

**BOROUGH OF CLARKS SUMMIT  
REGULAR BOROUGH COUNCIL MEETING  
WEDNESDAY, MAY 7<sup>TH</sup> 2003  
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The regular June Meeting of Borough Council was held on Wednesday, May 7<sup>th</sup> 2003 at 7:00 P.M. The Meeting was conducted in Borough Council Chambers, 2<sup>nd</sup> Floor, 304 South State Street, Borough of Clarks Summit, County of Lackawanna, Commonwealth of Pennsylvania. Members in attendance were Council Vice President Donald H. Moyer, III, Council Robert Bennett, Councilman Thomas Bradley (arriving late), Councilperson Jerry Carey, and Councilperson Linda Jenkins. Council President Edward M. Bush, Sr. was absent due to illness and Councilman Patrick Williams was absent due to eye surgery. Also attending were Mayor Robert Kester, Borough Solicitor Ernest D. Preate, Jr., Chief of Police Joseph English and Borough Manager/Secretary James G. Vones, Sr.

The Meeting was called to order by Vice President Moyer, followed by a moment of self-directed meditation and then the Pledge of Allegiance to the Flag.

**APPROVAL OF AGENDA:**

The Agenda had been pre-approved by President Bush.

**APPROVAL OF MINUTES:**

**December 11<sup>th</sup> 2002 Public Hearing & Special Meeting**

Motion by Mrs. Jenkins to approve the Minutes of the December 11<sup>th</sup> 2002 Public Hearing and Special Meeting as presented. Second by Mrs. Carey. Discussion – None. Motion carried 4-0.

**January 8<sup>th</sup> 2003 Regular Meeting (Rescheduled from Jan 01, 2003)**

Motion by Mr. Bennett to approve the Minutes of the January 8<sup>th</sup> 2003 regular Council Meeting, as presented. Second by Mrs. Jenkins. Discussion – None. Motion carried 4-0.

**February 5<sup>th</sup> 2003 Regular Meeting**

Motion by Mr. Bennett to approve the Minutes of the February 5<sup>th</sup> 2003 regular Council Meeting, as presented. Second by Mrs. Carey. Discussion – None. Motion carried 4-0.

**March 5<sup>th</sup> 2003 Public Hearing & Special Meeting**

Motion by Mrs. Carey to approve the Minutes of the March 5<sup>th</sup> 2003 Public Hearing and Special Meeting as presented. Second by Mr. Moyer. Discussion – None. Motion carried 4-0.

**March 5<sup>th</sup> 2003 Regular Meeting**

Motion by Mr. Bennett to approve the Minutes of the March 5<sup>th</sup> 2003 regular Council Meeting, as presented. Second by Mrs. Carey. Discussion – None. Motion carried 4-0.

**April 2<sup>nd</sup> 2003 Regular Meeting**

Motion by Mrs. Carey to approve the Minutes of the April 2<sup>nd</sup> 2003 regular Council Meeting, as presented. Second by Mr. Moyer. Discussion – None. Motion carried 4-0.

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**BIDS & QUOTATIONS:**

**2003 Lawn Service at Senior Center:**

Motion by Mrs. Carey to award the 2003 Lawn Service (Mowing) at the Abington Senior Citizens Center to the lowest Quotation. Abington Lawn Care. Second by Mrs. Jenkins. Discussion – None. Motion carried 4-0.

**2003 Lawn Service Borough wide:**

Motion by Mrs. Jenkins to award the 2003 Lawn Service (Mowing) Borough wide to the lowest Quotation. Abington Lawn Care. Second by Mr. Bennett. Discussion – None. Motion carried 4-0.

**BOROUGH TREASURER'S REPORT:**

The Borough Treasurer's Report as of April 30<sup>th</sup> 2003, prepared by Dee Ann Stephens was before Council. Motion by Mr. Moyer to accept the Report as presented. Second by Mrs. Carey. Discussion – None. Motion carried 4-0.

**COMMITTEE REPORTS:**

Mrs. Jenkins requested a recess toward the end of this meeting to discussion personnel issues.

