

**Clifton Heights Borough Council**

**Meeting Minutes**

**Tuesday, September 20, 2011 Meeting**

**Present:**

Anthony Casadei, Council President

Ed Martin, Council Vice President

Leona Papale, Councilwoman

Harris Resnick, Councilman

Mario Alpini, Councilman

Robert Penjucke, Councilman

Jane Tumolo, Councilwoman

**Absent:**

Betsy Berry, Councilwoman

**Others Present:**

Joseph T. Kelly, Mayor

Frank Catania, Borough Solicitor

Tony Tartaglia, Code Enforcement/Manager

**Pledge of Allegiance**

**Prayer Led By Mayor Kelly**

**Public Comment:**

Mike Marucci, 34 W. Berkley Ave., said that he's been getting sewer water in his basement from the recent rains. He asked if there was something wrong with the sewer system. He said that he has had his pipes checked.

Mr. Tartaglia said that he was probably experiencing the problem because of infiltration in the storm water system from being inundated with rains. He said that he would probably need to get the issue addressed at the front of his house and have a back check valve put in.

Mr. Marucci asked if the Borough was going to get involved in repairing the lines. He said that there were other people on his street with the same problem. He asked if they would have to get back check valves as well.

Mr. Tartaglia said that they probably would. He explained that they have been investigating and relining the sewers for a number of years.

J.P. Kelly said that they have been doing it for about 7 or 8 years.

Mr. Tartaglia said that the investigation involved them videotaping all of the lines first and then prioritizing the lines that were most damaged.

Mr. Marucci said that he has been living in his residence for over 20 years and that this is not the 1<sup>st</sup> time this has happened, although luckily it was never as bad. He said that the Fire Department helped him pump his basement back when Floyd hit.

Mr. Tartaglia said that rain water is entering the sanitary system and inundating the system and backing up, which for the foreseeable future, the solution would be to have a back check valve installed.

Mr. Marucci asked if our sewer system was in pretty bad shape.

Mr. Tartaglia said that they are in the same condition as all the surrounding municipalities. He said that the lines are not big enough because 110 years ago, they did not anticipate the amount of construction that would occur beyond this area, so the lines are not adequate for what has developed.

Mr. Marucci asked if they were going to try and clean it or anything.

[Soft Break]Mr. Tartaglia said that for the past 7-8 years, they have been investigating the lines and repairing the damaged ones on a prioritized list. He said that a line that is so broken that it is causing a street collapse (like on Baltimore Pike) would take precedence over lines that are getting flooded. He said that they do bring out General Sewer any time that they can verify a blockage. He said that he can go down his street and check his line and check the video footage that they have of the line.

J.P. Kelly said that they videotaped every sanitary sewer line in the Borough 4 years ago. Mr. Kelly said that he would pull the video and forward to Mr. Tartaglia.

Mr. Tartaglia asked Mr. Marucci to provide him with his contact information.

Sherry Rich, 82 Chester Ave., said that Chester Ave. was having another problem with mice and asked if they could do whatever they did before to address the issue. She said that in light of the recent weather problems, she was wondering if the Borough, in particular, the Fire Department, had any sort of method of alerting the residents for a tornado watch or warning. She said that recently there was a ticker tape going across Channel 6 news saying to seek shelter that she didn't know about until her sister called her.

Councilwoman Papale said that she had brought this before Council several months ago. She asked Chief Kneass if he could comment.

Chief Kneass said that request would have to go through the County Dispatch Center because the sirens are controlled at the County level, the 911 Center. He said that they have no control of the sirens at the Fire House.

Mrs. Rich asked who would initiate that request from the Borough.

Councilman Martin asked if he could interject. He said that he was planning on announcing later in the meeting that the County Council would be holding their bi-weekly meeting at Borough Hall next week. He said that they could address that issue directly to County Council and Ed Truitt next week.

Mrs. Rich said that years ago when Michael Galantino was President of Council, they had discussed emergencies and having a plan.

Councilman Martin said that he remembers that and that they do have an emergency management plan. He said that they have a manual.

Mrs. Rich asked how residents would know about the plan. She asked how the residents would know what to do if there was a terrorist attack or major flooding. She asked if there were designated shelters.

