

**BOROUGH OF CLARKS SUMMIT  
REGULAR COUNCIL MEETING  
WEDNESDAY, APRIL 6, 2005**

**Page 1 of 8**

The regular January Meeting of Borough Council was conducted on Wednesday, April 6, 2005 at 7:00 P.M. The Meeting was held 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 Donald H. Moyer, III, Council Vice President Timothy D. Rowland, Councilman Richard W. Armbrust, Councilperson Gerry Carey, Councilman Roy Davis, Councilperson Margaret (Peg) Jackson, and Councilman Patrick Williams. Also attending were Borough Solicitor, Malcolm L. MacGregor, Officer In Charge, Lou Vitale, and Borough Secretary, Barbara Grabfelder. Mayor Wes Dunn was absent as he was attending a seminar in Penn State. There being a quorum present the Meeting was called to order by Council President, followed by a brief period of self-directed mediation and then the Pledge of Allegiance.

**PRESENTATIONS:**

Ms. Regina Peters, Executive Director, Lackawanna County Council on Education and Culture spoke about two grants that are available. Anyone can apply for a grant up to \$3,000 per presentation. These grants require artistic merit. Applications and criteria are available online at the Lackawanna County website at [www.lackawannacounty.org](http://www.lackawannacounty.org). An additional grant will be available for as much as \$500 to every municipality. Ms. Peters will be sending letters of explanation to all municipalities in the near future.

**APPROVAL OF AGENDA:**

Motion made by Mrs. Jackson and seconded by Mr. Armbrust to approve the Agenda as presented. Discussion -- None. Motion carried 5 - 0.

**APPROVAL OF MINUTES:**

Mr. Davis and Mrs. Carey arrived at the meeting.

Motion made by Mr. Rowland and seconded by Mr. Williams to table the Minutes of the Regular Council Meeting of March 2, 2005. Discussion: None. Motion carried 7 - 0.

**PUBLIC COMMENT & INPUT:**

**Mr. Toth spoke on behalf of the owner of the property at 1108 W. Grove Street.** She is currently on a septic system and wants to tie in on the public sewer system. The property is the last house on the right before the church. Mr. Moyer will meet Mr. Toth at the property to investigate.

**Sam Sciavi spoke on behalf on his mother who lives on Hosfeld Street.** The creek that runs behind her home floods and when it floods, the sewage comes out from the toilets and showers in the house. The water actually comes through the sliding doors and into her basement. Something needs to be done. Her house is being ruined.

Mr. Moyer said the only thing that can be done regarding the sewage is to install a back flow preventer. The problem with that is you will not be able to use the sewage when the heavy rains come. As far as the water from the creek is concerned, back in 1999 we had a plan to go behind Old Winola Road and open the ditch up and fix that, but the people on Old Winola would not allow us. There is nothing the Borough can do unless those people and the other people along there give us an easement so we can address that issue. We wanted to do like we did on Marion Street and make a rock channel but we were turned down. We can dredge but we need an easement.

Mr. Rowland asked if we can send South Abington Township a letter saying if there are any more hookups to the sewer system they need to get permission? Can we impose a moratorium?

Mr. MacGregor will investigate to see if this is possible.

**BOROUGH OF CLARKS SUMMIT  
REGULAR COUNCIL MEETING  
WEDNESDAY, APRIL 6, 2005  
Page 2 of 8**

Mr. Roy Davis asked if he could come up to the property and see the situation for himself. There are two separate issues here, storm water and sewer. A pressure valve is available and it might be a help. He wants to see if we can give you some relief. He'll make an appointment.

Mr. Moyer said that Mr. Robert Preate told Council that a creek on someone's property is not the Borough's responsibility. If it is behind your property, it is really your legal responsibility to maintain and take care of the creek. However, even though it's your creek, you need a permit from DEP. The Borough has met with DEP and we've shown them the spots that have flooded out. Mr. Moyer met with Representative Wanczak up there also. Mr. Wanczak came to your house one time. The Borough can do nothing without easements from each and every one of the people there. Once we have an easement and there is a flood and Lackawanna County of the State declares a disaster or emergency, we can go in for grant money and take care of it.

Hopefully, once the sewer line on the railroad tracks is fixed, it will alleviate a lot of your sewer problems.

