

**BOROUGH OF CLARKS SUMMIT
REGULAR COUNCIL MEETING
WEDNESDAY, MAY 4th, 2005
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The regular May Meeting of Borough Council was conducted on Wednesday, May 4, 2005 at 7:00 P.M. The Meeting was held in Borough Council Chambers, 2nd 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, Councilman Richard W. Armbrust, Councilperson Gerry Carey, Councilman Roy Davis, Councilperson Margaret (Peg) Jackson, and Councilman Patrick Williams. Also attending were Mayor Wesley W. Dunn, Sr., Borough Solicitor, Malcolm L. MacGregor, and Borough Secretary, Barbara Grabfelder, and Officer In Charge, Louis Vitale. Councilman Timothy Rowland was absent. 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 lead by Bradley Moyer from Boy Scout Troop 160.

PRESENTATIONS:

Resolution 2005-14 – Jonathan Peter Rich – Eagle Scout Project

Motion made by President Moyer and seconded by Mrs. Carey to adopt Resolution 2005-14 recognizing Jonathon Peter Rich for attaining the rank of Eagle Scout and for doing the Flag Depository Box as his project.

Mayor Wesley Dunn and Council President Donald Moyer gave a framed resolution thanking and congratulating the scouts on their achievement to the following Eagle Scouts: Daniel Kontz, Brian Jones, Bradley Moyer, and Jonathan Rich. The following scouts received a letter from the Borough thanking them and congratulating them on their achievement: Brian Henkelman and James Murphy. Eagle Scout Steve Borthwich was not able to attend and his letter will be mailed to him.

Several eleventh grade students from Scranton Prep were present to do research for their Social Studies course.

APPROVAL OF AGENDA:

The Agenda was approved as presented.

APPROVAL OF MINUTES:

Regular Council Meeting – March 2, 2005

Motion made by Mrs. Jackson and seconded by Mr. Williams to approve Minutes. Discussion: None. Motion carried 6 – 0.

Regular Council Meeting – April 6, 2005

Motion made by Mrs. Jackson and seconded by Mr. Davis to approve Minutes. Discussion: None. Motion carried 6 – 0.

PUBLIC COMMENT & INPUT:

718 Hosfeld St.

Mr. Sam Sciavi spoke on behalf of his mother who lives at 718 Hosfeld St. He asked for an update on the sewer problems that she has been experiencing.

Mr. Moyer stated that the line was flushed from Florence to Electric Street. Hopefully that will help. The first thing we need to do is take a utility easement through there so we can address the creek. Council would have to make a

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motion to take the easement. We usually take it for one dollar, and the only thing that is on there is the utility. The Engineer will then map it out, the lawyer will approve it. You then sign it and we have the easement.

Mr. Roy Davis made a motion to seek a utility easement at both Mrs. Rose Houll's property at 718 Hosfeld and Tom Miles' property on Center Street to have the proper work done in those areas so that a long term solution can be investigated. Mrs. Jackson seconded the motion. Discussion: Mr. Moyer said we'll need a copy of her deed. Motion carried 6 – 0.

Denise Proul – Center Street – Encourages Cooperative Planning Among Municipalities

Ms. Denise Proul from Center Street, Clarks Summit posted a map of the area and gave a short presentation on the rapid sprawl that is taking place throughout the state. She encouraged Council to look at cooperative planning with South Abington and Clarks Green and other surrounding municipalities so that each municipality does not have to provide for each and every land use. A meeting is going to be held and hosted by Newton Township and Ms. Proul will let the Borough know when and where the meeting will be held. Councilman Patrick Williams will get more information on this and report back to Council.

Vince The Pizza Prince – Request for lighted, changeable copy sign to be added to existing pole sign

Mr. Vince Cianfichi, owner of Vince the Pizza Prince, appeared before Council asking for a special exception to add to their existing sign on State Street.

Mr. Moyer asked if Mr. Cianfichi went before the Planning Commission with his request. Mr. Cianfichi said they only went to the Planning Commission for their original sign.

