

**Clifton Heights Borough Council  
Meeting Minutes  
Tuesday, November 15, 2011 Meeting**

**Present:**

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

**Others Present:**

Joseph T. Kelly, Mayor  
Frank Catania, Borough Solicitor (arrived late)  
Tony Tartaglia, Code Enforcement/Borough Manager

**Pledge of Allegiance**

**Prayer Led By Mayor Kelly**

Mayor Kelly asked for a moment of silence in memory of Jim McGrory, an active community member and Chairman of the Zoning Board. He asked for a page of the minutes to be dedicated to his memory.

**Public Comment:**

Claudia Fagioli, Tax Collector, reported that the meeting with TD Bank went well the week prior. She said that they were able to go over all information that each side needed to set up the Lockbox Services. She said that she would send a notice with the bills telling the taxpayers that they would need to send the bills in with the Lockbox to TD. She said that they are headed in the right direction.

Fred Rich, 82 Chester Ave., said that he wanted to discuss the sanitation issues and address his questions to the Borough Manager, Tony Tartaglia. He said that he sent a letter to Mr. Tartaglia dated October 5, 2011 requesting an explanation as to why an independent contractor is now picking up all of the Borough's trash in place of the Borough's regular employees. He said that Mr. Tartaglia responded in a letter dated October 13, 2011 claiming the Sanitation and Highway Department was shorthanded a number of employees, including both drivers on certain days and claiming that because of an impasse in the contract negotiations for the contract that expired in March 2011, he is unable to hire new employees until a new contract is in place. He said that Mr. Tartaglia wrote that he decided to declare an emergency situation and bring in an independent contractor at the cost \$1,240.57/day to the taxpayers. He said that he contends that Mr. Tartaglia is fully responsible for creating the emergency situation with the Sanitation/Highway Department, knowing full well that the Department has been undermanned for a long period of time. He said that Mr. John Grace, who passed away in July 2010, has never been replaced. He said that he has refused to hire any new employees to maintain the staff at 7 employees, required by the then existing contract. Mr. Rich asked Mr. Tartaglia if he denied being unaware of the manpower shortage.

Mr. Tartaglia said no.

Mr. Rich said that he also contends that Mr. Tartaglia is fully responsible for the impasse in the contract negotiations by acting in bad faith with Local 835. When the contract expired in March 2011, in further

negotiations, you requested a reduction in the work force from 7 to 6 employees and a reduction to a less expensive health care plan, which Mr. Fabrizio and Local 835 representatives reluctantly agreed to. However, before the agreement could be presented to Council, you unilaterally decided to change the terms of the agreement. He asked if this was true.

Mr. Tartaglia said that this was not true.

Mr. Rich continued that the new proposal changed the work force from 7 to 5 employees, with a further reduction to 4 employees in the near future and by attrition, virtually eliminating the Sanitation/Highway Department. He said that when Mr. Fabrizio and Local 835 balked at this proposal, the impasse was created and no new talks have been scheduled by the Borough since then.

President Casadei informed Mr. Rich that his 3 minutes had concluded.

Mr. Rich said that he was finished and continued to say that he was not finished. He said that it was unlawful that they were not letting him speak.

A motion was made by Councilman Alpini to extend the time allotted to Mr. Rich so that he could finish his speech; seconded by Councilman Penjuck; and denied by a roll call vote of 2-5. (Alpini – yes, Berry – no, Martin – no, Penjuck – yes, Tumolo – no, Papale – no, Casadei – no).

Councilwoman Berry asked if there was anything that was going to be brought up about the Sanitation Department tonight.

Mr. Tartaglia said that there would be nothing for the regular meeting but that they could discuss in Executive Session.

Mr. Rich said that they should discuss in front of the taxpayers.

President Casadei told Mr. Rich he was out of order. He asked him to be escorted from the room.

### **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 roll call vote of 7-0. (Alpini – yes, Berry – yes, Martin – yes, Penjuck – yes, Tumolo – yes, Papale – yes, Casadei – yes.)

### **Mayor's Report:**

Mayor Kelly said that he was remiss last month for not mentioning that the Fire Prevention Event was well attended last month and that the Department did a wonderful job. He announced that the Borough would be hosting their annual Christmas tree lighting ceremony on Sunday, December 4<sup>th</sup> at 6pm. The event is hosted by the Clifton Heights Fire Company, the Clifton Heights Business Association and the Department of Recreation. He said that the affair continues to grow, and he expects a nicely attended event this year. He said that he has been receiving a lot of complaints about kids hanging out at the ball fields after dark, doing things that they shouldn't be doing. He said that they only have 2 officers on duty at night, and they are doing the best they can up there patrolling with lights, but he would like Council as a whole to try and brainstorm ideas of how they can secure the field and solve some of the problem.