Mr. Moyer reported that the suggested roads for 2003 paving should be ready for the next meeting.

**POLICE REPORT:**

Mayor Kester gave the April 2003 Police Activity Report. Mr. Bennett noted the vehicle miles on the police cars was included in last months report, but was missing from this month's (April 2003) Report. Chief English stated he would get that information and provide it to Council.

Mayor Kester also reported on his meeting with Department Heads, which had occurred on Monday, March 31<sup>st</sup> 2003 at 9:00 A.M. He would report on that Meeting during the Executive Session.

Solicitor Preate noted there had been a significant "jump" in non-criminal calls and they accounted for almost 1/3 of the activity. He asked what kind of calls these were. Chief English responded dog calls/cat calls.

**Mr. Bradley arrived at approximately 7:14 P.M.**

Mr. Charles Martin of Grandview Street asked if eighteen (18) accidents this month were about average for the Borough? Chief English responded yes, about average.

**BILLS TO BE PAID:**

Motion by Mrs. Carey to pay the current obligations of the Borough; specifically \$190,771.15 from the General Fund, and \$ 20,275.45 from the Payroll Account. To additionally approved the payment of bills between April 4<sup>th</sup> and April 29<sup>th</sup> 2003; specifically \$101,870.04 from the General Fund, \$41,964.18 from the Payroll Account, and \$ 4,834.00 from the Sewer Fund.

**OLD BUSINESS:**

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**Petition – Grandview Street**

Mr. Charles Martin of Grandview Street wanted to be "On The Record" and was presenting a Petition, signed by over 200 persons. This Petition requested Council action regarding a proposed zoning change and new development in South Abington Township, which would use Grandview Street as a means of ingress/egress. He had been attending meeting at South Abington Township and had addressed Borough Council about this issue, during the Work Session last week. It appears there had been a gentlemen's agreement between Clarks Summit Borough and South Abington Township regarding the closing of Grandview Street at "Scrub Road". He had requested, and been provided copies of correspondence between the Borough and South Abington Township in early 1995. He had organized a 'grass roots' effort and the Petition with 180 signatures had been provided to the Borough. It now had over 230 signatures. The residents were now requesting that a gate be install on Grandview Street at the Clarks Summit Borough/South Abington Township boundary line. The mound of dirt that was placed to close the road in early 1995 was now almost gone.

Vice President Moyer asked if South Abington Township had voted on the re-zoning issue yet. Mr. Martin responded, they will on Monday, May 12<sup>th</sup> 2003.

Mr. Mike Patrician (DDS) of 1201 Merion Circle stated this neighborhood is a high-density area. Child play here. This is a great residential area. If Grandview is opened to traffic in the new development (with South Abington Township) it will become the "Clarks Summit By Pass". If opened, people will travel up Shady Lane Road and cut across (the newly opened roads) to avoid traffic and traffic lights, producing a great deal traffic in the entire area and on Grandview Street. Mr. Patrician also noted that South Abington Township, with this new development of single family homes and townhouses will get added tax revenue while this Borough get more expense for road maintenance and increased police activity/accidents. Grandview would have to be widened to accommodate all the traffic. During any re-assessment, all the Clarks Summit properties would decrease in value, which would be another revenue lost to this Borough.

Mr. Joyce of 604 Lilac Lane stated there is major issue with child safety. Kids from the Lewis Lane area and other sections of Floral Park use Grandview Street. Any increase in traffic volume or speed, would put the children at risk, especially going/coming and/or waiting for a school bus. He stated he was also concerned about a decrease in his property value if Grandview Street was opened into South Abington Township. He stated that he was against this development and the trees that would be taken down for the new houses and townhouses. He was also concerned about the conservation impact and the wetlands in this area of development. He stated that the South Abington Township Supervisors had complaints from their residents on Shady Lane Road and were not saying much but were considering the opening of "Scrub Road (a.k.a T-390) onto Grandview Street. Now there were perhaps 100 vehicles a day on Grandview, allowing this would de facto create a "by pass" and greatly increase traffic volume on Grandview Street. Mr. Joyce noted that the South Abington Township Board of Supervisors had been receptive to the comments offered by the Clarks Summit residents, but no decision had been made and the zoning would be addressed next Monday. If they approved the change in zoning from commercial to residential, it would allow the development to move forward. He believes a rule was already in place and the Borough should build something across Grandview Street to permanently block it. He stated that "Scrub Road" is not a road in South Abington Township; so closing it would not be that hard to do.

