

**BOROUGH OF CLARKS SUMMIT  
COUNCIL REGULAR MEETING  
WEDNESDAY, OCTOBER 1<sup>ST</sup> 2003  
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The regular meeting of Borough Council was held on Wednesday, October 1<sup>st</sup> 2003. 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. Council members in attendance were, Council President Edward M. Bush, Sr.; Council Vice President Donald H. Moyer, III, Councilman Robert Bennett, Councilman Thomas Bradley, Councilperson Gerry Carey, Councilperson Linda Jenkins and Councilman Patrick Williams. Also attending were Mayor Robert W. Kester, Borough Solicitor Ernest D. Preate, Jr., Chief of Police Joseph English and Borough Manager/Secretary James G. Vones, Sr. There being a quorum present the Meeting was called to order by Council President Bush at approximately 7:08 P.M. There followed a moments of self-direct meditation, then followed by the Pledge of Allegiance to the Flag.

**APPROVAL OF AGENDA:**

The Agenda for this night's meeting had been pre-approved by the Council President.

**APPROVAL OF MINUTES:**

**September 3<sup>rd</sup> 2003 PH & Special Meeting/Conditional Use Enterprises by CWD, P.C.**

Motion by Mr. Moyer to approve the Minutes of the Public Hearing and Special Meeting on September 3<sup>rd</sup> 2003 for a Condition Use (professional Office(s) in a RP Zone by Enterprises by CWD, P.C. Second by Mrs. Jenkins. Discussion -- None. Motion carried 7-0.

**September 3<sup>rd</sup> 2003 Regular Council Meeting**

The Minutes for the regular meeting of Borough Council, conducted on Wednesday, September 3<sup>rd</sup> 2003 were not available for approval.

**BIDS & QUOTATIONS:**

Having been duly advertised in the Scranton Times/Tribune, bids were publicly opened for the repair of Borough Building Roof at the Council Work Session on September 24<sup>th</sup> 2003. The companies had obtained bid specifications but only one (1) bid was received. Mr. Moyer reported that he and Council President Bush had explored other options to include placing a pitched roof on the Borough Building. Tonight Council must except or reject the one bid. Mr. Williams asked questions about the pitched roof option. Mr. Moyer stated this was explored but would be more expensive than the current bid amount due to the large number of objections on the existing flat roof. Siren, air conditions, drains, chimney, etc. Motion by Mr. Williams to accept the bid and award the roof repair to National Roofing Corp. of Scranton in the amount of \$18,460.00. Second by Mr. Bradley. Discussion -- None. Motion carried 7-0.

**BOROUGH TREASURER'S REPORT:**

The Borough Treasurer's Report, prepared by Dee Ann Stephens, as of September 30<sup>th</sup> 2003 was before Council. Motion by Mr. Bradley to accept the Report as presented. Second by Mr. Bennett. Discussion -- None. Motion carried 7-0.

**COMMITTEE REPORTS:**

Mr. Bradley reported on the activities of the Abington Council of Governments (COG). He reported that an Emergency Service Recognition Day was planned for Saturday, October 4<sup>th</sup> 2003. He stated that this was the first time for emergency service recognition, was being sponsored by the Abington COG. Mr. Bradley reported on the work being done by the Abington COG relating to the Cable Franchise matter. He reported on the Joint Trash and Recycling Bid and stated the Abington COG was on top of these and other issues and were moving ahead.

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Mr. Moyer provided a brief overview of existing Department of Public Works (DPW) projects.

Mrs. Jenkins requested a personnel executive session at the end of this Meeting.

Mr. Williams asked about the status of the emergency generator. The Manager/Secretary advised him that this was a County Project and they were selecting the engineer. No new information had been received from County.

Mr. Williams thanked the Manager/Secretary and the Borough Engineer, William G. Karam, P.E. for their work on developing the specifications for the roof replacement.

Mr. Williams thanks both the Council President (Ed Bush) and Vice President (Don Moyer) for their work and efforts on the storm drains at Haven, Oak, and Meadow.

Mr. Williams stated he had been monitoring the parks and the grass and maintenance looked good this year. (Mr. Williams is the Chairman of the Parks & Rec. Committee of Council).

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**POLICE REPORT:**

Mayor Kester gave the September 2003 Police Report. The Mayor thanked the Fire Company, the EMA, the police, Council and the DPW for their efforts and the extra work relating to the many storms this year (Presidential Disaster Declaration was made due to all the stormwater flooding). The Mayor observed that all groups worked well together during these many past storms.

Mr. Bennett asked if the Alarms Report was ready? What is the forgiveness rate, how many false alarms are allowed before a ticket is issued?

Chief English stated he had reviewed the current Borough Ordinance relating to alarms and it was "OK"; however, the fine structure was wrong/incomplete. He also noted that the current Ordinance allows an alarm to sound for thirty (30) minutes and that is a very long time to have an alarm ringing, especially at night! He suggested using the state statute when false alarms were needed. We/the Borough need to set fines to go along with the ordinance.