Mr. Moyer said where the manhole is on Florence and Winola, it then goes to Electric St. and Winola. That manhole did not pop in the last storm. So obviously that was handling it. It's the one at Florence. I can have that line cameraed from Florence to Electric to make sure that there are no blockages there. We'll have that done immediately.

Mr. Jerry Elstrom, 802 Hosfeld Street, he's just one house up. If there is anything he can do to help out he'd be glad to do it.

Mr. Moyer stated that if the Borough is going to take an easement, the easement should go from the beginning of the boundary line of South Abington and Clarks Summit down to Electric Street.

Mr. Moyer will go back to the people who refused the easement and talk with them again.

**Mr. John Larusso from 309 Tulip Circle and Mr. John Kolick from 306 Carnation Drive spoke about a problem with storm water.** The storm drains can't handle it. Water goes down to a catch basin and the catch basin backs up and floods the street and gets almost three feet deep. The water goes down his driveway and into his garage and works its way into his basement. What doesn't go in his garage, goes around his house and down to Mr. Kolick's house. This is the third year in a row that I've gotten water damage and I'd like to have something done. There's too much water coming down that hill and not enough storm drains. Can the catch basin be made bigger?

Mr. Moyer stated that Roto Rooter is coming tomorrow to flush the lines and if we have to, we will camera the line to see if there are any blockages.

**Mr. Tom Voakes asked a question regarding the new Emergency Municipal Services Tax, wanting to know if there are any exemptions built into the law?**

Solicitor MacGregor responded that at this time there are no income exemptions but that there is an exemption for anyone under the age of 18 so that they are not subject to the tax. He explained that the Pennsylvania State legislature is taking another look at the law.

Mr. Voakes also inquired if it would be possible to enact an ordinance saying that there are no solicitations allowed. He has seen signs in other communities like this.

Mr. MacGregor stated that he doubts that it is legal to do that. Council is currently working on updating its Peddler/Solicitation Ordinance. There are serious legal questions, especially regarding religious groups and freedom of speech.

**BOROUGH OF CLARKS SUMMIT  
REGULAR COUNCIL MEETING  
WEDNESDAY, APRIL 6, 2005  
Page 3 of 8**

Mr. Rowland would like to have Mr. MacGregor look into the possibility of making door to door soliciting illegal in the Borough.

Mr. Robert Bennett asked if the Council would please comment on the hiring of a Police Chief and a Borough Manager.

Mr. Moyer said that an Executive Session has been scheduled for this meeting to discuss those issues.

**BIDS & QUOTATIONS:**

**Lawn Care – Borough Wide**

**Lawn Care – Senior Center**

Solicitor MacGregor stated that Council is not obligated to accept any bid which they feel, for any reason, is not appropriate, whether it is price related, service related, or just can't be done. Bids were issued and responses were received. It is my understanding that for budgeting issues Council may not accept the bid and will reconsider it at a later date.

Motion made by Mr. Moyer and seconded by Mr. Rowland not to accept the bids for Borough Wide Lawn Care and Senior Center Lawn Care for budget reasons. Discussion: Mr. Williams asked who will do the lawn care. Mr. Moyer said DPW might have to do it. He will look into it. The figures received on the responses are not in the budget. Motion carried 7 – 0.

**Appraisal of Borough Building at 304 South State Street**

Borough Secretary, Barbara Grabfelder, reported that she had obtained recommendations on three appraisal companies and contacted them regarding obtaining a price to do an appraisal on the building to determine its worth at its highest and best use. Proposals were received from Henkelman Real Estate Company, Clarks Summit, Moyer Realty Advisors, Allentown, and Thomas Walsh, Realtor. All of these are state certified commercial appraisers. Motion was made by Mr. Moyer and seconded by Mrs. Jackson to discuss these proposals for professional services in Executive Session. Discussion – None. Motion carried 7 – 0.

**BOROUGH TREASURER'S REPORT**

The Borough Treasurer's Report, as prepared by Treasurer Dee Ann Stephens, as of March 31, 2005 was before Council. Motion by Mrs. Jackson to approve the Report as presented. Second by Mr. Armbrust. Discussion – None. Motion carried 7 – 0.