Councilwoman Berry asked what kind of lighting that they had up there on non-game nights.

Mayor Kelly said that there was no lighting.

Councilwoman Papale asked what the gate situation was like.

Mayor Kelly said that they would have to buy bigger gates to cover some of the big openings. He said that they would then have to determine whose responsibility it would be to close and open the locks on the gates. He said that the police would continue to patrol, but that he wanted them to think about it as a group to try and figure something out. He said that they could send out a reminder to parents in the New Year to be aware of where their children are and what they are doing. He said that they had 2 kids (10 & 12 years old) up there at 6:20pm lighting a fire on one of the swings a few weeks ago.

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

### **Code Enforcement Report:**

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

Mayor Kelly said that he forgot to mention that at last month's meeting, there was a bit of excitement prior to the meeting with the report of shots fired and possible injuries. He said that they received a report today exonerating the Police Department and their actions that evening.

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

A motion was made by Councilwoman Berry to accept the treasurer's report and pay the bills as money becomes available; seconded by Councilwoman Tumolo.

Councilman Resnick said that he was assuming there was a large sanitation bill included.

Councilman Alpini said that he didn't see one.

Mr. Tartaglia said that they just paid a bill and there was not another bill received for processing.

After questions, the motion was carried unanimously by a roll call vote of 8-0. (Resnick – yes, Alpini – yes, Berry – yes, Martin – yes, Penjoke – yes, Tumolo – yes, Papale – yes, Casadei – yes.)

### **Manager's Report:**

Mr. Tartaglia said that he had nothing further from his Thursday night report, but that there was a revised preliminary budget report from what they spoke of the other night, which is ready for adoption. He said that he had not heard from anyone in the last couple of days, and he and Cindy made the necessary changes from Thursday night.

A motion was made by Councilman Martin to approve the preliminary budget, which reflects no tax increase; seconded by Councilwoman Berry; and carried unanimously by a roll call vote of 8-0. (Resnick – yes, Alpini – yes, Berry – yes, Martin – yes, Penjoke – yes, Tumolo – yes, Papale – yes, Casadei – yes.)

Councilman Resnick asked if they had a hearing date for 500 E. Broadway.

Mr. Tartaglia said that they do not have a hearing date yet, and the only update they have is that on Monday they were able to stop T-Mobile from hanging lines from poles.

Councilman Penjoke asked who was in charge of the recycling.

Mr. Tartaglia said that the trash haulers were now doing the recycling.

Councilman Penjoke said that there was nothing coming in from the Recycling, and they said that we were not bringing in anything.

Mr. Tartaglia said that when they initially started taking the recycling up there, they were crediting Suburban for those, but she spoke with Sharon (recycling) who spoke to Louie (Suburban) and asked him to resubmit numbers for all of those drop-offs.

Councilman Penjoke asked if they had the truck and manpower enough to pick up the recycling.

Mr. Tartaglia said that he spoke to Phil and he did not think that he would be able to get the entire town picked up on Wednesday and since Council expressed a desire to keep recycling pickup to one day a week, he let Suburban continue to pick up the recycling.

Councilman Penjoke asked if it would not save the town money by letting their own guys pick up the recycling.

Mr. Tartaglia said that he would love to do that if they were able to do it on Wednesday, but they weren't able to do that and it was Council's wish to have the recycling remain on Wednesdays.

Councilman Penjoke said that they haven't been getting any money from Blue Mountain anyway.

Mr. Tartaglia said that Blue Mountain has been receiving the recycling and they have the records, they just have to switch over the credits from Suburban to the Borough.

Councilman Alpini asked if all of the recycling was still going to Blue Mountain.

Mr. Tartaglia said that it was. He explained the situation again with Sharon and Louie and said that Blue Mountain would be reimbursing for us.

Councilman Penjoke said that they are paying for their men to stand around. He said that it would make sense to him to have their guys do it, even if they can't get it done in one day.

Mr. Tartaglia said that would be up to Council.

Councilman Alpini asked if Suburban charged a flat rate for Wednesday pickup.

Mr. Tartaglia said that they charge a flat rate for one man and two pickers, no matter what they do – recycling or trash.

Councilman Alpini asked if it would be possible to reduce their workload on Wednesdays by splitting up the workload and letting the 3 men the Borough has available do part of the pickup.

Mr. Tartaglia said that he could do that. He said that he could split the town.

President Casadei asked Mr. Tartaglia to work on that.

