

**Clifton Heights Borough Council  
Meeting Minutes  
Special Meeting  
Thursday, October 4, 2012**

**Present:**

Anthony Casadei, Council President  
Edward Martin, Council Vice President  
Betsy Berry, Councilwoman  
Mike Humphreys, Councilman  
Karen Peterson, Councilwoman  
Jane Tumolo, Councilwoman

**Others Present:**

Joseph T. Kelly, Mayor  
Michael Maddren, Special Counsel  
J.P. Kelly, Engineer  
Timothy Rockenbach, Chief of Police  
Tony Tartaglia, Borough Manager/Code

**Pledge of Allegiance**

**Prayer Led By Mayor Kelly**

**Public Comment:**

No opening public comment.

**Special Meeting:**

Tony Tartaglia said that they had a few items for the evening, the 1<sup>st</sup> an ordinance that would condemn and take a piece of ground on the corner of Baltimore and Springfield, which is necessary for the public right-of-way to provide to PENNDOT for the intersection. He said that this is the 3<sup>rd</sup> piece of the 3 that are needed. He said J.P. Kelly will explain the mechanics of how this works and Mr. Maddren can explain any legal descriptions needed.

J.P. Kelly said that the pieces that Council is probably most familiar with would be the Scally property and 2 Baltimore Pike. He said that at the last Council meeting, they approved the subdivision of Scally and 2 Baltimore Pike. He said that the plans have been signed and that once they are approved and recorded by the County, a folio # will be assigned to each of the 4 different properties. He said that they would then be able to convey the two properties to PENNDOT. He said that PENNDOT wants to own the property. He said that the property that they are discussing tonight on the Duffy property is approximately 70 square feet that PENNDOT wants. He said that they want to have their signaling box on their own property, not a lease. He said that is the property they are discussing tonight. He said that once the taking is done, they can move forward because the permanent taking and/or transferring of properties will be done. He said that he used the word permanent because there are 3 construction easements that they need to obtain and that they are working on right now for the work to be able to take place. He said that construction easements are for the 2 entrance and exits right outside and on the other side of the Scally

property where the house uses that area as their driveway to get into their backyard. He said that those surveys for temporary construction easements are being completed right now.

President Casadei asked about the Duffy property and if there were any repercussions if PENNDOT would back the Borough up.

Mr. Maddren said that there shouldn't be any repercussions. He said that they have had an appraisal report done, and they found that there was a \$0 change in the value of the property before and after the taking. He said that the way this would proceed would be the Borough approving this by Ordinance tonight; the Ordinance being similar to the Resolution they passed a few months ago amending the Borough Code. The Ordinance will allow him to file a Declaration of Taking, which is the document that effects a condemnation. There is a caveat that he can file preliminary objections within 30 days of the day he receives notice of the taking. He said that there are very limited preliminary objections under a condemnation and those are that the authorization isn't good, which they know isn't true because they are doing it by Ordinance tonight; the procedure isn't good, which this is a procedure he has used many times before. So he doesn't really have a basis to file the preliminary objections. He said that after that he has up to 6 years to request a Board Review. A Board Review determines the just compensation. He said that they have alleged that the compensation is \$0. He may allege that it is something else or has an appraisal that says differently. The assessment is for as of the date that the separation to take it is filed. He said that in the event that he requests a Board Review, they would have to have a full appraisal done as opposed to the appraisal report. He said that they would then have their appraiser bolster his report and go in and inspect the property. He would have to note all Code issues. He said that there are no other real repercussions to doing this. He said that anyone who has \$200 can file a lawsuit, but that doesn't mean that there are any valid claims. He said that it should be a pretty straight forward.

Councilwoman Peterson asked if it would everything up if he filed a lawsuit.

Mr. Maddren said that a lawsuit wouldn't hold anything up, but preliminary objections might delay them a little. He said that if he filed a lawsuit, it would have to be something outside of the scope of this. He said that he doesn't think that they would have any concerns, especially after they get past the preliminary objection period of 30 days. He said that if he does file preliminary objections, he would go to the Court and ask for an expedited hearing because of the eminency of the transfer to PENNDOT. He said that they should be able to move right through with this without any issues.

A motion was made by Councilman Martin to approve the ordinance authorizing the taking by eminent domain of a portion of the property located at 2 East Baltimore Avenue; seconded by Councilwoman Berry; and carried unanimously by a roll call vote of 6-0. (Humphreys – yes, Berry – yes, Martin – yes, Peterson – yes, Tumolo – yes, Casadei – yes.)

Mr. Tartaglia said that they have one other item for the evening, as J.P. Kelly received the responses for the bid opening for the 2012 Road Program.

Mr. Kelly said that InCom was the lowest responsible bidder and it was critical for this to get awarded tonight if they hope to be able to get the work done this year. He said that the company has a window, and they are willing to run bonds around and get everything done as soon as possible, provided PENNDOT doesn't have a problem with them getting this done before the end of the year, before Thanksgiving.

Councilman Martin asked what the low bid was.

Mr. Kelly said that the low bid was from InCom for \$77,705.90.

A motion was made by Councilman Martin to accept InCom as the lowest responsible bidder for the 2012 Road Program; seconded by Councilwoman Berry; and carried unanimously by a vote of 6-0.

Mr. Tartaglia said that as a note, he wanted to inform Council that people had started picking up the RFPs for the trash bid today. He said that Waste management and Suburban were in to pick up packets. He said that the advertisement was in today and would run two more times with a closing date of October 12<sup>th</sup> at 3:30pm.

**Adjournment:**

A motion was made by Councilman Martin to adjourn; seconded by Councilwoman Peterson; and carried unanimously by a vote of 6-0.

Respectfully Submitted,

Kimberly A. Duffy

Clifton Heights Borough Secretary