

**Clifton Heights Borough Council**  
**Meeting Minutes**  
**August 20, 2019**

**Present:**

Ronald Berry, Council President  
Edward Martin, Vice President  
Mark Campbell, Councilman  
Mike Humphreys, Councilman  
Leona Papale, Councilwoman  
Karen Peterson, Councilwoman  
Harris Resnick, Councilman  
Fred Rich, Councilman

**Others Present:**

Francis Catania, Solicitor  
J.P. Kelly, Engineer  
Cynthia Leitzell, Treasurer  
Joseph Lombardo, Mayor  
John Perfetti, Interim Borough Manager  
Timothy Rockenbach, Chief of Police

**Pledge of Allegiance**

**Public Comment:**

No opening public comment.

**Meeting Minutes:**

A motion was made by Councilwoman Papale to accept the July 2019 meeting minutes as presented; seconded by Councilman Campbell; and carried unanimously by a vote of 8-0.

**Mayor's Report:**

Mayor Lombardo thanked the Clifton Heights PAL and the Clifton Heights Boys' Club for the patience that they have had during the transition period of the field use lease ending with the Upper Darby School District and developing a new agreement. He said that they have been very good in their dealings with the Borough, the Upper Darby School District and the Upper Darby Recreation Department. He said that the Borough will continue to do everything that they can for them as they move forward and he thanked them again.

**Police Report:**

A motion was made by Councilman Humphreys to accept the Police Report as presented; seconded by Councilman Campbell; 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 Papale; and carried unanimously by a vote of 8-0.

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

A motion was made by Councilman Martin to accept the treasurer's report and pay the bills; seconded by Councilman Resnick; and carried unanimously by a roll call vote of 8-0. (Resnick - yes, Rich- yes, Humphreys - yes, Martin - yes, Peterson - yes, Papale - yes, Campbell - yes, Berry - yes.)

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

Borough Manager Perfetti reported that the Borough hosted their e-recycling and shredding event on Saturday, July 20, 2019 in the parking lot and it was a total success. He reported that over 80 televisions and other electronics were received, in addition to over 3,000 lbs. of shredding.

He said that the Planning Commission held a meeting on August 7, 2019. They approved the Arby's project as submitted with the remarks, and they also entertained the preliminary presentation of the Upper Darby School District for plans to build a school on the athletic fields at 217 N. Springfield Rd. He said that the meeting was recessed until August 19<sup>th</sup> at the end of the meeting. He said that after the Borough's court hearing on August 14<sup>th</sup> 2019 at the Delaware County Courthouse, the meeting for August 19<sup>th</sup> was then postponed and there will be a mutual time and date that will be agreed upon or scheduled by Court order. He said that the Borough Solicitor would be able to address these matters in much more detail.

Borough Manager Perfetti reported that the Borough completed their LED street lighting program so that now on every pole where a light was affixed, an updated, energy-saving LED light should be affixed to all of those poles. He said that Higgins completed the work and would come back for any touchups as necessary.

Borough Manager Perfetti informed Borough Council that the Borough of Aldan had reached out to the Borough with interest in buying 100 LED lights that the Borough does have in stock. The Borough Manager and Borough Engineer are working out details about what they would charge per fixture, and with Council's permission, he would like to work on those negotiations with himself, the Borough Engineer and Borough Solicitor.

A motion was made by Councilman Martin to authorize the Borough Manager, Borough Engineer and Borough Solicitor to negotiate a price for the purchase of 100 LED lights with the Borough of Aldan; seconded by Councilman Humphreys; and carried unanimously by a roll call vote of 8-0. (Resnick - yes, Rich- yes, Humphreys - yes, Martin - yes, Peterson - yes, Papale - yes, Campbell - yes, Berry - yes.)

He informed Council that National Slinky Day with the historical marker unveiling would take place on Friday, August 30<sup>th</sup> at 10am at the designated location on Baltimore Pike next to the Fire House. He announced that all residents were invited and encouraged to join in the celebration.

A motion was made by Councilwoman Papale to recognize the address of 359 East Madison Ave, which is where the slinky was originally invented, as a Historical Building in the Borough; seconded by Councilman Resnick; and carried unanimously by a vote of 8-0.