Solicitor MacGregor explained that there is a proper procedure that must be followed. The Borough Secretary had checked with the Engineer, the Code Enforcement Officer, and Mr. Helfrich who is a certified planner and they all agreed that the proposed sign does not fall under the criteria for the sign ordinance, the way this should be handled is to go to the Zoning Hearing Board and seek a variance. He stated that Mr. Cianfichi is looking for an exception to the rule. Mr. Cianfichi will stop in and get an application for the Zoning Hearing Board.

Borough Secretaries

Mr. Moyer stated that for everyone's knowledge, Barbara Grabfelder is hired and appointed as the Borough Secretary. Last month Council hired Virginia Kehoe to work full time. Council has decided that this is the direction in which we are going: we're going with two secretaries. They're both efficient they're both very good and very helpful. There will be somebody here all the time.

Mr. Robert Bennett, a Borough resident stated that there was an article in the newspaper that said Barbara Grabfelder would be working 20 hours per week. When Barbara is not here, how is the Borough being covered?

Mr. Moyer stated that Virginia Kehoe was here full time, 40 hours per week.

Mr. Bennett asked how the managerial responsibilities that Mr. Vones held as Borough Manager would now be handled.

Mr. Moyer said that those decisions are now made between the two women and if not, it is brought to Council and a decision will be made by Council. Solicitor MacGregor is also available constantly.

BIDS & QUOTATIONS:

Appraisal of 304 South State Street – Borough Office Building

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Quotes were received from William Henkelman, Thomas P. Walsh, and Moyer Realty Advisors to provide a "complete summary" appraisal on the Borough Office Building at 304 South State Street, Clarks Summit, PA. Mr. Gerry Carey made a motion to recommend that Mr. Thomas P. Walsh be selected to do the appraisal. Councilman Roy Davis seconded the motion. Discussion: Mr. Walsh would be available to begin the appraisal in approximately one month due to other commitments. Mr. Williams asked how long an appraisal would be valid. Solicitor MacGregor said that the appraisal would not be time sensitive. It would be valid for the period that Council is discussing the best way to go with the building. Motion carried 6 – 0.

Remove/Replace existing inlet at South State St. and Main Ave.

Requests for proposals for removing and replacing the existing inlet at South State St. and Main Ave. were sent out to L. J. Milo Enterprises, Inc., and J. Stark Excavating, and Abington Excavating. The only company to provide a quote was L. J. Milo Enterprises, Inc. This work must be done at night. Mr. Moyer made a motion to accept the quote and award the bid to L. J. Milo Enterprises, Inc. for the work. Mr. Armbrust seconded the motion. Discussion: None. Motion carried 6 – 0.

Mr. Lorusso from the 300 block of Tulip asked for an update on what has been done in the last month to help with the flooding. Mr. Moyer stated that the pipe was inspected and cleaned all the way down to the bottom. Mr. Lorusso said that the catch basin on his side of the street was cleaned out but he is asking for the basin on the opposite side of the street to be cleaned. The one on the opposite side of his street can't handle the water; it backs up because it's starting to collapse. Can the pipe that runs to the far end of the street be extended, at the intersection of Tulip and Tulip? Mr. Moyer will investigate the situation but Mr. Moyer thinks that pipe runs a little uphill there. He'll try to get more information, but we can address the collapsing catch basin immediately.

BOROUGH TREASURER'S REPORT

The Borough Treasurer's Report, as prepared by Treasurer Dee Ann Stephens, as of April 30, 2005 was before Council. Motion by Mrs. Jackson to approve the Report as presented. Second by Mr. Moyer. Discussion – None. Motion carried 6 – 0.

Mr. Moyer invited people to come in to the office and see the list of bills and amounts. This information is available for you to look at; it is all public record.

COMMITTEE REPORTS:

Mr. Williams asked Solicitor MacGregor if there has been any progress in getting the work started at the intersection of State and Grove. Mr. MacGregor said he spoke with Mr. Dobel and Mr. Dobel indicated that they were moving forward on the eminent domain approval in Harrisburg. If this goes to litigation, it could take many months. Mr. Williams asked Mr. MacGregor to follow up with another telephone call to Mr. Dobel for another update.