**COMMITTEE REPORTS:**

Mr. Moyer announced that we have applied for Penvest money which is a low interest loan and we've also applied for several grants for repairing the main sewer feed on the rail road tracks. We do have \$400,000 in the bank in the sewer fund to help us but if we can get the loan, that's the way to go. We may be able to increase that loan and fix some of our drainage problems.

Also, Neil Bartholme, DPW Supervisor, has made a list of all the streets to be paved and that has been sent to Bill Karam's office to prepare the bid.

**BOROUGH OF CLARKS SUMMIT  
REGULAR COUNCIL MEETING  
WEDNESDAY, APRIL 6, 2005  
Page 4 of 8**

**POLICE REPORT**

Officer In Charge Lou Vitale gave the March 2005 Police Report, and summary of police related activities. Mr. Charles Martin also reported that there was one traffic accident on Grandview Street and presented Council a photograph of the damaged cars.

**BILLS TO BE PAID:**

Motion by Mr. Rowland and seconded by Mr. Davis to approve payments of \$53,004.00 from the General Fund and \$27,795.60 from the Payroll Account and for the period of March 1, 2005 and March 31, 2005 approve \$87,442.52 from the General Fund, \$44,711.86 from Payroll, and \$754.69 from Sewer. Discussion – None. Motion carried 7 – 0.

**OLD BUSINESS:**

**Parking Ban**

Report that the Parking Ban is removed as of April 1, 2005.

**Closing of Grandview Street**

Solicitor MacGregor reported that on March 30, 2005, Judge Mazzoni issued his order and granted Clarks Summit's petition to approve the vacating of the portion of Grandview Street, and denied all post hearing motions. This is a fully favorable decision for Clarks Summit. Mr. MacGregor stated that he has been advised by Mr. Lavelle that he will be filing an appeal and he will be asking the court for reconsideration. Motion made by Mrs. Carey and seconded by Mrs. Jackson to authorize Mr. MacGregor to update the previously proposed, but never enacted, ordinance created by Mr. Vones, consistent with the ruling by the court. The updated ordinance then will be properly advertised and voted upon at the next meeting. Discussion:

Mr. Bob Bennett said that everybody expected that Mr. Noto and Mr. Amato were going to appeal. He asked Council directly if there was anybody on Council or anybody representing Clarks Summit that is trying to make any contract or any deals on the side. Mr. Moyer answered "no".

Mr. MacGregor reported that he had been notified by Mr. Lavelle saying (1) that they would be filing an appeal; (2) that they would be asking for reconsideration before the appeal, and (3) there is an issue where Commonwealth Telephone had an injunctive action to get access to their switch box. Attorney Lavelle has filed an action to intervene in that matter.

Mr. Carl Noakes stated that he met with Mr. Nogi and they have a desire to own the vacated portion of Grandview Street as a private road and no one would have to worry about gates or barriers. Can you look into that? We would grant an easement for Commonwealth Telephone Company to have access to their equipment. Mr. MacGregor said he could investigate.

Motion carried 7 – 0.

Mr. Nogi sent a letter to Council asking for the barriers to be removed now that the judge has issued his ruling. Mr. MacGregor will contact Mr. Nogi and respond.

**BOROUGH OF CLARKS SUMMIT  
REGULAR COUNCIL MEETING  
WEDNESDAY, APRIL 6, 2005  
Page 5 of 8**

**Presentation – Lee Jamison, President Abington Council of Governments**

About five or six years ago the Abington COG took the lead in recognizing the need for a long-term traffic study. PENNDOT has now conducted a transportation study and released the results about a year ago. No action has been taken so far. Abington COG has now asked the member municipalities to take a look at the study with all its options and come up with a recommendation. Mr. Jamison stressed that the Abington COG does not have any position on this study. They are interested only in seeing some progress. Every one of the member municipalities passed a resolution of support encouraging PENNDOT to go to the trouble and expense of conducting the study. Abington COG wants Clarks Summit Borough Council to look at the study and let the COG know what, if any, of the solutions would be your pleasure. The information is becoming more and more dated with each passing month and the COG is interested in seeing some progress.

Mr. Moyer stated that the best way to handle this would be to refer it to the Planning Commission and have them examine all the options and make a recommendation of what they feel would be best for Clarks Summit Borough.