Mayor Kelly explained that the split would involve Suburban picking up half the town and our guys picking up half the town on Wednesdays.

## **Engineer's Report:**

J.P. Kelly said that the sewer repair work on Baltimore Pike is on schedule. He said that he expects the work to be completed in 3 weeks. He said that the potholes have been repaired and the slip-lining is outstanding.

Councilwoman Berry asked how they were with Aqua in the 2<sup>nd</sup> ward.

Mr. Kelly said that he has not been dealing with Aqua.

Mr. Tartaglia said that he was dealing with Aqua and at the end of the last caucus meeting, it was pointed out to him again how bad the dust is in the area. He said that he spoke with Bill Miller on Friday and again today to ask him to please come down and look at the contractor's work because they have not done a proper job of taking the dirt off the streets. He explained the difference between using a power broom and a street sweeper. He said that Bill Miller is the supervisor for lines and service construction and should be down tomorrow to inspect. He said that if anyone has a list or item that they would like to be looked at, to please provide any information to him.

Councilman Alpini said that they passed a unanimous motion at last month's meeting to give Aqua/Brubaker 3 days to get a street sweeper in or to cease operations. He said that that motion was approved by 8 members of Council last month and that they are still operating and creating a mess and nothing has been done. He said that he is asking him to enforce what Council voted on last month.

Mr. Tartaglia said that they can't stop a utility from placing the lines in the street once a permit has been issued, unless there is something wrong with the work that is being completed.

Councilman Alpini asked Mr. Tartaglia to help the residents of the 2<sup>nd</sup> ward to protect their property.

Mr. Tartaglia said that that is what he is trying to do by meeting with Mr. Miller and he invites anyone who has any issues to come and be part of that meeting.

Councilman Alpini said that it has been 30 days with no action.

Mr. Tartaglia said that they couldn't just pull permits like that. He said that Council can't take action that would intervene between one person and a utility, and by saying that to Brubaker would be intervening. He said that they will be out there tomorrow.

Councilman Martin asked if they could say that if they do not clean up the mess, then the Borough will have someone out there to clean up and bill Brubaker.

Mr. Tartaglia said that they would essentially be doing that tomorrow with Mr. Miller.

Councilman Martin asked if they had to place a performance bond.

Mr. Tartaglia said that they are bonded to the water company, not the Borough.

Councilman Martin asked if the water company and a fiduciary responsibility to the Borough.

Mr. Tartaglia said that they do if they damage the streets or any of the Borough's property.

Councilman Alpini said that he finds it unbelievable that they are powerless to a company that comes in and creates a mess and does nothing to clean it up.

Councilwoman Berry asked how much work there was left to be completed.

Mr. Tartaglia said that they are finishing some cut-ins and saying a week or 2 of finishing.

Councilman Alpini said that they still need to come in and do the long side, that they are only doing the short side right now.

Mr. Tartaglia explained the situation, with the “shorter and longer” side. He said that all of the work is completed in one trench.

Mayor Kelly confirmed that he was told that both sides were completed in one trench as well.

Councilwoman Berry asked about the macadam.

Mr. Tartaglia said that they obviously wouldn't be getting the half street overlay this late in the year and that would happen in the spring, but hopefully they'll be able to get a cut out and base repair which will flatten everything out. He said that he told Bill Miller that they would currently have issues with plowing because of the irregularity of the base right now.

Councilman Penjuka said that said that they were up on his street where the water was running 5 gallons a minute and contacted a neighbor and told him it was his water line, and he then spent \$3,000 dollars getting his water line repaired, and the water is still running at 5 gallons a minute or more.

Mr. Tartaglia said that the person who is leaking is aware of the leak.

Councilman Penjuka asked if he could have Mr. Miller take part in the inspection of that issue.

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

### **Old Business:**

President Casadei said that last month he was accused by Mr. Alpini of telling Mr. Tartaglia not to provide him the meeting minutes. He read the minutes from last month's meeting. He said that he spoke to Mr. Tartaglia about the situation and he didn't know anything about it.

Councilman Alpini said that he is just telling you what he was told.

Mr. Tartaglia said that he doesn't remember ever denying anyone copies of the minutes.

Councilman Alpini said that this could be solved easily by providing the minutes to Mr. Alpini and allowing him to load them to the website.

Councilman Martin asked Mr. Tartaglia if he could upload the minutes.

Councilman Alpini asked if they could please just update the website.

Councilwoman Berry said that they voted to put the snow removal out for bid.

Mr. Tartaglia said that they did not do that yet, but that it would be ready for the December meeting and it wasn't for snow removal, but an RFP for additional snow removal if necessary in the event of snow.