Planning Commission

Planning Commission Recommends approval of Conditional Use of 423 Center Street – Jim Rogers, Sara Drob, and Tim McHugh appeared before Council to answer questions regarding their seeking approval for a conditional use of apartments in an R-3 Zone. The United Cerebral Palsy has met with the Planning Commission and shown how they have suffered from flooding over the past three to five years. Northeast Keystone Properties will partner with United Cerebral Palsy. They will tear down the existing structure and replace it with a new structure that will be raised up one story so that parking will be available under the building. The new building will have space to house the existing entities of UCP, a daycare, and the Northeast Intermediate Unit, on the second floor. The top two floors will then offer market rate apartments to the elderly.

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Discussion: Mr. Williams asked how many apartments are planned for the building. Mr. Rogers answered that 22 apartments are planned. The apartments are necessary to help with the cost of the building.

Mr. Moyer stated that this project has been before the Zoning Hearing Board to obtain variances and then they went to the Planning Commission. The property was posted and the neighbors were notified. Mr. Rogers said that a land development plan has not been submitted to the Planning Commission yet. They wanted to be sure they could get a conditional use permit for the apartments in the R-3 zone before they spent more money on the land development plan.

Mr. Moyer made a motion to accept the conditional use of the apartments in the R-3 zone and Mrs. Carey seconded the motion. Discussion: Mr. Ray Davis, a Borough resident said he had a concern about the water table and the flooding at that location. He wanted to be sure all the water issues were addressed so that they didn't build the structure, find out it still gets flooded, and then have a dinosaur on their hands. Mr. Rogers from UCP said they understand the problem and all water issues will be addressed by their Engineer during the design stage and the site development. Mr. Patrick Williams asked if the Borough gets tax monies from the commercial part of that building. Mr. Rogers answered, yes, they do. The Helping Hands Day Care is a for-profit organization, and because this is a partnership, there will be tax monies coming from the new apartments. Mr. Rogers said that by raising the building there will actually be less volume on the ground than there is right now so that should be a benefit in addressing the water problem. Parking has also been addressed. Mr. Rogers also said that there will be a drop-off lane so the children are not dropped off right on Center Street. Motion carried 6 – 0.

PENNDOT Traffic Study

A letter was sent to the Planning Commission on behalf on Council asking them to review the study and make a recommendation as to which, if any, of the options presented by PENNDOT they would recommend that Council endorse. The Planning Commission will take that up at their next meeting.

New Fee Structure for Planning Commission

Virginia Kehoe reported that the Planning Commission has held several work sessions and they have developed a new fee structure. The Planning Commission is asking Council to review the new fees and see if there are any additions or corrections that should be made. Mr. Moyer explained that what was happening was that people were coming in for minor subdivisions and other things that the Borough would then have to send the Engineer out, or the lawyer had to review it and we were not recouping these costs. The Borough was losing money for reviewing plans that allowed the individual to make money and benefit themselves. This new schedule allows them to charge fees to cover the costs incurred by the solicitor and the engineer so that we are not spending tax money for giving people their subdivisions. This is the same thing we did with the Zoning Hearing Board.

POLICE REPORT

Officer In Charge Vitale gave the April 2005 Police Report, and summary of police related activities. During the month the officers repainted all the VASCAR lines in the Borough. A resident asked about skateboard incidents. Officer Vitale reported that the incidents are handled on a case by case basis. The Police Department has taken a tougher approach this year and they have issued more citations. Solicitor MacGregor added that he has been asked to look at our existing skateboard ordinance to see if it needs to be amended. We want to support the Police Department and be proactive.

The parking meters were calibrated by the PA Dept. of Agriculture. Meters were back in service on April 27, 2005. The meters need to be calibrated at least once every three years. The 2005 Ford Expedition has arrived; the lights and sirens have been installed and it's now in service, along with the moped. Mr. Vitale stated that he just processed a purchase order to order helmets for the moped. Even though Pennsylvania law does not require helmets, the Department is trying to be safety conscious and as soon as they arrive, the helmets will be worn.

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BILLS TO BE PAID:

Motion made by Mrs. Jackson and seconded by Mr. Armbrust to pay the current bills of \$55,990.07 from the General Fund and \$22,977.86 from Payroll and to approve the bills paid between April 1, 2005 and April 30, 2005 of \$119,932.90 from General Fund, \$46,258.26 from Payroll, and \$246.25 from Sewer Fund. Discussion: None. Motion carried 6 – 0.