Mayor Kelly said that they do have designated shelters. He said that the Borough has assigned Bud Pipe as the emergency management coordinator and that once they receive word that an emergency has been declared, he would mobilize and take control. He would direct the Police Department to different neighborhoods for direction. He said that once that is established, the chain of command would come in, the State or County or whoever would be directing. He said that some communities have signed up for an emergency alert system that calls every household no matter what the emergency to let residents know what is going on. He said that he is aware of Springfield Township being involved. He said that perhaps Council could look into that and see what the cost would be for being involved in such a system. He said that they would follow the direction of the emergency management plan, which goes back to the floods in Louisiana.

Mrs. Rich asked about an evacuation route or plan and how they would proceed with that.

Mayor Kelly said that information was all in the emergency management plan.

Mr. Catania recommended allowing the County to explain how those issues work because they could discuss the plans specifically. He said that there are regional plans for all of the issues. He said that they are required reports that are filed through FEMA and that someone from Mr. Truitt's office could probably discuss those issues in more depth. He said that they might not give specific evacuation plan details because of security reasons.

Mrs. Rich said that perhaps after that meeting, they could post the information that was deemed important on the Borough's website.

President Casadei said that was a good suggestion.

Mrs. Rich recommended oil of peppermint for the mice.

[Soft Break]Jeff Ondria, 350 E. Broadway Ave., introduced his new restaurant, Ondria's Kitchen, and thanked the town and Council for their support. He said that they were serving home-style comfort food, sandwiches and seasonal items.

**Meeting Minutes:**

A motion was made by Councilman Martin to accept the meeting minutes as presented; seconded by Councilwoman Papale; and carried by unanimously by a roll call vote of 7-0. (Resnick – yes, Alpini – yes, Martin – yes, Penjoke – yes, Tumolo – yes, Papale – yes, Casadei – yes.)

**Mayor's Report:**

Mayor Kelly asked Council and residents to keep Christopher Alpini, Councilman Alpini's son and a Tincum Police Officer, in their thoughts and prayers. He said that he was in a serious accident and he was being operated on at Jefferson Hospital.

Councilman Alpini explained that his son was hit by a drunken driver. He asked everyone to get in touch with the higher ups to try to strengthen the DUI laws, as the driver who hit him was on his 3<sup>rd</sup> DUI.

Mayor Kelly asked for prayers for the Chairman of the Zoning Board, Jim McGrory, who is dealing with a very serious illness. And he asked for prayers for the family of Myron Blankley, a long-time resident and former Police Chief, who passed away last week.

Mayor Kelly mentioned the thank you note from Leona Papale for the prayers and lovely planter that she received from the Borough after the recent passing of her sister.

He reminded residents of the benefit for Officer Schieler on October 1<sup>st</sup> (sold out) and announced that there would be a benefit for Jim McGrory on October 22<sup>nd</sup>.

He thanked all of the departments for their hard work during the recent storms and thanked the Fire Department for a wonderful event to dedicate their 9/11 memorial.

President Casadei said that it was a great event and reminded residents that the Fire Department still has bricks for sale.

**Police Report:**

A motion was made by Councilman Martin to approve the police report; seconded by Councilwoman Tumolo; and carried unanimously by a vote of 7-0.

**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 7-0.

**Code Enforcement Report:**

A motion was made by Councilman Martin to approve the code enforcement report; seconded by Councilwoman Papale; and carried unanimously by a vote of 7-0.

**Treasurer's Report/Bill List:**

A motion was made by Councilman Martin to accept the treasurer's report and pay the bills as money becomes available; seconded by Councilwoman Tumolo; and carried unanimously by a

roll call vote of 7-0. (Resnick – yes, Alpini – yes, Martin – yes, Penjucke – yes, Tumolo – yes, Papale – yes, Casadei – yes.)

**Manager's Report:**

Tony Tartaglia announced that the hearing for 500 E. Broadway Ave. resulted in 8 guilty verdicts & fines totaling \$7,960. He said that the fines were paid by 4pm that day and he is under order to repair the building. They were ordered to suspend all permits except for those for reconstruction of the building.

President Casadei asked if he received 30 days in jail.

Mr. Tartaglia said that he was ordered for 30 days but given until October 14th to appear, so he will more than likely appeal the ruling before having to report for his sentence.