Mr. Mike Patrician again, stated that if this were allowed to happen, it would be a huge mistake (by the Borough). The suggestion at the South Abington Township Meeting that an electric grate could be installed was foolish. That kind of gate within two months will not work. In winter it would be more prone to breakdown.

Another resident of the area suggested that Clarks Summit install something like a "Jersey Traffic Barrier" to block Grandview at the Township/Borough line.

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Mr. Martin stated that Council President Bush had assured the residents that Clarks Summit would be reactive in this matter. This is wrong; this Council should be proactive and not wait until a serious traffic problem was created. This is matter of child and resident safety. In the early 1990 the residents had asked that Grandview Street be permanently closed, when Akzo Salt was talking about opening Scrub Road.

Mr. Charles Kumpas of 103 Grandview Street stated can see the traffic, the walkers and joggers now from in front of his home. He and his family moved to Clarks Summit/Grandview Street for a better quality of life here. Any increase in traffic would endanger the safety of these pedestrians, and joggers. Added construction vehicles on Grandview Street would be another problem.

Mr. Wes Dunn of 405 Marion Street stated he had been the Chief of Police in South Abington Township for twenty-five (25) years and the Chief of Police here in Clarks Summit for four (4) years. Borough Council should be proactive in this matter. They should send a letter to South Abington Township objecting to this opening. If Council allows Grandview Street to be opened it is a clear safety hazard and will be a "cut through" for traffic to by-pass Routes 6 & 11 and the traffic lights.

Mr. Richard Armbrust of 908 Ash Street stated he was a retired member of the Pennsylvania State Police and past Chief of Police here in the Borough, he agreed with the statements of Wes Dunn, and this opening would create a hazardous situation.

Mr. Jim Evans of 105 Carnation Drive stated that the Abington Heights School District had spent tons of money for the renovated West Grove Street School and the kids cannot walk to school now. Any increase in the number of vehicles traveling along Grandview and Knapp Road would have a significant impact on child and pedestrian safety. There are now a number of school buses on Grandview. If this development goes forward in South Abington Township and Grandview Street was opened, there would an additional increase in school bus traffic alone. Kids now stand along Grandview Street and Knapp waiting for the school buses in the mornings. Increased traffic flow would place them in more danger. Additionally he noted that kids drive more now, and older kids drive to the High School rather than take the school buses and these drive like "nuts". He urges Borough Council to do all it can for the Clarks Summit residents and taxpayers.

Mr. Patrician again, asked for a united vote from Borough Council in this matter and the solid support for the residents.

Mrs. Duckworth of 506 Grandview Street stated that the school children are picked up and discharged from the school buses, now during peak traffic periods. She noted the safety of the children during these pickups and discharges if the traffic volume increased.

Several other residents spoke against the opening of Grandview Street into South Abington Township. One stated that if they wanted to live on a highway, they would have purchased a home on a state highway and not in Floral Park. They enjoyed living on Carnation Drive and seeing the deer and foxes in the woods.

Solicitor Preate as a point of order that he was under the impression that two neighborhood lawyers were representing the residents. What happened to that?

Mr. Bradley noted that no lawyer had been retained by Council.

Mr. Martin stated that the residents had not retained a lawyer.

We (the Solicitor, members of Council, the Mayor, the Chief of Police) went to South Abington Township meetings. No vote was taken on the change of zoning. If a connection is made to Grandview Street we (the Borough/Council) must be in a position to act. We are already registered (on the record) at South Abington Township. We have to be careful here, Council may have to vote on this issue and we do not want to prejudice any future action. We have to walk a fine line.