A motion was made by Councilwoman Papale to recognize the slinky as the official toy of the Borough of Clifton Heights, noting that the State of Pennsylvania recognizes the slinky as the official State toy; seconded by Councilwoman Peterson; and carried unanimously by a vote of 8-0.

Councilwoman Papale noted that they hoped for a great turnout for the event. She said that the Historical Society was working diligently to get everything prepared for the event. She noted that August 30<sup>th</sup> is the recognized date of the Slinky's invention and this year marked 74 years since it was invented and next year would be the 75<sup>th</sup> anniversary. She said that anyone with slinky memorabilia or connections to the company or building was encouraged to join them for the event on August 30<sup>th</sup>.

Borough Manager Perfetti said that the Borough has received numerous complaints about the parking of vehicles, trucks, trailers, boats and other types of vehicles in the rear of the Borough's municipal lot. He said that himself, the Chief of Police and the Code Enforcement did go back and inspect the parking, and at this time, he would like to recommend that the Borough establish a policy, either by Council vote or authorizing the Borough Manager to create a policy, that would allow for no parking of vehicles with 30 days' notice. He said that he would recommend issuing notice on September 1<sup>st</sup> with enforcement starting on October 1<sup>st</sup>.

President Berry asked if they should do something like that through Ordinance.

Solicitor Catania said that while he hasn't reviewed it recently, he believes that the traffic ordinance has a provision allowing for experimental applications for parking and other areas to test out possibilities before establishing an ordinance. He said that they could develop the new procedure with this method on a trial basis and then prepare the ordinance as they move forward to confirm that it would be functional.

A motion was made by Councilman Martin to adopt the recommendation of the Borough Manager and designate the rear portion of the municipal parking lot at Borough Hall as a no parking lot on a trial basis with notice posted for 30 days and going into effect after 30 days' notice has been provided; seconded by Councilwoman Papale; and carried unanimously by a vote of 8-0.

Borough Manager Perfetti said that they had a short discussion in their Executive Session, and he would request a vote on the 2020 Financial Requirement and Minimum Municipal Obligation (MMO) for the pension plan of the uniformed police officers and non-uniform highway workers. He said that after discussions with the Borough Financial Manager, the cost for the Borough would be \$332,694 for the police pension plan and \$32,989 for the highway department.

A motion was made by Councilman Martin to accept the 2020 Financial Requirement & Minimum Municipal Obligation in the amount of \$331,694 for the police pension plan and \$32,989 for the highway department; seconded by Councilwoman Papale; and carried unanimously by a roll call vote of 8-0. (Resnick - yes, Rich- yes, Humphreys – yes, Martin – yes, Peterson – yes, Papale – yes, Campbell – yes, Berry – yes.)

Borough Manager reported that the Aqua Infrastructure Program project for new water mains has started. They would be covering Prospect Ave between Oak and Springfield, North Sycamore between Baltimore & Springfield and Davis Ave between Oak and Church, and the cost of the project is expected to be around \$491,000.

He reported that the Clifton Heights Road Improvement Program started yesterday with the milling of Summit from Baltimore to Springfield, North Sycamore from Wyncliffe to Mill and East Berkley from Marple to Holly, and a small section of Holly. He said that he hoped that project would be complete by next Friday.

He said that in very good news, he was happy to announce that the bridge project down by the Kmart has finally come to an end. He said that the project was completed on August 15<sup>th</sup> and PENNDOT paved it the next evening and painted the turn lanes the night after that, so the project is officially completed.

Borough Manager Perfetti said that he had a special request this evening from a citizen at 117 Academy Ave. The individual has been in touch in the Borough Tax Collector. He is an 81 year old gentleman who has resided in the Borough for over 31 years. He has 2 challenged children who he raised and who are still living with him. In late April, he took a spill down the basement steps, and didn't see a doctor. In late May, he had a brain bleed and was in the hospital for 3.5 weeks. A few weeks ago, on his work table, his daughter found a check that was made payable to the Borough of Clifton Heights for his Borough taxes that was never mailed. The family had asked if the Borough would waive the late fees for the taxes in lieu of the situation outlined, and Borough Manager Perfetti was asking if they could do that as this is not a common practice to accept late payments.