Mr. Catania said that the hearing yesterday was the latest in a year's worth of work on this case, in which the Judge was trying to get the Defendant to put his time and effort towards the property as opposed to paying fines and fees. He said that yesterday's decision was brought about by the fact that progress wasn't being made and deadline after deadline wasn't being met by the building's owner despite the fact that the Judge gave him every opportunity to bring the property into compliance with code or at least demonstrate a good faith effort. He said that he was found guilty on all of the citations and the maximum fine of \$7,960.20 was imposed. He said that a 30 day prison sentence was imposed and he was ordered to report on October 20<sup>th</sup> at 8am to begin serving the sentence. He said that the way the law works is that if appeals to each of the decisions are filed, the sentence will be held in abeyance until the Common Pleas Court hears the decision. He withdrew all permits for the building except for those given those for the corrective work. He declared the property unfit for human habitation. He declared the property a clear and present danger to the community. He declared the property blighted. He declared that the property negatively impacted the neighborhood. He said that they were the strongest Code penalties that he has seen in his 25 years of practicing law. He said that the Judge gave him plenty of opportunity to do the work and the work wasn't done, so that is why the decision was rendered. He said that the Judge also lifted the Borough's ability to continue to impose citations and as of today, the Borough was allowed to continue the citations on a 24 hour basis.

Mr. Tartaglia said that they can write 1 citation per day, so 5 per week and they were for the 5 violations.

Councilman Resnick said that he would like to reintroduce his motion from last month that they go after him in Common Pleas Court and all of his properties to get full damages back, not only his fines but attorney's fees and engineer's fees.

A motion was made by Councilman Resnick to file claims in Common Pleas Court against Mr. Kennedy and his properties in an effort to pay off the fines and recoup costs the Borough incurred (attorney's fees, engineer's fees, etc.) while going through the legal steps against 500 E. Broadway Ave.; seconded by Councilman Alpini; and carried unanimously by a vote of 7-0.

Councilman Alpini asked if they pulled all the permits if that meant that the cell tower was no longer working.

Mr. Catania said that he would prefer they did not discuss that question but instead addressed it in Executive Session.

Councilman Resnick asked what was going on with the trash.

Mr. Tartaglia said that they were unable to pick up the trash yesterday but did 1<sup>st</sup> part of the North Side today and that they would complete the North Side tomorrow and pick up recycling if it was possible and pick up the South Side of town.

Councilman Alpini asked if they had the situation remedied.

Mr. Tartaglia said no.

Councilman Alpini asked why.

Mr. Catania said that they could discuss that in Executive Session as well.

A motion was made by Councilman Martin to accept the manager's report; seconded by Councilwoman Tumolo; and carried unanimously by a vote of 7-0.

#### **Engineer's Report:**

J.P. Kelly said the Road Program was completed and asked for a motion to pay the bill, keeping a 10% retainage (\$8,115.04) until the punchlist is satisfactorily completed when he will make a final recommendation.

A motion was made by Councilman Martin to pay the \$73,040.76 for the completed Road Program; seconded by Councilwoman Papale; and carried unanimously by a vote of 7-0.

J.P. Kelly said that after putting the work out to bid for the sanitary sewer repair work on Baltimore Pike, the lowest responsible bidder was JMC Contractors, Inc. with a bid of \$77,000.

A motion was made by Councilman Martin to award the sanitary sewer repair project on Baltimore Pike to JMC Contractors for a bid price of \$77,000 and to allow work to start immediately; seconded by Councilwoman Tumolo; and carried unanimously by a vote of 7-0.

Mayor Kelly said that it was brought to his attention that the Supervisor of their Sanitation Department's mother has been sick. He said that she is a big supporter of the 4<sup>th</sup> of July Association and asked for prayers for her.

A motion was made by Councilman Martin to approve the Engineer's Report; seconded by Councilwoman Papale; and carried unanimously by a vote of 7-0.

#### **Solicitor's Report:**

Frank Catania said that he had 2 Real Estate items, involving acquisition of property, a Local 835 item and 2 FOP items for Executive Session.

He asked Council to consider Ordinance #827, which he advertised.