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Mr. Joyce again, stated that Attorney John Appleton had initially tried to stop this and then compromised. Appleton asked for a wall/barrier. I thought that this compromise was not for me. We are asking Council to stop them (South Abington Township and/or the developer) from opening Grandview Street. We are asking Council to fight this for us.

Solicitor Preate stated that this was a sensitive issue and the Borough is aware of its duties under the law. He stated that the residents/individual property owners have interests that are in some cases different from the Borough's. These are separate and distinct interests to the property owners. The residents have property rights. They may have lost their right because of a lack of continuing coverage (representation). The Borough has other rights/duties/concerns as they affect public safety, roads, water, sewers, etc. Everyone has concerns about public safety, but in case after case the courts have taken notice of municipal interests and property owner interests individually and separately.

McNulty of 602 Carnation Drive stated that (Attorney) John Appleton was speaking as a landowner, and not as our (residents) lawyer.

Mr. Patrician asked what is the "down side"?

Solicitor Preate responded that Council couldn't vote on this tonight. He was not in possession of the necessary legal research.

Mr. Bradley asked if the road (Grandview Street) was not in fact already closed?

Solicitor Preate stated the road is closed. This was by action of a prior Council. In effect it is already closed. We do not have to do anything.

Mr. Bradley asked, what if we receive a request from South Abington Township to re-open Grandview Street?

Solicitor Preate stated that issue would be addressed when and if such a request was received from South Abington.

It was suggested that a letter be sent to the South Abington Township Board of Supervisors to be on their Agenda for Monday to present evidence and appear in this matter.

Vice President Moyer asked the Solicitor if the Borough could re-enforce the existing dirt barrier? Preate responded yes you could re-enforce the existing barrier.

Motion by Vice President Moyer to have the Solicitor attend the Monday Meeting of the South Abington Township Board of Supervisors to represent the Borough's interests and any other such actions as required of the Solicitor. Second by Mrs. Jenkins.

Mr. Martin thanked Council for this action.

Solicitor Preate stated he was moving to insure Borough Council would not be disqualified on future voting. This motion would not do that. He stated that this action preserves the Borough interest in this matter and a part of the residents.

Mrs. Appleton of 209 Claremont Street stated that her son lives on Grandview Street and believes that two lawyers from the neighborhood tried to help you (the residents) in any way they could, without charge. Her son tried to help, and then there was this Petition action by Mr. Martin.

Mr. Martin responding stated that no one came to me to ask if they could represent my family or me. I/we do not like the deal John (Appleton) made with Attorney Lavelle and South Abington Township.

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Mrs. Jenkins noted that she and other members of Council had attended these South Abington Township Board of Supervisors Meetings. No member of Council had engaged in any dialogue and made no public comments. They had not prejudiced their vote in any future action/matter.

The motion carried 5-0.

Mrs. Appleton stated that you (Solicitor Preate) knew about this deal/compromise. Solicitor Preate responded that he was never consulted by Attorney John Appleton, Attorney Jack Nogi, or Attorney Pat Lavelle. He only heard about a compromise agreement and read about it in the newspaper.

**NEW BUSINESS:**

**Re-location of Voting Places by County**

Informational here. There is, effective the May Primary Election, a change in the voting locations within the Borough, per the Lackawanna County Board of Elections. Voting District 1 will remain at the Borough Building, 304 South State Street. Voting District # 2 will remain at the Clarks Summit United Methodist Church on the Morgan Highway. Voting District # 3 will be moved from the Allied Linden Street Apartments and persons within that District will now vote at Our Lady of Snows Catholic Church on South State Street. Voting District # 4 will be moved from the Allied Hayes Mc Dade Apartments on Bedford Street and persons within that Voting District will now vote at the Clarks Summit United Methodist Church on the Morgan Highway (District # 2 and District # 4 now voting at this location).

