Penjoke said that some residents said that there were issues, with one resident saying that they took a sofa from out front of their house and stuck it right on the recycling truck.

Councilman Alpini asked if they had receipts from Blue Mountain.

Mr. Tartaglia said that they have receipts from Blue Mountain and they receive them all the time.

Councilman Alpini asked if they could see them.

Mr. Tartaglia said that he doesn't have them prepared right now because no one has ever asked for them.

Councilman Penjoke said that they don't know if they are keeping a consistent amount.

Mr. Tartaglia said that they do not receive many calls with recycling problems. He said that they recently received a few calls, and they changed the people that were doing the pickups on the back alleys.

Councilman Penjoke asked about going back to using their guys for recycling.

Mr. Tartaglia said that Phil wanted to go back to 2 trucks, 2 drivers & 4 pickers for a job that was being done with 1 truck, 1 driver & 2 pickers, so he kept it the way it was.

Councilman Penjoke said that they are paying their guys to stand around then.

Mr. Tartaglia said that they are not standing around, and he thinks that they are doing them a disservice by saying that they are not doing anything. He said that they strive every day to do a good job.

Councilman Penjoke said that what he means is that he doesn't understand why they can't go back to doing the job.

Mr. Tartaglia said that they were falling behind and not getting the trash & recycling picked up as the schedule outlined. He said that they have been able to catch up on a lot of work that needed to be done by being on the Highway side of things.

Councilwoman Papale said that she noticed on her way over tonight that the SEPTA lights had been illuminated, and she just wanted to note that.

New Business:

Ward Reports:

First Ward:

Councilwoman Resnick said that the Scouting Food Drive broke all records with 6,495 pieces of food collected.

Councilwoman Papale wished everyone a Merry Christmas, Happy Hanukkah and a safe, healthy and happy New Year.

Second Ward:

Councilman Alpini wished everyone a Merry Christmas and Happy New Year. He thanked everyone for the last 12 years and his involvement with Council. He said that he appreciated the opportunities. He said that he would be moving and that is why he decided not to run again. He said that he voted no on the budget because a trusted source to him told him that there are currently 150 homes for sale in Clifton Heights. He said that he heard that they are not even getting showings on these houses, and one of the main reasons is because the taxes are so high. He said that going forward, he thinks that Council needs to dig deeper and find a way to not spend so much and curb spending, although he knows that Council tries very hard to keep everything in

check. He said that most of Baltimore Pike is also for sale and that is something that Council needs to look hard at in the future to bring Clifton Heights back to the pride that it once had. He said that he hopes that they will be able to push forward on the Economic Development Project.

Councilwoman Berry wished everyone a very Merry Christmas and a happy, healthy and safe New Year. She thanked Mr. Alpini and Mr. Penjuko for their service on Council and Chief Senkow for his service to the Police Department.

Third Ward:

Councilman Martin wished everyone happy holidays.

President Casadei wished everyone a happy holidays and thanked Mr. Alpini and Mr. Penjuko.

Fourth Ward:

Councilman Penjuko thanked everyone for their support. He said that he too hoped the Economic Development moved forward. He said that he hoped that something would happen with the town to move it forward, as he too, hoped to be moving on. He also wished everyone happy holidays.

Councilwoman Tumolo wished everyone happy holidays and a happy New Year. She thanked Mr. Alpini and Mr. Penjuko and Chief Senkow.

Closing Public Comment:

None.

Councilman Alpini asked Mr. Tartaglia about the motion that the Council passed a few months ago telling Aqua/Brubaker to clean up their act or stop doing work in the Borough because of the mess they were creating. He said that they brought in a crew to do a better patch job on the road, but they have not done anything about the cleaning. He said that there are mud puddles throughout the 2nd ward. He asked if they could just flat out stop them so that they would do something about the mess.

Councilwoman Berry asked how the meeting went.

Mr. Tartaglia said that the meeting occurred and Mario was present, and they made promises. He said that he understands that there is a level of disappointment, but they need the streets patched so that they are plowable before the 1st snowfall. He said that he has seen the power broom there almost every day since their meeting, and he understands that it is not the best job.

Councilman Martin asked Mr. Tartaglia to call Walt Ohmler tomorrow to get a Community Service crew down to the Borough.

Mr. Tartaglia said that he could do that.

Councilman Alpini said that it would take minimal effort to clean the street while they have the cars cleared off the street during the day.

Mr. Tartaglia said that he wants to ensure that they do not stop them while they are trying to get the streets repaved to make them plowable. He said that this current project work is done and they would not be starting up another project.

Councilman Alpini said that he drove down Bridge St. that he wants to close and he doesn't understand why they can't just fix the street.

Mr. Tartaglia said that they need to fix the wall that is holding the street up.

Councilman Alpini asked if the wall belonged to the County and if they can't just make them fix their problem.

Mr. Tartaglia said that they could make the County address the problem, and that he has met with James and looked at the problem area and instead of closing the street, they are going to run a fence parallel to the one that is there now and blocking off the problem area but leaving a 12 foot wide area that would allow a fire truck to pass through.

Councilman Alpini asked if there would be a temporary measure that they could do to get them through the winter.

Mr. Tartaglia said that they would not be doing that because the wall has failed and if they put any more weight on the failed surface, it would just increase the probability of the wall falling more. He said that they would block off the bad area and contact the County after the holidays.

Adjournment:

A motion was made by Councilman Martin to adjourn; seconded by Councilwoman Berry; and carried unanimously by a vote of 8-0.

Respectfully Submitted,

Kimberly A. Duffy
Clifton Heights Borough Secretary