A motion was made by Councilman Martin to adopt Ordinance #827, a DELCORA initiative for the Borough to adopt the same standards, rules and regulations as to what can be discharged into our sanitary waste system as DELCORA. These regulations delineate the penalties and fines and explain what can and cannot be put into the sanitary sewer system; seconded by Councilwoman Papale; and carried unanimously by a vote of 7-0.

A motion was made by Councilman Martin to approve the solicitor's report; seconded by Councilwoman Papale; and carried unanimously by a vote of 7-0.

**Old Business:**

Mr. Catania informed Council that the Commonwealth vs. Ruane case had been rescheduled until Nov. 9<sup>th</sup>.

**New Business:**

A motion was made by Councilman Penjucke to repair the yellow truck; seconded by Councilman Resnick.

Councilman Martin said that they discussed this 6 months ago when they decided not to repair the truck. He said that he would like to see if they could have the Manager contact the Ford Motor Company and see if they could get something that would come with some sort of warranty.

Councilman Alpini said that he discussed this issue with the person who works on their vehicles, and he said it's something that they usually don't have issues with (the rear), which is why you can't find one for sale very easily. He said their repairman said that the truck is in very good shape outside of the issue they're having. He said that it performs well as a plow machine. He said that they allocated \$2,500-3,000 last time for it to get fixed. He said that last time they found a used rear for \$900 last time, and he thinks it is well worth the repair. He said that he thinks it is a no brainer for such a low mileage truck.

President Casadei said that with his background in the automotive industry, he never believed in using used parts. He said that he was okay with using reconditioned parts but that with used parts, you cannot determine their life expectancy.

Councilman Alpini said that he could look into reconditioned parts.

Councilman Resnick asked how many plow trucks they would have today if a snowstorm hit.

Council members said none and one.

Councilman Resnick asked how many they usually had for a winter.

President Casadei said that they would have 2 and a loader.

Councilman Resnick said that their options then to have 2 trucks ready for the upcoming winter would be either to buy a new truck or to repair the one that they have currently. He asked how long it would take for a new truck to be delivered to Borough Hall if they wanted to buy it today.

James Salmon, Highway employee, said it would take 6 months and that he looked into it in the spring when they first discussed this issue with the truck.

Councilman Resnick asked James, who uses the truck often, what he would prefer, a new truck or repairing the current truck.

James said that he would obviously prefer a new truck but that wouldn't help them when a snow storm hits because a new truck wouldn't be here in time. He said that they will need something for when it snows, and they have 2 trucks down that can be fixed and the yellow truck will be better in the snow than the green one.

Councilman Alpini said that they looked at the yellow truck too and that James was correct that there was no shield around the gas pipe and the salt was eating away at the pipe because of that. He said that he thought including that shield in the repair would be an excellent idea.

Councilman Resnick said that it seems to him that if they can't get a truck for 6 months, then they are going to need to spend \$2-3,000 to fix the inoperable trucks.

Councilman Penjoke edited his motion to fix the yellow truck for an amount not to exceed \$5,000; still seconded by Councilman Resnick.

After questions and discussion, the motion was carried by a vote of 6-1. (Councilman Martin voted no.)

### **Ward Reports:**

#### **First Ward:**

Councilwoman Resnick said 2,987 pounds of electronics were collected at their 1<sup>st</sup> recycling event on Saturday, September 10<sup>th</sup>. He said that was a superb number for their 1<sup>st</sup> event.

Councilwoman Papale welcomed Ondria's Kitchen to the 1<sup>st</sup> ward and recommended it highly.

#### **Second Ward:**

Councilman Alpini discussed the Aqua repair work that was coming to the 2<sup>nd</sup> ward. He said that he spoke to one of the workers who informed him that they plan on being there for about 3 months. He said that they were doing everything North of the Pike and to the high side of Springfield Rd. He said that to store all of their equipment, they took parking spots around the curve on Glenwood Ave., but that they do not have enough space so they are leaving the rest of the equipment on the streets. He said that it makes it very difficult for parking in the 2<sup>nd</sup> ward, which already has parking issues. He said that he has a backhoe and lawn machine in front of his house. He said that he asked this worker about the possibility of storing their machinery at the lot at the end of Fairview Ave. on Glenwood. He said that they were told that they were not allowed to use that.