OLD BUSINESS:

Mr. Moyer reported that the 2005-2006 Salt Contract will be with the Pennsylvania State Dept. of General Services. This is a change from the last few years where we obtained our salt from the Lackawanna COG Salt Contract. Lackawanna COG is no longer doing the bidding process so we have joined the State's program.

NEW BUSINESS:

Resolution 2005-15 – ABPA “Customer Appreciation Days” May 13-14, 2005

Motion was made by Mr. Williams and seconded by Mrs. Carey to adopt Resolution 2005-15 naming May 13-14, 2005 as the Abington Business and Professional Association (ABPA)'s Customer Appreciation Days and suspending metered parking during those days. Discussion: None. Motion carried 6 – 0.

Resolution 2005-16 – Change Planning Commission's Monthly Meeting Date

Motion was made by Mr. Roy Davis and seconded by Mr. Williams to approve Resolution 2005-16 changing the monthly meeting date of the Borough Planning Commission from the third TUESDAY to the third WEDNESDAY of each month. Discussion: None. Motion carried 6 – 0.

Adelphia Communications To Be Sold

Council received notice that Adelphia Communications will be sold. Solicitor MacGregor will follow up with Mr. Cohen, the solicitor who assisted us during the cable franchise negotiations. We need to be sure that any new purchaser of Adelphia continues to honor the obligations contained in our franchise agreement.

Complaints Regarding Political Signs in Borough

Mr. Moyer reported that the Borough has received many complaints regarding the number and placement of political signs in the Borough. The Borough does not currently have a resolution that bans that activity. Borough Secretary Barbara Grabfelder reported about the volume of complaint calls and that there was a significant number of calls regarding the safety issue of not being able to see oncoming traffic at the “island” located at State Street and Highland Avenue. Solicitor MacGregor stated that political signs cannot be banned completely because there is a free speech issue; but Council can certainly adopt an ordinance to provide for the public safety involved with political signs and limit the placement of the signs.

Motion made by Mr. Roy Davis that the Safety Committee along with Officer In Charge, Mr. Vitale, meet to decide if the existing signs are a safety hazard and if so have them removed immediately. Motion seconded by Mrs. Carey. Discussion: Mr. Williams would like to investigate the possibility of banning the placement of political signs on all public property. Everyone is entitled to their own free speech and can place signs on their own property, but he thinks the signs become an eyesore as well as a safety issue and signs should be banned on Borough and public property. Many times, candidates don't go back and remove the signs when the election is over and it costs the Borough money to have our DPW crew go around and remove the signs. Solicitor MacGregor stated that one thing

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that can be done in a new Ordinance is to institute a deposit requirement. A candidate must get a permit and give a deposit and the deposit is not returned until all signs have been removed. This could be done in time for the general election in November. Motion carried 6 – 0.

Lourdesmont High School Community Service Project

Mr. Michael Lazar contacted the Borough regarding the possibility of having some Lourdesmont High School students perform community service projects in the Borough. They provide their own insurance and supervision and are looking for some suggestions for projects. This will not be an on-going thing; they only work two weekends a month and will complete a project and move on to a different municipality. Council directed Barbara Grabfelder to coordinate the program with the DPW Supervisor and get a recommendation on what needs to be done.

Barbara Grabfelder and Virginia Kehoe to attend training seminar on May 19, 2005

Barbara Grabfelder and Virginia Kehoe will attend a management training seminar to be held at Nichols Village on May 19, 2005 from 9 AM to 4 PM. Mr. Moyer stated that in addition, Virginia attended a PENNVEST training program last week. We are trying to obtain a low interest loan for the sewer project to be done at the railroad tracks. The loan is a 2% loan for five years and then goes to 3%, but you have to qualify your project for this program. This is a state funded program. We've been turned down for two grants so far for money for flooding purposes. We now have another grant in for Chermak's property where that floods. We've applied for \$100,000 grant but have not heard about that yet. We applied for a Greener grant for the railroad tracks but were turned down for that. Nobody in Lackawanna County got any of that money. We showed pictures, gave documentation etc., but were turned down.