A motion was made by Councilman Martin to facilitate the waiving of late fees for the Borough taxes at 117 Academy Ave in lieu of a medical emergency; seconded by Councilman Rich; and carried unanimously by a roll call vote of 8-0. (Resnick - yes, Rich- yes, Humphreys – yes, Martin – yes, Peterson – yes, Papale – yes, Campbell – yes, Berry – yes.)

Borough Manager Perfetti announced that through the efforts of the Borough Engineer, the Borough had just been approved for their CDBG grant for the municipal parking lot in the amount of \$125,560. He said that County Council is just awaiting the signed paperwork back from the Borough, and they will be ready to move forward.

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

### **Code Enforcement Report:**

A motion was made by Councilman Martin to accept the Code Enforcement Report as presented; seconded by Councilman Humphreys; and carried unanimously by a vote of 8-0.

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

J.P. Kelly presented the Engineer's report.

Mr. Kelly announced that the street lights had been installed and, as such, the contractor has submitted for their 2<sup>nd</sup> payment.

A motion was made by Councilwoman Peterson to certify a payment request for the street lighting project to Higgins & Sons in the amount of \$10,021.50 representing 90% of the request; seconded by Councilman Humphreys; and carried unanimously by a roll call vote of 8-0. (Resnick - yes, Rich - yes, Humphreys - yes, Martin - yes, Peterson - yes, Papale - yes, Campbell - yes, Berry - yes.)

Mr. Kelly that the public comment period for the MS4 program revised PRP ended on August 16<sup>th</sup>, so they will be submitted a revised PRP to DEP by the required due date of September 15, 2019. The approved PRP is required to obtain an NPDES permit in accordance with the new MS4 permit requirements.

A motion was made by Councilwoman Papale to accept the Engineer's report as presented; seconded by Councilman Campbell.

Councilman Rich noted that there were a number of acronyms outlined in his report and thought it might be helpful to explain those acronyms.

Borough Engineer Kelly said that they had discussed them at the previous month's meeting, which is why he used the acronyms, but he was happy to spell them out. He said that NPDES stands for National Pollution Discharge Elimination System is a Federal permit that every municipality is required to obtain and issued through the DEP or Department of Environmental Protection. He said that within that permit process, new regulations were added and part of the regulations are to develop a PRP or Pollution Reduction Plan, which is a system of inlet protections among other things that are installed, implemented and managed through the MS4 program, which stands for Municipal Storm Sewer Separate System, so the storm system that collects storm water before it is discharged needs a NPDES permit.

After discussion, the motion was carried unanimously by a vote of 8-0.

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

Francis Catania presented the Solicitor's Report.

He noted that they had an Executive Session prior to the start of tonight's Council meeting for litigation matters involving the Athletic Field and personnel matters involving the Police Department.

The School District filed their application for a proposed development at the Athletic Field in May and the Borough had 90 days to act on it, so that would require Council to act on it this evening. He noted that there was a Planning Commission meeting held in early August to commence the review of the application. He said that if anyone was at the meeting, it became pretty apparent early on that there was a lot of incompleteness in the application. He said that the Borough would still be required to act on the application before August 26<sup>th</sup> unless the School District requested an extension of time. He said that on August 13<sup>th</sup>, after the Planning Commission meeting, the School District wrote to the Borough and requested an extension of time until October 31, 2019 in order for them to gather more information and submit it to the Borough. It is his recommendation to have Council vote to extend the review period until October 31, 2019. He said that he has a letter dated August 13, 2019 from one of the School District's solicitors in which he also recommends dates for the Planning Commission meeting and Borough Council meeting.

A motion was made by Councilman Martin to extend the review period for the Upper Darby School District's application to October 31, 2019 to allow them additional time to respond with information that is required; seconded by Councilman Campbell; and carried unanimously by a vote of 8-0.

