

**Clifton Heights Borough Council  
Meeting Minutes  
Tuesday, November 20, 2012**

**Present:**

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

**Others Present:**

Joseph T. Kelly, Mayor  
Francis J. Catania, Solicitor  
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.

**Meeting Minutes:**

A motion was made by Councilman Martin to accept the October meeting minutes as presented; seconded by Councilwoman Berry; and carried unanimously by a roll call vote of 0-0. (Resnick – yes, Humphreys – yes, Berry – yes, Martin – yes, Peterson – yes, Casadei – yes.)

**Mayor's Report:**

Mayor Kelly said that he was very thankful that they made it through Hurricane Sandy. He said that the Borough had some people lose power, but they didn't lose any major trees or have any major problems. He said that about 8-10 streets lost power from a grid going down. He said that they were fortunate that it wasn't as bad in Clifton Heights as it was elsewhere, and he thanked the Lord for protecting the Borough. He also thanked the Fire and Police Departments for their hard work for being on duty throughout the storm. He also thanked Council and the Emergency Management Coordinator for their assistance throughout the storm. He said that it was a successful team effort.

He also wished everyone Happy Thanksgiving and asked everyone to have a happy holiday.

**Police Report:**

A motion was made by Councilwoman Berry to approve the police report as presented; seconded by Councilman Martin; and carried unanimously by a vote of 6-0.

**Fire Report:**

A motion was made by Councilman Martin to accept the fire report as presented; seconded by Councilman Humphreys; and carried unanimously by a vote of 6-0.

**Code Enforcement Report:**

A motion was made by Councilwoman Berry to approve the code enforcement report as presented; seconded by Councilman Martin; and carried unanimously by a vote of 6-0.

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

A motion was made by Councilwoman Berry to accept the treasurer's report and pay the bills; seconded by Councilman Martin; and carried unanimously by a roll call vote of 6-0. (Resnick – yes, Humphreys – yes, Berry – yes, Martin – yes, Peterson – yes, Casadei – yes.)

**Manager's Report:**

Mr. Tartaglia said that he had nothing new from their caucus meeting.

**Engineer's Report:**

J.P. Kelly said the CDBG agreement has been sent to the County and the scope of work was sent to OHCD. He said that they expect to hear back from OHCD that they are okay with the scope of work, and once that happens they will advertise for the demolition of the property.

He said that for the 2012 Road Program, he is recommending that the full payment of \$80,856.13 be approved by Council tonight and issued in 2 separate checks – one check for 90% and one for 10%. He said that he needs to check the manholes to make sure that they are not sealed shut. He said that it is important that the payment is made before the end of the year so that they don't have any problems with Liquid Fuels and the completion report. He said that is why his payment recommendation is a little unorthodox.

A motion was made by Councilwoman Berry to pay the full 2012 Road Program contract in the amount of \$80,856.13, to be paid in 2 separate checks, one for 90% of the total and the one for 10% of the total; seconded by Councilman Martin; and carried unanimously by a vote of 6-0.

He continued and referenced the planning modules and DEP. He requested authorization to go to the Darby Creek Joint Authority meeting on Wednesday night as a follow.

A motion was made by Councilwoman Berry to authorize the Borough Engineer and Borough Solicitor to attend the Darby Creek Joint Authority meeting on Wednesday, November 21<sup>st</sup>; seconded by Councilwoman Peterson; and carried unanimously by a vote of 6-0.

Mr. Kelly continued that he was requested to solicit architectural firms for the renovations of the Borough building. He said that he completed that task, and he makes the recommendation that the Borough engages the services of Lynn Architects of Media, PA as an architectural consultant.

A motion was made by Councilman Martin to engage Lynn Architects of Media, PA as an architectural consultant, only on an estimate basis so that they can see what the costs will be; seconded by Councilwoman Berry; and carried unanimously by a vote of 6-0.

Mr. Kelly said that would be possible. He said that the rate schedules have been submitted but until the scope is completely defined through meetings, they will be able to do that.

Mr. Kelly continued that a hearing again occurred for 500 E. Broadway. He said that in order to move it forward, they need a conditional approval for the L&I demo & the DEPS permit. He said that he would prepare a conditional approval letter with Council's approval, which would approve the grading plan as submitted.

A motion was made by Councilwoman Berry to authorize the Borough Engineer to prepare a conditional approval letter for the grading plan as submitted for 500 E. Broadway Ave; seconded by Councilman Martin; and carried unanimously by a vote of 6-0.

A motion was made by Councilman Martin to accept the Engineer's report; seconded by Councilman Resnick; and carried unanimously by a vote of 6-0.

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

Mr. Catania said that there were two items of litigation that they discussed in Executive Session, one for 500 E. Broadway Ave. and 4 Rockbourne Rd. He said that the Rockbourne Rd. property received a notice of violation from the Department of Environmental Protection for the sewer connection that it has traversing the top of Darby Creek.

He continued that he has for the Borough's consideration tonight, Ordinance # 833, the ordinance has been properly advertised and is the result of a petition of the adjoining property owner, Mr. and Mrs. Pontarelli. He said that there is a paper street called either Holly Ave. or Holly St., it is measured 150' x 40' between 251 E. Broadway and 309 E. Broadway. He said that a paper street is a layout of a street that was on the Borough records at some point, but the street was never paved, never opened and never used by the public. He said that they have taken no action as a Borough to open that paper street for more than 21 years. He said that the Borough code allows the Borough to adopt an ordinance saying that it is vacating the street. He said that simply stated as a matter of law, the Borough is saying that it has no interest in that street. He said that this ordinance does not change any of the rights that the current property owners have. He said that if there are easements on the property or anything else, they will remain in effect. He said that what normally happens in an instance like this is that the adjoining property owners would each receive to the center line. He said that this ordinance establishes that the Borough is relinquishing any right that it has to the property on Holly Street as outlined. He said that it is removed from the plan of streets from the Borough and the laying out is cancelled. The Borough of Clifton Heights makes no claim to the right, ownership of or title on the property therein and it would be up to the adjoining owners to decide what to do with the property.