President Bush observed that this would require legislative action by Council to establish the fine structure. He noted that there was a safety issue involved when emergency personnel and equipment are responding to false alarms. Mr. Bennett suggested we should take a new look at the existing ordinance and review it.

President Bush noted that all alarms within the Borough should be registered with the Police Department.

Mr. Bennett thanked the Mayor for the promptness of this report.

Mr. Williams asked when part time police officer Herman Johnson would be back? He noted that Part Time Police Officer Kemp was still listed on the Police Report. The Mayor stated that Johnson still had an open Workers Comp issue with Tobyhanna Army Depot.

Mr. Williams noted the speeding of Noble Road from the High School. Chief English stated he had a meeting with Police Chief Gerrity of South Abington Township on Friday and would discuss this with him.

Mr. Bennett made observation about the low meter collections in August and September and the discrepancy between the Police Report and the Borough Treasurer's Report relating to meter collections. Chief English stated he would check on this.

President Bush asked Mr. Bennett if he would be willing to work on updating the Alarms Ordinance. Mr. Bennett stated he would.

**BILLS TO BE PAID:**

Motion by Mr. Bradley to pay the current obligations of the Borough, specifically \$ 3,518.00 from the General Fund, \$ 2,048.66 from the Payroll Account, and \$ 21,695.03 from the Sewer Fund. To also approve the payments made between 18 September 2003 and 30 September 2003, \$ 96,598.70 from the General Fund, \$ 35,296.08 from the Payroll Account, \$ 21,695.03 from the Sewer Fund, and \$ 240.00 From the Liquid Fuels Fund. Second by Mr. Bennett. Discussion – None. Motion carried 7-0.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**Resolution 2003-16 Storm (FEMA) Reimbursement**

A Borough Resolution to allow the application of the Borough for cost reimbursement relating to stormwater flooding. Application to FEMA (Federal Emergency Management Agency) based upon the Presidential Disaster Declaration and naming an agent/point of contact for the Borough (Borough Manager/Secretary). Motion by Mr. Bennett to adopt Resolution 2003-16. Second by Mr. Moyer. Discussion – None. Motion carried 7-0.

**Resolution 2003-17 Appointment of Independent Auditor for FY/CY 2003**

A Borough Resolution designating Robert Rossi and Company as the Independent Auditor for the Borough for Fiscal Year 2003. Motion by Mr. Bradley to adopt Resolution 2003-17. Second by Mr. Moyer. Discussion – None. Motion carried 7-0.

**Engineering Estimate and Cost Estimate re: Tributary B, by Borough Engineer**

Mr. Moyer explained that he had been pursuing funding for the recent flooding. He had spoken with State Senator Robert Mellow and State Representative Jim Wansacz about this matter, and Representative Wansacz had walked the area and spoken with residents. The Borough needed to establish a cost estimate for work along Tributary B, so that it could be provided to the state officials. Mr. Moyer asked that the Borough Engineer, William G. Karam, P.E. be engaged to provide this cost estimate. Karam's charge would not exceed \$7,000.00. Mr. Moyer made a motion to that affect. Second by Mrs. Carey. Discussion – None. Motion carried 7-0.

**Grandview Street Notification to South Abington Township**

Solicitor Preate reviewed the required procedural steps necessary under to state law for the Borough to close/vacate a portion of Grandview Street. He stated the Borough Council President should formally write to the South Abington Township Board of Supervisors stating this Borough's intent to close pursuant to the map developed by John Hennemuth, the Hearings held by Council and the testimony received. Once that is done, South Abington Township must file with the Clarks Summit Borough Secretary whether they approve or oppose such closing/vacating.

Discussion continued about the James Mayfield (South Abington Township Manager) letter of request in 1995 and the 2003 letter, just received that afternoon, from the current Township Manager, David O'Neil. Solicitor Preate stated that the next meeting of the South Abington Township Board of Supervisors would be Monday, October 13<sup>th</sup> 2003 and we should request a formal vote by the Supervisors and a response within seven (7) days of that meeting.

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Mr. Bennett observed that in fact Grandview Street is not currently opened. Even in Mr. O'Neil's letter today, he states this is not an open and vital (road) link.

Solicitor Preate observed that O'Neil's letter of October 1<sup>st</sup> 2003 does not oppose the closing of Grandview Street by this Borough.

Mr. Bennett asked if the Council/Borough were giving away any of our rights, by asking permission of South Abington Township to close Grandview Street within this Borough?

Solicitor Preate stated that we would close/vacate only a portion of Grandview Street to preclude it being used as a connecting street and a bi-pass. This is a procedural requirement.

Mr. Bennett stated he was still uncomfortable with asking permission of South Abington Township.