Solicitor Catania reported that there was a pre-trial conference held by Judge Dozor who has been assigned to both of the cases. The first case was filed by the School District and it is a procedural challenge to the Ordinances that were adopted by the Borough earlier this year to amend both the Zoning Code and Land Development Ordinances. He said that the pre-trial session was held on August 14, 2019. He had filed an action on behalf of the Borough in what is called a declaratory judgment asking the Judge to tell the Borough which Ordinances they should rely upon, the ones that they most recently passed (which is the Borough's position) or the ones pre-existing to the most recent ordinance date (which may be the School District's position but he isn't certain). He asked the Judge to resolve that issue before the review period ended because the School District had asked for an extension of time, but they really need to have that issue resolved before a comprehensive review can be concluded. He said that the Borough Engineer's office has done a very fine job of analyzing the application under both Ordinances, but his job has been made very difficult because there is a lot of information that just has not been submitted yet. He said that the Borough is required by law to do a good faith review of the application, and they want to do that but there is lot of information that they still would need. He said that the point of the pre-trial conference is to address scheduling. The Judge said that he would try to hear both cases, and his earliest available dates were in February and March of 2020. He said that he thinks that came as a shock to the School District representatives, but he thinks that scheduling is probably still a little ambitious. He said that there is a lot more information that they need in traffic studies, crime & safety issues, health issues, school bus traffic and pedestrian issues. He said that in his opinion, it is pretty clear to him, that there is no way that you can have a facility of that type as proposed, fronting on Springfield Rd without the construction of anywhere from 1-3 pedestrian bridges. He said that the Judge really encouraged them to talk about that, and his suggestion at that time in Court was the best way to discuss those issues would be through the Planning Commission process. He said that Borough Council and the individuals appointed to the Planning Commission are interested in having the

process occur publicly. He said that they would prefer transparency, and the Judge encouraged that process. He said that as they receive more information from the School District, they will probably schedule additional meetings. He said that the issue of who owns the field has not been set forth fully in the application. He said that if you take a hard look at it, half the field is in the School District's name and half the field is in the Clifton Heights School District's name. He said that may seem an insignificant thing, but there are 2 ways that the UDSD can own property, one is in the name of the Upper Darby School District and the other is in the name of the Upper Darby School Municipal Authority, which was formed in the 1970's and is still active. He said that he's not sure if the School District is aware of which of those entities holds the property. He said that if they don't act on that soon, they will have to ask the Court to review that issue as well. Before any owner of any property presents an application to the Borough, they have to provide evidence that they do, in fact, own the property. He said that the Borough paid for a title search back in March and wrote to the School District about the restricted covenant issue that could potentially still bind this Borough Council, and that issue was not addressed in the application either. He said that they may need to ask Judge Dozor to get involved in that area as well if the School District does not give some evidence of how they would propose to resolve that issue. He said that there is a lot going on and more information that they need, and they will continue to move forward.

Solicitor Catania noted that the Borough Council did adopt its intent to let everyone know that it understood what its rights were under the Environmental Rights Amendment, and no matter what happens in the litigation about the Ordinances, this Council has to address the issues in the Environmental Rights Amendment as part of the review process, so they will be doing that. He said that according to the School District, the earliest they are going to come back is October 2, 2019. He said that maybe these issues will be resolved by then, but they have given their word to the Judge that they will continue to talk to them and encourage them to go through the Planning Commission process and the Planning Commission hearing officer so that all of issues are dealt with transparency and openness.

A motion was made by Councilwoman Papale to accept the Solicitor's Report as presented; seconded by Councilman Rich; and carried unanimously by a vote of 8-0.

**Old Business:**

No old business.

**New Business:**

No new business.

**Ward Reports:**

Councilman Resnick had nothing to report.

Councilwoman Papale had nothing to report.

Councilman Humphreys had nothing to report, other than that he recently became a grandfather again.

President Berry had nothing to report.

Vice President Martin had nothing to report.

Councilman Rich said it is looking good in the 3<sup>rd</sup> ward, he just wishes that they could do something about the craters in the driveways behind the homes.

Councilwoman Peterson wished the kids heading back to school a great year. She asked for everyone to be aware of the increased traffic, school buses, walkers and crossing guards. She said that she has received some complaints since the School District took over the maintenance of the field. They are not mowing the side of 246 Revere Rd, which is school property. She said that they are also not trimming anything, so the weeds are getting very high around all the chain linked fencing. She said that they have had ongoing pest issues, so any issues with high grass really aren't acceptable.

John Gould assured her that he would follow up on that.