**Fieldstone Estates Phase IV:**

**Waiver Request Subdivision & Land Use Ordinance §403 Table 3 "Curb detail & Sidewalk Requirement":**

A request for a waiver of the requirements within the Borough's Subdivision and Land Use Ordinance, Section 403 Table 3 was before Council. The waiver requested by the Developer Florey Homes. Motion by Mrs. Carey to approve the waiver. Second by Mr. Moyer. Under discussion, Mr. Bradley asked if this matter had been reviewed by the Borough Planning Commission. Vones responded yes, and by a unanimous vote recommended approval of all of these waivers. Motion carried 5-0.

**Waiver Request Subdivision & Land Use Ordinance §303-5 "Cul-De-Sac Length is Greater than 800 Feet and furnishes access To More than 20 Units":**

A request for a waiver of the requirements within the Borough's Subdivision and Land Use Ordinance, Section 303-5, dealing with the maximum of dwelling units (in this case townhouses) allowed on Hedge Row Run was before Council. The waiver requested by the Developer Florey Homes. Motion by Mr. Bradley to approve the waiver. Second by Mr. Bennett. Discussion – None. Motion carried 5-0.

**Waiver Request Subdivision & Land Use Ordinance §403 Table 3 " Roadway Width Is Less Than 32 Feet..." :**

A request for a waiver of the requirements within the Borough's Subdivision and Land Use Ordinance, Section 403 Table 3 was before Council. The waiver requested by the Developer Florey Homes. Motion by Mr. Bennett to approve the waiver. Second by Mrs. Carey. Under discussion, it was noted that this waiver would allow Hedge Row Run to be a width of twenty-eight (28) feet. Motion carried 5-0.

**Approval Of Preliminary Plan:**

Motion by Mr. Bradley to approve the Preliminary Subdivision Plan for Fieldstone Estates Phase IV. Second by Mrs. Jenkins. Under discussion it was noted that the Borough has always made a statement that

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None of the infrastructure within a Phase of Fieldstone Estates was being accepted, expressed or implied. Mr. Bradley amended his motion to include this caveat. Mrs. Jenkins amended her second. Attorney Patrick Lavelle was present and is the attorney for Florey Homes and stated so acknowledged. Motion carried 5-0.

**Final Land Use Approval – Clarks Summit Fire Co. No. 1, Inc.:**

Motion by Mr. Bradley to approve the Final Land Use Plan for the Clarks Summit Fire Company No. 1, Inc. on Bedford Street. Second by Mrs. Jenkins. Discussion – None. Motion carried 5-0.

**Resolution 2003-05 – CDBG Funds dated April 2<sup>nd</sup> – Renumber to 2003-06**

As a matter of record and entry into the Minutes, Mr. Vones noted that the Resolution adopted on April 5<sup>th</sup> 2003 by Borough Council dealing with Community Development Block Grant Funds (CDBG) should have been number 2003-06 and not 2003-05.

**Resolution 2003-07 – Borough Emergency Plan**

Motion by Mr. Bradley to adopt Resolution 2003-07, (2003 Borough Emergency Operations Plan). Second by Mrs. Jenkins. Discussion – None. Motion carried 5-0.

**Resolution 2003-08 – House numbering on Main Avenue**

Motion by Mr. Bennett to adopt Borough Resolution 2003-08. Resolution deals with the numbering of a currently vacant lot on Main Avenue. Second by Mrs. Carey. Discussion – None. Motion carried 4-0-1 (Mrs. Jenkins abstaining).

**Resolution 2003-09 – Borough Depository at Citizens Savings Association/CD**

Motion by Mrs. Carey to adopt Borough Resolution 2003-09. The Resolution would create an additional Borough Depository at the Citizens Savings Association for a Certificate of Deposit (CD), with an initial deposit of \$25,000.00. Second by Mrs. Jenkins. Discussion – None. Motion carried 5-0.

**BOROUGH SEWER OFFICE REPORT:**

The April 2003 Sewer Office Report, as prepared by Dee Ann Stephens, was before Council. Motion by Mr. Moyer to accept the Report as presented. Second by Mrs. Carey. Discussion – None. Motion carried 5-0.