Solicitor Preate noted that this area of Grandview Street (a.k.a. "Scrub Road") was now closed at the South Abington Township end and closed at the Clarks Summit Borough end, with a swamp in the middle. This was certainly not a vital link (O'Neil's Letter). This Borough would not be foreclosing the owners in South Abington Township from using their property, this closing would not land lock this land parcel. Peter Amato has a gate on his own property now, which precludes use of this un-improve roadway.

Solicitor Preate also noted that there appears to be conflict of interest here now. An attorney used by Amato and Noto is from the same Law Firm as this Borough's Labor Attorney.

Council authorized the Council President to send South Abington Township the required notice by a vote of 7-0.

In a second matter, the attorney for Amato and Noto has stated he will fight this closure every step of the way. A letter should be sent by Council President to the Law Firm of Hourigan, Kluger and Quinn, P.C. that a decision should be made as to whether they wish to continue as the Borough Labor Attorney or to represent Amato/Noto. Solicitor Preate stated that if this is not a conflict of interest it had the appearance of a conflict of interest and an ethical violation.

Motion by Mr. Williams to authorize the letter, by Council President, to Hourigan, Kluger and Quinn, P.C. Second by Mrs. Carey. Discussion – None. Motion carried 7-0.

**BOROUGH SEWER OFFICE REPORT:**

The September 2003 Sewer Office Report, as prepared by Dee Ann Stephens was before Council. Motion by Mrs. Carey to accept the Report as presented. Second by Mr. Bradley. Discussion – None. Motion carried 7-0.

**SOLICITOR'S REPORT:**

Solicitor Preate on his filing a Municipal Liens relating to non-payment of sewer billing.

**CORRESPONDENCE:**

The Borough Manager/Secretary reported receiving a September 11<sup>th</sup> 2003 letter from Jeffrey Blau re: Potential Traffic Hazard at the new Colarusso's Restaurant. Mr. Blau would also contact PennDOT since this was their roadway.

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The Manager/Secretary reported receiving a September 22<sup>nd</sup> 2003 Memo from Lackawanna Recycling Center, regarding Tire Collection on October 18<sup>th</sup> between 9:00 A.M. and 3:00 P.M. (Charge \$1.00 per tire – cars, vans and SUV tires ONLY).

**EXECUTIVE SESSIONS:**

President Bush declared that no Council Executive Session were held prior and that one would be held at the end of this meeting, per the request of Mrs. Jenkins (Chairperson of Council Personnel Committee).

**PUBLIC COMMENT & INPUT:**

Mrs./Professor Appleton asked about the thirty-minute alarm sounding, mention earlier under the police report. The Chief stated this pertained to audible alarms on the outside of a structure. Mrs. Appleton stated she had an alarm/ but it does ring outside. President Bush suggested she might wish to consider installing such an audible alarm.

Mrs. Ann Furiosi of 416 Haven Lane stated she was the "Tree House Lady". She had spoke with people and had gone to the Library and nowhere was a tree house mentioned in the Borough Ordinances. It is a tree house for the children. It took over three years to build.

Mr. Bennett observed that the tree house was not entirely in the tree. It was supported on the ground and built around the tree. It was over two stories high and now had windows and siding.

Mrs. Furiosi stated the Borough Manager and the Borough's Codes Enforcement Officer were at her house about the tree house. The Codes Officer said it was an unsafe structure. It is not unsafe; if it were unsafe I would not let my kids play in it. He never went onto the property, he never inspected it, and how does he know it's unsafe!

She wanted to know who on Council was objecting to a kid's tree house. No response was given. The Borough Manager/Secretary responded that by definition in the Zoning Ordinance any combination of two or more materials constituted a structure, and a structure required a building permit and had to meet the required setbacks or a variance must be obtained from the Zoning Hearing Board.

Mrs. Furiosi stated she had even called the Borough Solicitor about this matter and spoken with Solicitor Preate. She felt she was being unfairly treated and targeted by the Borough.

Solicitor Preate stated that as of August 28<sup>th</sup> the Codes Enforcement Officer had determined that this was an unsafe structure and was non-compliant with the Borough's Zoning Ordinance.

Mrs. Furiosi responded that she did not think this was right, but would take the tree house down. She stated it took her husband over three years to build and it would come down at a rate of one (1) board a day/week, but she would take it down. She again stated she was being unfairly treated and singled out.

**EXECUTIVE SESSION:**

Council recessed to an Executive Session at approximately 8:45 P.M. and re-convened at approximately 10:00 P.M.

Motion by Mrs. Jenkins to have the Borough Manager/Secretary write to the Borough Codes Enforcement Officer by October 7<sup>th</sup> 2003 and direct E.P. Mancinelli & Associates to re-open the tree house investigation/matter and proceed with enforcement as required. Second by Mrs. Carey. Discussion – None. Motion carried 7-0.

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**ADJOURNMENT:**

There being no further business before Borough Council the Meeting adjourned at approximately 10:02 P.M.

Respectfully submitted,

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

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