Solicitor Catania said that one of the issues that will come up is clarification of who owns what property. He said that there are a couple of easements that are visible, a driveway that is used by trash trucks, and a paper street that has yet to be vacated. He said that there may be issues with 3<sup>rd</sup> parties acquiring rights to certain areas. He said that they will have to resolve those issues, and while it isn't their place to resolve them, they will have to disappointingly approach the School District to correct those items. He said that if there are a significant amount of encroachments onto what would have been deemed the School District's property, it may no longer be the School District's property because of the length of time of the encroachments. He said that that also wasn't included on the application. He said that as far as he is concerned, the 2<sup>nd</sup> half of the field's ownership is unclear because he hasn't seen where the property was transferred, to the School District or Municipal Authority.

Councilman Campbell asked about the Gulf station at the corner of Church & Baltimore.

John Gould reported that it is currently being worked on, but they are sending a small crew out each day so that progress is going slow.

Councilman Campbell asked if there was a proposed completion date.

John Gould said that project in Aldan was going through a similar, slow process. He said that they were informed that they needed to take care of exterior issues before the weather shifted.

**Closing Public Comment:**

Sherry Rich, 82 Chester Ave., said that after attending the Planning Commission meeting and seeing what was presented, she is totally opposed to the project. She said that it was very clear that they



were no prepared. She said that the traffic study or lack thereof that they attempted to present was a complete disgrace and would in no way be ensuring the safety of the children or residents of the Borough. She asked about the extension to October 31 since the meeting was recessed rather than closed and then a pre-trial conference was held, she asked if everything would be on hold.

Solicitor Catania said that they have until October 31<sup>st</sup> to review things but really there were an exhaustive series of questions raised by the Planning Commission, and the information wasn't there, and they still don't have it yet. He said that it would be up to the School District to provide that information, and when a sufficient amount of it were to come it, it would be up to the officials to evaluate it, and when they are ready, there will be another Planning Commission meeting. He said that he was just as shocked as she was on the number of times they heard that "they hadn't thought about that; they'll need to get numbers for that; we'll have to follow up on that..."

Mrs. Rich said that they couldn't even answer a question about the entrance and exit. She said that it was a disgrace.

Solicitor Catania said that there was no information about the pedestrian traffic. He said that the School District doesn't have the ability to control the sidewalks, Borough Council does. He said that if there is a need to figure out how the kids will cross Springfield Road without an accident every day, it would be up to Borough Council to make the decision regarding the sidewalks. He said that those are practical issues that will have to be addressed.

Mrs. Rich said that she dumbfounded by the lack of presentation on their part. She said that she is not opposed to a new school; she is just completely opposed to a new school on the last green space in Clifton Heights.

Suzanne Briddes, 319 Austin Drive, asked if the ownership being under Upper Darby School District versus Upper Darby School Municipal Authority impact how they could use the land.

Solicitor Catania said that it could. He said that Authority's like that area usually formed for financing reasons, and they would do things like sale leasebacks. He said that he doesn't have the records to confirm what occurred in this instance. He said that if you do a title search of the property right now, it says that this half is in the name of the Upper Darby School District as conveyed by deed by Borough Council; that was the portion that had the deed restriction. The other half of the property with the football field on it, is in the name of the Clifton Heights School Board. He said he is not sure what happened or what the merger paper said and the deed was never corrected to make it clear that it was the intent that the Upper Darby School District take title to that property. He said they may have left it in the name of the School District of Clifton Heights and then put it in the Municipal Authority for financing reasons in the 1970's. He said that they really need to find that information out or ask a Judge to force them to figure it out.

Mrs. Briddes said that so far they have only provided that they say that is okay because they say so without a paper trail or backup documentation.

Jacquelyn Hareshma, 69 N. Penn St, asked if they have considered the impact the water will have once they remove all of the land and add cement. She said that they have trouble controlling the water travelling down Springfield Road as is.

Solicitor Catania said that there was a PENNDOT meeting requested by the School District to try to address that issue regarding water. He said that it was suggested that the Borough not be invited to that meeting, but through the efforts of JP Kelly and the Borough Manager, they were at the meeting. The issue was discussed at the meeting, and the Borough also discussed the issue during the construction period. They asked about water problems, runoff problems. He said that the Borough wouldn't want mud every time it rains. He said that there are calculations and rates that have to be worked on for all of this, and it is definitely something that they are aware of.

**Adjournment:**

A motion was made by Councilman Martin to adjourn; seconded by Councilman Humphreys; and carried unanimously by a vote of 8-0.

Respectfully Submitted,

Kimberly A. Duffy  
Clifton Heights Borough Secretary