Mr. Roy Davis stated that he was concerned about the possibility of West Nile Virus due to the stagnant water at the railroad tracks. Mr. Moyer said that the Borough sent a letter to the railroad addressing that question and the Borough received a letter back saying that the railroad can't dredge the area or do anything to correct the stagnant water problem because the Borough's sewer line is in the way. The Borough's easement agreement with the railroad calls for the sewer line to be six feet deep but the line was installed at only three feet. The railroad wants to work with the Borough to move our existing line and that's the goal we are working toward.

Clarks Summit Borough Website

Barbara Grabfelder investigated the possibility of updating the Borough's website. It has not been updated in over two years. The existing contract is with Epix and costs \$45.00 per month for website space which requires the webmaster to know "html" coding. Barbara does not know "html" coding but is familiar with the "template" form of website building. The "template" contract is \$29.95 per month.

Motion made by Mrs. Jackson and seconded by Mrs. Carey to authorize changing the contract with Epix from \$45.00 per month to \$29.95 per month and have Barbara create a new website which can be updated more easily. Discussion: None. Motion carried 6 – 0.

BOROUGH SEWER OFFICE REPORT:

The April 2005 Report by Dee Ann Stephens was before Council. Motion by Mr. Armbrust to accept the Report as presented. Second by Mr. Moyer. Discussion – None. Motion carried 6 – 0.

SOLICITOR'S REPORT:

Grandview Street – Solicitor MacGregor said that Mr. Amato and Mr. Noto filed an appeal and they also filed a motion for reconsideration. This motion asked Judge Mazzone to reconsider his decision. Judge Mazzone has denied the motion for reconsideration. Noto and Amato have filed a Petition to Intervene and a hearing date was set

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for June 3, 2005 but that is going to be rescheduled. Council had discussed the possibility of creating an Ordinance to officially close Grandview Street after the judge ruled in Clarks Summit's favor, but they have decided it would not be prudent to do so until after all appeals have been completed. Finally, a Board of View petition has been filed by Noto and Amato, but because all proceedings are stayed, the Board of View is stopped at this point.

Mr. Carl Noakes, a Grandview Street resident, asked about the twenty-foot easement for the Commonwealth Telephone Company. If the telephone company has this easement doesn't that grant them access to their equipment? Mr. MacGregor stated that that is one of the arguments that he has used to support our position. The Borough is not restricting them if they have the twenty-foot right of way. Mr. Noakes said that they could cross his property to access the equipment if necessary.

Mr. VanWie asked if Council had considered asking Attorney Preate to continue with the Grandview Street litigation. Mr. Moyer replied that as of right now, Council has made the decision to have Malcolm MacGregor be the lead attorney for the Borough. That was a decision by this Table.

Mr. Noakes asked a question about amending the Minutes of prior meetings. Mr. Noakes feels there was a discrepancy in a statement that was made by Attorney Appleton regarding setbacks. Mr. Moyer said that minutes can be amended at any time. Mr. Noakes should come in and show where he feels the minutes should be corrected and Council can amend them.

Peddler/Soliciting Ordinance - Mr. MacGregor reported that he is working on reworking the Peddler/Soliciting Ordinance.

New Ordinance Requested - Barbara Grabfelder has requested that the Borough create an ordinance requiring all businesses operating in the Borough of Clarks Summit to register with the Borough at the beginning of each year. Registration would provide essential records for the Borough as to how many businesses and the number of employees so that the EMST tax is properly collected; fire/burglar alarm information is updated; recycling forms distributed and collected from the previous year so that the Borough is getting the recycling grant money to which it is entitled. The current list of businesses that the Wilkinson Agency is using is woefully out of date and the EMST money is far behind the anticipated schedule. When a new ordinance is created it will be fully advertised.

Mr. Voakes stated that the EMST has been amended and the law has been changed to allow for an exclusion of the EMST tax for anyone earning less than \$12,000. Mr. MacGregor and the Borough Secretary have not been notified of that change and they will look into it.