**SOLICITOR'S REPORT:**

Solicitor Ernest D., Preate, Jr. reported on his April 2003 activities. He had responded to a letter from the Auditor General dealing with current Borough Pension Audits, and any pending litigation. He had reviewed a pending matter on Lansdowne Avenue at the intersection with Poplar Street and had requested a survey of the intersection/area prior to rendering an Opinion. His review of the current matter indicated 1) there is no obstruction by plants to the stop sign on Lansdowne Ave, 2) The plants should be allowed to grow no higher, 3) there is a question about the planter and placement near curb. If this planter is within the Borough right-of-way and allowed to remain the Borough could lose the land through adverse possession, which is why he needed the land survey of the area. In another matter, he had met with the Borough's Insurance Attorney about the pending Jackson pension litigation. Mrs. Jenkins asked about junk cars and unregistered vehicles. Chief English stated this matter was under investigation by the Police Department and fifteen (15) letters had been sent out and more were pending.

**CORRESPONDENCE:**

Mr. Vones reviewed the following correspondence:

An April 3<sup>rd</sup> 2003 packet from Orth Rodgers & Associates containing Meeting Minutes & Presentation of March 25<sup>th</sup> 2003 Project Advisory Committee Meeting.

A letter from Prowell to the Borough dated April 4th 2003 re: Emergency Signal Testing.

A flyer (April 2003) from the VFW with advice on Memorial Day Parade activities (May 26<sup>th</sup>).

A May 1<sup>st</sup> 2003 Letter from Solicitor Bill Jones (SAT) Amending Zoning Ordinance.

A May 1<sup>st</sup> 2003 Chief of Police Memo indicating no bulletproof vests were needed in 2003.

**PUBLIC COMMENT & INPUT:**

Mr. Wes Dunn asked if the Borough had a written policy on wearing vests? He thought this was important to have. Vones responded with the negative aspects of such a policy and his experience in Connecticut.

Mr. Tony O'Dell of Lansdowne Avenue stated that years ago Grandview Street came out onto Shady Lane Road. If the development in South Abington Township proceeded they could come and go off of Shady Lane Road.

Mr. Bradley reported about the high telephone/cellular telephone bills. He would like to see the current cell phone plan changed from AT&T to Verizon. It was suggested by the Manager/Secretary that perhaps a motion was in order to allow Mr. Bradley the authority to pursue this matter and get the best priced plan. Motion by Mr. Bennett to give Mr. Bradley that authority. Second by Mrs. Jenkins. Discussion – None. Motion carried 5-0.

Mr. Bradley also reported that the Abington Council Of Governments (COG) was pursuing a combined Bid. Solicitor Bill Jones would draft the Bid/Specifications. There were currently six (6) municipalities now interested in this combined Bid process.

**EXECUTIVE SESSIONS:**

Mr. Moyer reported that no Executive Sessions had been held prior and one would be held before the close of this meeting, at the request of Mrs. Jenkins.

**RECESS:**

Council recessed to a Personnel Executive Session at approximately 9:12 P.M. and returned at approximately 9:45 P.M.

**MANAGERIAL/CONFIDENTIAL EMPLOYEE PAY ADJUSTMENTS:**

Motion by Mrs. Jenkins to grant a one time pay adjustment to the Borough Manager/Secretary of One Thousand Dollars and no cents (\$1,000.00), to the DPW Foreman Six Hundred Dollars and no cents (\$600.00), to the Sewer Officer Three Hundred Dollars and no cents (\$300.00) and to the Chief of Police Three Hundred Dollars and no cents (\$300.00). All one-time adjustments to be in the next regular payroll. Second by Mr. Bennett. Discussion – None. Motion carried 5-0.



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**ADJOURNMENT:**

There being no further business before Borough Council a motion to adjourn was made by Mr. Bradley. Second by Mrs. Jenkins. Discussion – None. Motion carried 5-0. The Meeting adjourned at approximately 9:48 P.M.

Respectfully submitted,

**JAMES G. VONES, SR.**  
Borough Manager/Secretary

**EDWARD M. BUSH, SR.**  
Council President