Councilman Penjuka said that the Church on Church St. had the road fixed by Mr. Trabacoia. He asked if they could make a motion to reimburse the Church for fixing the road that was there responsibility.

Mayor Kelly said that he heard that it was donation from one of their benefactors.

Councilman Martin said that he heard the same thing.

Councilman Alpini said that it was not done as a favor.

Councilman Martin said that he doesn't think that it is legal, and the Solicitor is not here to rule on that. He said that they could bring this up again next month.

A motion was made by Councilman Penjuka to reimburse the Church for any expenses incurred in repairing the street; seconded by Councilman Alpini.

Mayor Kelly asked if it was authorized.

Councilman Penjuka said that a repair was authorized for a contractor who didn't come in yet, and in the interim Mr. Trabacoia came in.

Councilman Martin said that it did not go out on bid, so he's not sure of the legality.

Mayor Kelly said that he would recommend deferring to the Solicitor.

Councilman Alpini said that the Church did receive contributions from the parishioners for the repair, and they did receive a bill and did pay the bill from the contributions. He said that they had been receiving complaints for years and thought that it was in the best interest to go ahead with the repairs. He said that he believes he got a permit from the Code Department.

Mr. Tartaglia said that he absolutely did not.

Councilman Alpini said that he thinks that they need a roll call vote.

President Casadei said that without knowing the legality of the situation, they are deferring the vote until Frank arrives.

### **New Business:**

A motion was made by Councilwoman Berry to name Stu Shelley to the Zoning Commission; seconded by Councilman Martin; and carried unanimously by a vote of 8-0. (Resnick – yes, Alpini – yes, Berry – yes, Martin – yes, Penjuka – yes, Tumolo – yes, Papale – yes, Casadei – yes.)

### **Ward Reports:**

#### **First Ward:**

Councilwoman Resnick announced that the Boy Scouts would be at Borough Hall from 9am to 1pm on Saturday for their Thanksgiving Food Drive.

Councilwoman Papale wished everyone a Happy Thanksgiving.

#### **Second Ward:**

Councilman Alpini said that 3 years ago, the old Plank Building was condemned by Mr. Tartaglia. He said that the District Court hadn't received any citations regarding that building.

Mr. Tartaglia said that he has a full file of citations that can't be heard because Helen, the owner, is incontinent.

Councilman Alpini asked for an update. He said that he's afraid of another 500 E. Broadway.

Mr. Tartaglia said that he has been talking to a group of investors for the last 6-7 months who are hoping to move forward with purchasing that property and rehabbing it. He said that they have been going through all the costs and everything with the potential buyers in hopes of making some progress. He said that they hoped to have it in someone else's hand by the end of the month.

Councilwoman Berry wished everyone a happy and healthy Thanksgiving.

**Third Ward:**

Councilman Martin thanked the Fire Company for donating the flag, rope and time for installation for the replacement of the Borough's flag. He said that he would like a letter of gratitude sent from the Borough to the Fire Company. He also commended James Salmon for joining the Fire Company and continuing the tradition of having a Borough employee as a responder.

President Casadei wished everyone a Happy Thanksgiving.

**Fourth Ward:**

Councilman Penjuck asked about the tree on Springfield Rd.

Mr. Tartaglia said that he would take care of it if that was Council's wish.

Councilwoman Tumolo said that she heard on the news that they're only getting 21-28 inches of snow this year, so she's keeping her fingers crossed.

**Solicitor's Report:**

Councilman Penjuck explained the situation of the street on Church Street.

Mr. Catania asked if they fixed something that the Borough owned in conformity with the Borough's standards. He asked if they could send him the information on the work for him to review. He said he would tell them not to approve that without more information.

Councilman Alpini said that he received a bill 5 minutes before the meeting for \$4,000.

Mr. Catania asked for the paperwork for review.

Mr. Tartaglia said that he received a call in advance saying that someone would be up to apply for a permit, but no one ever came up for the permit and the work was completed and he didn't get to inspect anything.

Councilman Alpini asked about the issue with Aqua.

Mr. Catania said that he could talk with their lawyer tomorrow after Tony's meeting with Aqua's Bill Miller.

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

**Closing Public Comment:**

Claudia Fagioli, Tax Collector, provided tax information on the former Plank property.

**POST-EXECUTIVE SESSION:**

A motion was made by Councilman Martin to have the Frank Catania and Cynthia Leitzell work together on preparing a TAN for 2012; seconded by Councilwoman Berry; and carried unanimously by a vote of 8-0.

**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

This page of the minutes is respectfully dedicated to the memory of Jim McGrory.