Mr. Tartaglia said that they didn't ask him because he was the guy who let them use what they're using right now.



Councilman Alpini said that he discussed with the employee, and Aqua is willing to go on the piece of property he just described and install a stone bed to park their equipment on, so they don't tear everything up, then store all of their equipment there and fence it in to keep it off of the streets and then restore the land to its original specs once the project is complete. He said that they need permission from Council and assistance from the Borough Manager.

A motion was made by Councilman Alpini to have the Borough Manager and Solicitor work on an agreement with Aqua so that they could store their construction vehicles on Borough owned property on Glenwood Ave; seconded by Councilman Penjuka; and carried by a roll call vote of 7-0. (Resnick – yes, Alpini – yes, Martin – yes, Penjuka – yes, Tumolo – yes, Papale – yes, Casadei – yes.)

### **Third Ward:**

Councilman Martin thanked everyone for their kindness, prayers, and gifts during his recent stroke.

President Casadei thanked the Fire Department for a job well done.

### **Fourth Ward:**

Councilman Penjuka announced Dennis Prince would be retiring on Sept. 30<sup>th</sup> and wished him the best of luck.

Councilman Penjuka asked if they made any progress on Church St.

J.P. Kelly explained the 60 foot line that was typical for most streets. He said that the cartway would be the responsibility of the Borough.

Councilman Penjuka said that what he is trying to figure out is if the Right of Way was given to the Borough. He said that the Borough put the road in, and he is not sure why the road doesn't have a curb. He said that he doesn't understand why they can't repair the road properly and reiterated that even more blacktop is coming up after the last storm.

Mr. Kelly said that this has been an ongoing issue for quite some time. He said that they have submitted a set of plans to improve the storm water control facility on that street and that it is a matter of Council's decision and money.

Councilman Penjuka said that he doesn't think that it was ever fully presented to them as to what it would cost to do that and what it required be done. He said that he knows the study was completed. He said that he knows that the swale was put in, but the water gets past the swale.

Mr. Kelly said that a swale was not put in during the time that he has been involved with the Borough. He said that they have done patchwork. He said that he could get the plans that they wrote up and forward them to the Borough Manager.

Councilman Alpini asked if the roadway was definitely the Borough's responsibility. He said that the storm water inlet back to the 1<sup>st</sup> residence on the right hand side of Church St. had not one good piece of asphalt left. He said that the last storm they had completely destroyed the length of

the roadway. He said that they had to step up and fix the Roadway when this happened on Sycamore; and asked if they needed to do that here because the Roadway is completely gone.

Mr. Kelly said that as they discussed last month, he is going to have the Contractor from the Road Program try to address some of the potholes. He said that the Roadway was never put out to bid, but they have Engineer's reports of probable cost for the Roadway.

Councilman Penjoke said that they now have a hole out there that must be 4 foot by 4 foot and down below the asphalt to the bedding of the road. He said that they are beyond the point of being able to play games with the area and something must be done.

Councilman Alpini said that the last storm just destroyed the Roadway. He asked the Solicitor that if they were responsible for the Roadway.

Mr. Catania said that from the last couple meetings, he has heard that there is dual responsibility for this issue. He said that he would have to look at J.P.'s plans but it sounds like perhaps some of the Roadway issues were caused by the homeowners not taking responsibility for the curbing. He said that they can look at J.P.'s plans and the costs and figure out who is responsible for what. He said that he knows in other communities what happens when issues like this arise is that the work is done and if the homeowner has responsibility, they are assessed for that cost. He asked Mr. Kelly if he had enough information for them to take action at the next meeting if they wanted to.

Mayor Kelly said that they should have a meeting with the people on Church Street to go over the plans. He said that this project could be very costly for the homeowners which would foul up all of the plans. He said that he would do that before coming to Council for a vote on something that people won't be able to afford.

Councilman Martin said that he would determine the cost first.

Councilman Resnick said that they're assuming that the cost would be on the homeowner here.

Mr. Catania said that is not what they are assuming. He said that what they probably will find is that there will be a shared cost to complete work.

Councilman Alpini asked if they could take care of what is their responsibility now.

Mr. Kelly said that he is going to take care of potholes as he can with the Road Program.

Mr. Catania said that he should bring everything to the next meeting so that they can get into who is responsible for what.