Mr. Jamison replied that was a good idea and also, there seems to be quite a bit of support for an idea and he'd like to ask for the Borough's consideration for it. A proposal came out to make a new interchange to connect the Morgan Highway with the Turnpike in the area of Lahey's or the mausoleum. People from Newton-Ransom and the western side of Clarks Summit and South Abington Township could come down the Morgan Highway and easily access the Turnpike and head south, or go the other way, go across the Turnpike Freedom Bridge and connect with Interstate 81. The Morgan Highway lends itself very nicely to additional lanes. Sometimes a group of people can get together and look at a group of proposals and come up with an idea that everyone can support.

**NEW BUSINESS:**

**A. Resolution 2005-07 – Eagle Scout Brett Jones**

Motion made by Mr. Moyer and seconded by Mrs. Carey to adopt Resolution 2005-07 recognizing Brett Christian Jones for his Eagle Scout Project involving refinishing and staining bench and parking barrier and helping the Abington Area Joint Recreation Board at Stroney Field. Discussion: None. Motion carried 7 – 0.

**B. Resolution 2005-08 – Community Bank as depository for real estate tax funds**

Motion made by Mr. Armbrust and seconded by Mr. Davis to adopt Resolution 2005-08 naming Community Bank as depository for acceptance of funds for the collection of the real estate tax and establishing administrative fees for returned checks due to inadequate funds and/or overdraft. Discussion: None. Motion carried 7 – 0.

**C. Resolution 2005-09 – Community Bank as depository for General Fund Account, Muni-Sweep Account, Payroll Account and Sewer Fund Account.**

Motion made by Mr. Rowland to authorize Barbara Grabfelder, Borough Secretary, to amend the resolution so that it is transmitted to Community Bank without the Sewer Fund so that an investigation can be conducted regarding keeping money in PNC Bank as well. Motion seconded by Mrs. Jackson. Discussion: None. Motion carried 7 – 0.

**D. Resolution 2005-10 – Participate in the Pennsylvania State Association of Boroughs (PSAB) Borough Management Caucus**

**BOROUGH OF CLARKS SUMMIT  
REGULAR COUNCIL MEETING  
WEDNESDAY, APRIL 6, 2005  
Page 6 of 8**

Motion made by Mr. Moyer and seconded by Mr. Armbrust to adopt Resolution 2005-10 authorizing the participation of Borough Secretary Barbara Grabfelder in the PSAB Borough Management Caucus. Discussion: None. Motion carried 7 – 0.

**E. Resolution 2005-11 – Senior Week – May 8 – May 14, 2005**

Motion made by Mrs. Jackson and seconded by Mr. Armbrust to adopt Resolution 2005-11 declaring the week of May 8<sup>th</sup> to May 14<sup>th</sup> 2005 as Senior Center Week. Discussion: None. Motion carried 7 – 0.

**F. Resolution 2005-12 – Eagle Scout Daniel Kontz**

Motion made by Mr. Moyer and seconded by Mrs. Jackson to adopt Resolution 2005-12 recognizing and thanking Daniel Lee Kontz for his Eagle Scout project of planning and carrying out the restoration and renaming of Hemlock Park. The Park's name was changed to Mayor Donald L. Eilenberger Memorial Park. Discussion: None. Motion carried 7 – 0.

**G. Resolution 2005-13 – Eagle Scout Bradley Moyer**

Motion made by Mrs. Jackson and seconded by Mrs. Carey to adopt Resolution 2005-13 recognizing and thanking Bradley Donald Moyer for his Eagle Scout project of preserving the trash bins and painting and planting the planters to beautify the neighborhood. Discussion: None. Motion carried 7 – 0.

**H. Letters of recognition and thanks to Stephen Borthwick, Bryan Henkelman, and James Murphy**

Mr. Moyer stated that letters of recognition and thanks are being sent to Stephen Borthwick, Bryan Henkelman, and James Murphy for the work that was done for their Eagle Scout Projects.

**J. Mr. L. P. Frieder – letter requesting removal of street light at 1214 W. Grove Street.**

The former owner asked for the light for security reasons. The light shines directly into the bedroom and living area of the home and Mr. Frieder would like the light removed. Council directed the Borough Secretary to have the light removed.