A motion was made by Councilman Martin to adopt Ordinance No. 833, vacating the portion of Holly Street as outlined in the ordinance from the plan of streets in the Borough; seconded by

Councilwoman Berry; and carried unanimously by a roll call vote of 6-0. (Resnick – yes, Humphreys – yes, Berry – yes, Martin – yes, Peterson – yes, Casadei – yes.)

A motion was made by Councilman Martin to accept the Solicitor's report; seconded by Councilwoman Berry; and carried unanimously by a vote of 6-0.

**Old Business:**

No old business.

**New Business:**

No new business.

**Ward Reports:**

**First Ward:**

Councilman Resnick said that the Boy Scouts completed the 2<sup>nd</sup> part of their food drive over the weekend and brought in 5,798 items of food, which is their 2<sup>nd</sup> best year ever. He thanked everyone for participating.

**Second Ward:**

Councilman Humphreys had nothing to report. He wished everyone a Happy Thanksgiving.

Councilwoman Berry wished everyone a Happy Thanksgiving.

**Third Ward:**

Councilman Martin wished everyone a Happy Thanksgiving.

Councilman Casadei asked everyone to be careful on Halloween.

**Fourth Ward:**

Councilwoman Peterson wished everyone a happy holiday and asked everyone to be careful while driving.

Mayor Kelly reminded everyone that the Fire House would be having their annual toy drive, with an end date of November 30<sup>th</sup>. He asked anyone with donations of toys or money to do so at the Fire House.

**PRELIMINARY 2013 BUDGET:**

Mr. Tartaglia said that the last item of business would be the proposed 2013 budget. He said that they need to pass it on a preliminary basis so that they can post it for public review.

A motion was made by Councilwoman Berry to approve the preliminary 2013 budget so that it could be posted for public review; seconded by Councilwoman Peterson; and carried unanimously by a vote of 6-0.

**Closing Public Comment:**

Louann Pecko, 321 E. Broadway Ave., Clifton Heights, said that she was interested in knowing what exactly was passed with the ordinance. She asked if this was the only paper street in the Borough or if they knew how many paper streets that they had.

Mayor Kelly said that they did not know offhand.

Mrs. Pecko asked to confirm if this meant that the Borough is relinquishing any responsibility and taking it off the map of streets. She asked if that meant it was in the hand of the two residents and the Borough was having nothing to do with it.

Council confirmed that was accurate.

Mrs. Pecko asked if that meant that their action as a Borough was complete now and the Borough no longer has any jurisdiction over anything that transpires.

Council confirmed that was accurate. Mayor Kelly confirmed that it was private property now, but said that any easements that were already there would be staying.

President Casadei said that everything stays the same; just the Borough doesn't own it anymore.

She asked if that meant that no one could claim responsibility for anything other than what they have now.

Mr. Catania said that he doesn't know that. He said that whatever rights existed, he is not aware of them specifically. He said that what they did tonight didn't change any rights that the neighbors have between and amongst themselves. He said that the Borough simply removed them from the equation.

Mrs. Pecko asked if the people who used that road could continue to use that road.

Mr. Catania said that would not be up to the Borough.

Mrs. Pecko said that the Borough is absolved from anything that happens to the street.

Mr. Catania said that is accurate.

Mrs. Pecko said that it is up to the two adjoining properties and it is their domain.

Mr. Catania said that there might be others who have rights in the property, but it is not up to the Borough to determine that.

Mrs. Pecko said that legally they wouldn't know because they don't know what everyone's deeds say.

Mr. Catania said that is absolutely correct.

Mrs. Pecko said that they were here for themselves to hear exactly what is transpiring with this ordinance. She said that everyone reads and interprets things differently, so she just wanted to ask some questions.

Mr. Catania said that it means that the Borough has no interest in that street and it is a matter between and amongst the private property owners. He said that he is not sure of the rights of each property owner, and that is no longer the Borough's issue.

Mrs. Pecko said that she knows the person who maintains the property and she had a real issue with PECO, who came and put a pole there and that she was back and forth for a year trying to get them to address the issue. She said that is another issue in the Borough with new poles going up and then having to switch all the utilities. She asked if that was the responsibility of the homeowner.

Mr. Catania said that the utility companies usually have easements on properties, but the easement doesn't always specifically say where the easement is located, so they can move it within a reasonable distance.

Mrs. Pecko asked if they come in and put a new pole up if they take down the old one.

Mr. Catania said that they should.

Mayor Kelly said that they haven't been taking the old poles down, and they don't know why.

Mrs. Pecko thanked them for their time.

Terrance Fitzgerald, 13 West Broadway Ave., said that the Fire Company would be doing their 12<sup>th</sup> Annual Toy Drive to support Child Abuse Prevention Efforts and Education. He said that they are collecting the toys in conjunction with 92.5 WXTU. He said that checks can be made out to the Fire Company and noted Toy Truck Drive. He said that the deadline is Nov. 30<sup>th</sup>, and that they will be taking part in the truck parade to deliver the toys to Toy Mountain at Xfinity Live on Saturday, December 1<sup>st</sup>. He said that they have teamed up with H 5&10 who have a toy store in Ardmore, and they are going to match however much money or toys are raised by the Fire Company.

**Adjournment:**

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

Respectfully Submitted,

Kimberly A. Duffy

Clifton Heights Borough Secretary