Councilwoman Tumolo asked everyone to be very careful with school being back in session and the cheerleaders and football players being at the field.

**Closing Public Comment:**

Fred Rich, 82 Chester Ave., asked why the trash was not picked up in the Borough.

President Casadei said that he had just answered that.

Mr. Rich said that he didn't give a reason, he only stated that it wasn't picked up and that they were going to try and pick it up tomorrow.

Mr. Tartaglia said that they have one driver who is out and injured with carpal tunnel a 2<sup>nd</sup> driver who was on vacation and a third driver who needed off for his own medical reason, leaving them without a driver so the North side of town was not picked up yesterday. He said that they started picking up the North side of town today.

Mr. Rich asked if they had fill-ins for situations like this.

Mr. Tartaglia said that they do not have fill-ins for drivers.

Mr. Rich asked why they didn't have fill-ins.

Mr. Catania said that this is something that they will discuss in Executive Session.

Jerry DePompeo, 507 E. Broadway Ave., said that he was happy to hear about 500 E. Broadway Ave. and told Council that the contractor had been coming to the site to use the dumpsters, dumping items from other job sites. He asked if they could get him to stop that.

Mr. Tartaglia said that he was not aware of that situation but that he would address it now that he was aware of it.

Mr. DePompeo said that last Sunday there was a group of kids in the building breaking windows. He said that he called the police and they came down and were unable to locate the kids. He said that Bob and his group came a few days later to seal it up. He said that also on the 400 block of E. Broadway there were some big patches of blacktop that were washed away with the rains.

James Salmon said that he was waiting to cold patch it and that he put cones in it in the meantime.

Brenda LaVenz, 509 E. Broadway Ave., thanked Council for their work on 500 E. Broadway.

Councilman Martin said that the County would be recognizing the Fire Company at the meeting that they are having on Tuesday.

### **Post – Executive Session**

Mr. Catania said that there was an authorization at a prior meeting for the Borough to submit a proposal to Scally for \$225,000. He said that he received a counteroffer to extend settlement to a date beyond February 29<sup>th</sup>, which the Borough is fine with. He said that he has requested an abatement of the current year's taxes, which would increase the purchase price by approximately \$6,000. He requested a motion to amend the agreement of sale.

A motion was made by Councilman Martin to extend the settlement date beyond February 29<sup>th</sup> and to amend the agreement of sale to reflect an increase of \$6,000, which represents the abatement of the current year's taxes; seconded by Councilman Alpini; and carried unanimously by a roll call vote of 7-0. (Resnick – yes, Alpini – yes, Martin – yes, Penjuke – yes, Tumolo – yes, Papale – yes, Casadei – yes.)

Mr. Catania said that they received the 2012 Financial Requirement and Minimum Municipal Obligation, which need to be presented to Council. He said that the payroll amount used was based on the earnings of June 2011, and because of Act 44, the Borough's Distress Level is more than one, so they were able to further reduce their planned financial obligation. He said that minimum municipal obligation, the amount that is anticipated to be required for the year 2012 for the non-uniformed pension plan is \$74,046 for 6 members. He said that the uniformed pension plan amount is \$395,629. He said that when he first came and read these numbers in 1990, it was significantly less.

Mayor Kelly said they were like \$12,000 back then. He asked if that included any State money coming in.

Mr. Catania said that it did include the State money. He said for an annual payroll of \$740,000 and distress level 2 and being able to pay the amounts over a longer period of time, this is the total. He said that there was no action item needed, just to draw their attention to the numbers that would be needed for next year's budget.

Mr. Catania said that they were going to start filing citations again against 500 E. Broadway and that he expected Mr. Kennedy to appeal the decision. He said that he would ask that someone be appointed receiver for the property and that they also enforce a negative injunction that would force him to clean the property up.

Councilman Alpini asked again about the permits being pulled for the actual cell tower.

Mr. Catania said that if the District Justice had the power to do that, he thinks it would be done, but he does not think that is something that they should do now.

**Adjournment:**

A motion was made by Councilman Martin to adjourn; seconded by Councilwoman Papale; and carried unanimously by a vote of 7-0.

Respectfully Submitted,

Kimberly Duffy

Clifton Heights Borough Secretary