**K. Municipal Resident Directory and Map Project**

Motion made by Mr. Davis to authorize the Borough Secretary to work with the Sprint Company to produce a one-time Borough Newsletter with the understanding that all advertising and information to appear on the newsletter must be approved by Council prior to printing and mailing. Motion seconded by Mr. Williams with comment that he thinks this is an excellent idea. A newsletter has been discussed several times before but it was always cost prohibitive so this is an excellent idea. Discussion: Mr. Davis, Mrs. Carey, and Mr. Williams volunteered to serve on a committee to oversee the project. Motion carried 7 – 0.

**L. Planning Commission Request to Change Meeting Night**

Motion made by Mrs. Jackson and seconded by Mr. Williams to move the Planning Commission stated monthly meeting from the third Tuesday of the month to the third Wednesday of the month. Discussion: None. Motion carried. 7 – 0. Mr. MacGregor will prepare a resolution to that effect and it will be advertised in the Abington Journal and The Suburban.

**BOROUGH OF CLARKS SUMMIT  
REGULAR COUNCIL MEETING  
WEDNESDAY, APRIL 6, 2005  
Page 7 of 8**

**BOROUGH SEWER OFFICE REPORT:**

The First Quarter (January 1 through March 31) 2005 Report by Dee Ann Stephens was before Council. Motion by Mr. Rowland to approve the Report as presented. Second by Mr. Armbrust. Discussion – None. Motion carried 7 – 0.

**SOLICITOR'S REPORT:**

None

**CORRESPONDENCE:**

**Pennsylvania Department of Transportation, Bureau of Municipal Services –**

Letter received April 6, 2005 informing Council that the Liquid Fuels Tax Fund allocation in the amount of \$102,657.09 will be paid on April 1, 2005.

**EXECUTIVE SESSIONS:**

President Moyer reported that one Executive Session had been held prior on March 2, 2005 to discuss Personnel, one will be held during the meeting to discuss Personnel and Litigation matters and none are to be held subsequent.

Mr. Rowland made a motion and Mrs. Jackson seconded, to recess the meeting at approximately 9:37 PM to move to Executive Session. Discussion: None. Motion carried 7 – 0.

Mr. Moyer reconvened the meeting at 11:30 PM.

Motion was made by Mr. Rowland and seconded by Mr. Armbrust to approve the collective bargaining agreement between the Clarks Summit Police Association and the Borough of Clarks Summit. Discussion: None. Motion carried 6 – 0. Mr. Williams abstained.

Motion made by Mr. Rowland and seconded by Mrs. Jackson to hire Virginia Kehoe at the rate of \$15.00 per hour plus benefits. Discussion: None. Motion carried 7 – 0.

Motion made by Mrs. Carey and seconded by Mr. Armbrust to hire Barbara Grabfelder for 20 hours per week and she would be paid her health benefits; for any hours over 20, she will be paid \$15.00 per hour. Discussion: None. Motion carried 7 – 0.

Motion made by Mrs. Carey and seconded by Mrs. Jackson to authorize Borough Secretary, Barbara Grabfelder, as a signer for all Borough bank accounts in the absence of Treasurer Dee Ann Stephens. Discussion: None. Motion carried 7 – 0.

Motion made by Mr. Armbrust and seconded by Mr. Davis to authorize the payment of two weeks accumulated comp time to Mr. James Vones, former Borough Manager. Discussion: None. Motion carried 7 – 0.

Motion made by Mrs. Jackson and seconded by Mrs. Carey to name Virginia Kehoe as Treasurer in Dee Ann Stephen's absence and to authorize her to obtain a Treasurer's Bond. Discussion: None. Motion carried 7 – 0.

**BOROUGH OF CLARKS SUMMIT  
REGULAR COUNCIL MEETING  
WEDNESDAY, APRIL 6, 2005  
Page 8 of 8**

Motion made by Mrs. Jackson and seconded by Mr. Davis to set the rate of payment for the solicitors for the Police Pension Board, the Planning Commission, and the Zoning Hearing Board at \$75.00 per hour plus expenses up to a limit of \$2,000 annually and that they must seek Council's authorization for anything over the \$2,000 limit.  
Discussion: None. Motion carried 7 – 0.

**ADJOURNMENT:**

There being no further business before Council the Meeting Mrs. Jackson made a motion to adjourn. Seconded by Mr. Armbrust. Meeting adjourned at approximately 11:52 PM.

Respectfully submitted,

**Barbara R. Grabfelder  
Borough Secretary**

**Donald H. Moyer, III  
Council President**