

**Clifton Heights Borough Council**  
**Meeting Minutes**  
**Tuesday, December 18, 2012**

**Present:**

Anthony Casadei, Council President  
Edward Martin, Council Vice President  
Betsy Berry, Councilwoman  
Mike Humphreys, Councilman  
Leona Papale, Councilwoman  
Harris Resnick, Councilman  
Karen Peterson, Councilwoman  
Jane Tumolo, 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**

Mayor Kelly requested a moment of silence for the victims of the Sandy Hook Elementary School shooting in Connecticut.

**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 8-0. (Resnick – yes, Humphreys – yes, Berry – yes, Martin – yes, Peterson – yes, Tumolo – yes, Papale – yes, Casadei – yes.)

**Mayor's Report:**

Mayor Kelly thanked everyone from Council, the Recreation Board and the Businessman's Association, involved with the Christmas tree lighting at the fire house for a job well done. He said that the PAL also had a nice breakfast with Santa event over the weekend.

He thanked the Borough manager for his report and the progress being made. He wished everyone a merry Christmas, happy Hanukkah, and happy and healthy New Year.

**Police Report:**

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

**Code Enforcement Report:**

A motion was made by Councilman Humphreys to approve the code enforcement report as presented; seconded by Councilwoman Papale; 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 Peterson; and carried unanimously by a roll call vote of 8-0. (Resnick – yes, Humphreys – yes, Berry – yes, Martin – yes, Peterson – yes, Tumolo – yes, Papale – 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 that for the 2012 CDBG, OHCD has requested additional information, which his office will forward this week. He said that it is for environmental studies, which the Borough completed in February.

J.P. Kelly said that his next item was for the planning modules for RaBena Bros. He said attached is a resolution for new land development. He said that this is the final step required by the Borough to allow additional flow into the sanitary sewer system. This Resolution is in accordance with action taken by DCJA at their November 21<sup>st</sup> meeting, which voted to accept an additional 2625 gpd, as stated in their November 26<sup>th</sup> letter.

A motion was made by Councilman Martin to adopt the RaBena Bros new land development resolution as presented; seconded by Councilwoman Berry; and carried unanimously by a vote of 8-0.

J.P. Kelly said that they had a bid opening for the grass cutting and that he would have that done and ready for the January meeting.

A motion was made by Councilman Martin to accept 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 has advertised Ordinance No. 834, the tax ordinance, Ordinance No. 835, the sewer fee ordinance and Ordinance No. 836, the trash fee ordinance. He said that the sewer and trash fees have not changed from last year, and the millage for the taxes has increased .25. He said that the advertisement also includes the notice of a special meeting, next Thursday, December 27<sup>th</sup> at 7pm at Borough Hall to consider and adopt those ordinances. He said that he also heard earlier tonight that you would be adopting the final budget at that time, and these ordinances are consistent with what has been presented so far as the proposed final budget. He said that if there were any amendments between now and then, the ordinances would have to be re-advertised.

Mr. Catania continued that he had several litigation matters since the last meeting. He said that after about 9 or 10 continuances, he and Mr. Tartaglia appeared in Court in Media for the Commonwealth vs. William Ruane, an alleged violation of our fence height ordinance in which 2 citations were issued. He said that after a hearing on the matter that Mr. Ruane did not attend, the Judge found that the citations were properly issued and found him guilty, so his appeal was denied and the Judge reinstated the fines that were set at the District Justice level.

He continued that since the last meeting, the owner of 4 Rockbourne Rd., Rockbourne Investment LP or the Duffy property, filed a lawsuit against the Borough. Once the owner got wind that the Department of Environmental Protection was requiring the Borough to close that building down for what they allege is an illegal sewer connection. The DEP sent the Borough a letter saying that they have 5 days to close the building down. He said that on the 5<sup>th</sup> day, they had still heard nothing and he was with Mr. Kelly and Mr. Tartaglia in Court, and they contacted the attorneys for Rockbourne and asked if they were going to close and were told no. They indicated that the Borough would have to enforce what the DEP requested of them, and so Rockbourne went into Court on an emergency basis and appeared before Judge Durham and were successful in receiving an injunction from closing them down against the Borough. The DEP has indicated that they are not letting the Borough off the hook for that, but the Borough is in an untenable position because the Court has prohibited the Borough from taking any action to close the building. He said that they can't do anything at this time, but they have been advised by the attorney for Rockbourne that they are endeavoring to get this problem solved. He said that they have received information and proposals on how they would like to solve the problem.

He said that on the Kent Mills property, he was in Court with Mr. Kelly again and introduced to the structural engineer who came in and testified that usually he is one of the 1<sup>st</sup> people hired on a demolition job and that he was not hired until November. He said that they pointed out to the Court that Mr. Kennedy had agreed to demolish the property back in April and they found it odd that he was just hiring the structural engineer now. He said that there have been plans filed with the Borough and State and the Conservation District. He said that there is some movement there. He said that he appeared in District Justice Court with Mr. Kelly and Mr. Tartaglia on a high grass series of citations and after a hearing, Judge Perfetti found Kent Mills guilty on those citations. He said that they are still active there but not much is going on at the Common Pleas level, more at the District Justice level.

Mr. Catania continued that for a police matter, the District Attorney's Office has changed their policy and are now requesting that the Borough Solicitors file and intervene in Court cases where the Borough's Police Department has been subpoenaed for records. He said that in the case in question, Commonwealth vs. McIntyre, Officer Gallo had issued a DUI citation and the Defense lawyer subpoenaed all of Mr. Gallo's records for DUI arrests in connection with that. He said that the Chief got in touch with him and they worked with the District Attorney's Office to file a

protective order. He said that he thinks that either did or was about to result in a plea. He said that typically in the past, the DA's office would have filed those motions but now they are asking the Borough to do so.

Mr. Catania said that the trash proposal that they accepted last month, he has just finished a copy of the contract and that he requested a copy of the proposal from Mr. Tartaglia to attach to the contract as an exhibit. He said that that should be ready for signing once he receives the copy of the proposal.

A motion was made by Councilman Martin to accept the Solicitor's report; seconded by Councilman Humphreys; and carried unanimously by a vote of 8-0.

### **Old Business:**

No old business.

### **New Business:**

President Casadei asked about having the schedule for the meetings for next year.

Mr. Catania said that he has a copy of the meeting schedule for next year and that he will advertise all the meetings for the 3<sup>rd</sup> Tuesday of each month with the Committee meetings commencing at 7pm and the Council meeting commencing at 7:30pm.

A motion was made by Councilman Martin to authorize the Solicitor to advertise the 2013 meeting schedule; seconded by Councilwoman Papale and carried unanimously by a vote of 8-0.

### **Ward Reports:**

#### **First Ward:**

Councilman Resnick had nothing to report.

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

#### **Second Ward:**

Councilman Humphreys wished everyone Happy Holidays.

Councilwoman Berry wished everyone Happy Holidays.

#### **Third Ward:**

Councilman Martin wished everyone a wonderful holiday season and asked for prayers for the kids who lost their lives in the tragedy.

Councilman Casadei wished everyone a healthy New Year.

**Fourth Ward:**

Councilwoman Peterson wished everyone health and luck in the New Year.

Councilwoman Tumolo wished everyone a happy & healthy 2013.

**Closing Public Comment:**

No closing public comment.

**Executive Session:**

Mr. Catania announced that they did have an Executive Session prior to the meeting for personnel and litigation.

**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