Recycling Performance Grant Audit – Mascaro - We've been notified that our 2003 Recycling Grant is being audited and we are in the process of obtaining the actual weight tickets for the tonnage that was recycled from Mascaro. Correspondence has been sent to J. P. Mascaro and Barbara Grabfelder spoke with Mr. Cesare and the tickets will be coming.

Mr. Williams stated that he and Mrs. Carey are going to start working again on the recycling program. Mr. Noakes stated that the area businesses are not aware of recycling efforts and even the corrugated cardboard dumpster.

CORRESPONDENCE:

Memorial Day Parade, May 30, 2005 – Invitation to Council to participate in the parade. Council authorized the purchase and placement of a wreath on behalf of Council and also one for the Mayor.

Family Fun Day 4-H Auction, May 15, 2005 at Lackawanna College

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EXECUTIVE SESSIONS:

President Moyer reported that one Executive Session (Personnel and Litigation) had been held prior on April 27, 2005 during the advertised Work Session, and one will be held during tonight's meeting for Personnel and Litigation and none were scheduled to be held in the future.

Mr. Moyer recessed the regular meeting at 9:33 PM to move to Executive Session.

Mr. Moyer reconvened the meeting at approximately 10:42 PM.

Motion was made by Mrs. Jackson and seconded by Mr. Armbrust to authorize Mr. MacGregor to follow up with Attorney Russell Shurtleff regarding the status of Dee Ann Stephen's continued employment with the Borough. Discussion: None. Motion carried 6 – 0.

Motion was made by Mrs. Jackson and seconded by Mr. Armbrust to unappoint Virginia Kehoe as Borough Treasurer. Discussion: None. Motion carried 6 – 0.

Motion was made by Mrs. Jackson and seconded by Mr. Armbrust to appoint Barbara Grabfelder as Interim Treasurer. Discussion: None. Motion carried 6 – 0.

Motion was made by Mrs. Jackson and seconded by Mr. Armbrust to appoint Virginia Kehoe as Assistant Borough Secretary. Discussion: None. Motion carried 6 – 0.

Motion was made by Mrs. Jackson and seconded by Mr. Armbrust to authorize an interim audit as needed. Discussion: None. Motion carried 6 – 0.

Motion was made by Mr. Roy Davis and seconded by Mrs. Jackson to suspend future work sessions and only hold them on an as needed basis. Discussion: Mr. Williams stated that he was disappointed that Mr. Davis wants to discontinue the work sessions. Mr. Williams stated that the newspaper just reported that Dunmore is bringing back their work sessions. Mr. Davis said he thought the work session would clarify and expedite the regular meeting but Mr. Davis doesn't feel that the work session did that. He was the one who suggested that Council have a work session but it didn't turn out to be as productive and informative as he thought it would be and it certainly didn't shorten the length of the regular meeting. Mr. Davis said the work session seems like simply another opportunity for information to be leaked out into the community and make our decisions that much more difficult. Mr. Davis said he also felt that it added an additional workload onto our already overworked staff. Motion carried 4 – 2. Mr. Armbrust – yes; Mr. Williams – no; Mr. Moyer – yes; Mrs. Carey – no; Mrs. Jackson – yes; Mr. Davis – yes.

For the record, Mr. Moyer stated that a formal LETTER was typed and presented to any Eagle Scout who lived in the Borough but did their work project outside the Borough. The Eagle Scouts who lived in the Borough and did their work project inside the Borough were presented framed copies of Council's resolution thanking them for their efforts. Mayor Dunn suggested that even though the work projects were done outside the Borough, these young men live IN the Borough and we should recognize them for their achievement, much the same as we would an outstanding athlete. The Eagle Scout rank is a significant accomplishment and deserves to be recognized, no matter where the project was completed. Mr. Moyer stated that there were seven this year and either six or seven next year. Council agreed that from this day forward, a framed resolution should be presented to any scout who achieves the Eagle rank and lives IN the Borough. It will not matter if the Eagle Scout project was done inside or outside the Borough.

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ADJOURNMENT:

There being no further business before Council the Meeting adjourned at approximately 10:50 PM.

Respectfully submitted,

**Barbara R. Grabfelder
Borough Secretary**

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