

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

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The regular July Meeting of Borough Council was conducted on Wednesday, July 6, 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, Council Vice President Timothy D. Rowland, Councilman Richard W. Armbrust, Councilperson Gerry Carey, Councilman Roy Davis, and Councilman Patrick Williams. Also attending were Mayor Wesley W. Dunn, Sr., Borough Solicitor, Malcolm L. MacGregor, and Borough Secretary, Barbara Grabfelder. Councilperson Margaret (Peg) Jackson 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 Mayor Dunn.

APPROVAL OF AGENDA:

Motion made by Mr. Rowland and seconded by Mr. Armbrust to approve Agenda. Discussion: None. Motion carried 6 – 0.

APPROVAL OF MINUTES:

Public Hearing and Special Meeting – June 1, 2005 – UPC Conditional Use. Motion made by Mr. Rowland and seconded by Mr. Davis to approve the Minutes. Discussion: None. Motion carried 6 – 0.

Public Hearing and Special Meeting – June 1, 2005 – Ordinance 2005-03, Amend Tax Rate. Motion made by Mr. Davis and seconded by Mr. Armbrust to approve the Minutes. Discussion: None. Motion carried 6 – 0.

Regular Council Meeting – June 1, 2005. Motion made by Mr. Williams and seconded by Mrs. Carey to approve the Minutes. Discussion: None. Motion carried 6 – 0.

Reconvene of June 1, 2005 Meeting on June 8, 2005. Solicitor MacGregor asked to correct a statement that he made at the June 8, 2005 meeting: His incorrect statement regarded the appraisal on the Borough Building. In fact, Council had selected James Walsh to do the appraisal on the building and subsequently, when Council decided not to move ahead and do an actual appraisal, Mr. Walsh was kind enough not to charge any kind of fee. Motion made by Mr. Rowland and seconded by Mr. Armbrust to approve the corrected Minutes. Discussion: None. Motion carried 6 – 0.

BIDS & QUOTATIONS:

None

BOROUGH TREASURER'S REPORT

Barbara Grabfelder reported on the EMST collections. The Borough received \$37,211.17 for the month of June which brings the total EMST collection to date to \$52,962.17.

The Borough Treasurer's Report, as of May 1, 2005 and June 1, 2005 was before Council. Motion made by Mr. Rowland and seconded by Mr. Armbrust to approve the Reports as presented. Discussion – None. Motion carried 6 – 0.

Council was informed that the PLGIT account and PLGIT/PLUS accounts are to be merged as of July 1, 2005 per information received from the Trustees of the Pennsylvania Local Government Investment Trust.

PUBLIC COMMENT & INPUT:

Refuse Collection: Mr. Heath Goldstein, a Borough resident, related an incident with a Mascaro Trash hauler driver.

Grandview Street: Mrs. Mari VanWie, Grandview Street, asked Council who would represent the Borough if the Grandview Street litigation does in fact go before a Board of View.

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Mr. Moyer stated that at this time the Borough Solicitor, Malcolm MacGregor, is representing the Borough on all litigation matters including Grandview Street.

Mrs. VanWie reminded Council of Attorney Preate's generous offer to represent the Borough free of charge.

Mr. MacGregor stated that he had contacted Attorney Preate about his offer and Mr. Preate stated he was unable to defend the Borough for free.

Mr. Robert Bennett, Timber Lane, requested Council to direct the Borough Secretary to send an official letter to Ernie Preate, asking for an official response as to whether or not he is willing to defend the Borough at a Board of View proceeding free of charge.

Mr. Raymond Davis, Barrett Street, stated that Mr. Preate made a big issue out of adamantly saying that this is such a cut and dried case that Mr. Preate would defend the Borough at the Board of View free of charge to the Borough. Mr. Davis strongly agreed with Mr. Bennett and said the Borough should contact Mr. Preate in writing and say that the public has brought up the issue that Mr. Preate has volunteered repeatedly to defend the Borough at the Board of View free of charge and ask Mr. Preate to reply in writing to the Borough's request.

Mr. Bennett asked if it is mandatory to have a physical barrier at the end of Grandview now that it is officially closed. Mrs. VanWie answered that legally, there is no requirement for a physical barrier, but her feeling is that to protect public safety, something should be there. Mr. Charles Martin suggested installing three flag poles and fly the American flag, the Pennsylvania state flag, and the Borough flag.

Mr. Moyer stated that some residents want the concrete barrier and some residents want a gate or other type barrier. A meeting should be held to sit down and work out what will work best for ALL the residents.

Sewer

Mr. Tom McCaffrey spoke on behalf of his aunt, MaryLou Schoffield, who resides at 1108 W. Grove Street. He was seeking information on the sewer line on that street and attempting to connect her residence to the public sewer. Mr. Moyer responded that he found out that Attorney Coviello paid to have his sewer lateral installed and ran it down to the manhole. PENNDOT also paid to have their line run down. The sewer line does not come all the way up to the top of West Grove. The people on the Morgan Highway are on septic, not public system. Mr. Moyer stated that he has asked Solicitor MacGregor to research the issue of once that lateral hits the Borough property, are we legal to hook into that? Instead of you having to run all the way to the manhole, if that lateral is in front of Mr. Coviello's house, whether he paid for that or not, are we legal to hook into that lateral.

COMMITTEE REPORTS:

Planning Commission

Motion made by Mr. Rowland, seconded by Mr. Arnbrust, to appoint Len Wesolowski, 316 Oakford Road, Clarks Summit, PA to fill the unexpired term of Colin Fanning with the term ending December 31, 2005. Discussion: None. Motion carried 6 - 0.

Virginia Kehoe reported that the Planning Commission approved two applications for minor subdivisions at their June 15, 2005 meeting: Scott Durr for Colburn Avenue and Chris Calvey. The Zoning Hearing Board granted a variance to Scott Durr for lot depth at their June 14, 2005 meeting.

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Civil Service Commission

Motion made by Mr. Armbrust and seconded by Mr. Moyer to appoint David Jones, 400 Carnation Drive, for a six-year term on the Civil Service Commission. This term will run from January 1, 2005 to December 31, 2010. Discussion: None. Motion carried 6 – 0.

POLICE REPORT

Officer In Charge Lou Vitale gave the June 2005 Police Report, and summary of police related activities. The Police Department has purchased a new ENRAD system which sends a beam across the street and records the speed of motorists as they break the beam. Mr. Vitale gave an update on the visual alert computer system.

Letter of Appreciation

Mayor Dunn read a letter from Ms. Betty Allen, 204 Carnation Dr., Clarks Summit. Ms. Allen expressed her appreciation for assistance provided by Officer Chris Yarns and commended him for his professional and kind manner.

BILLS TO BE PAID:

None Ready

OLD BUSINESS:

Traffic Study Meeting – Planning Commission/Bill Doble, PENNDOT

Motion made by Mr. Rowland and seconded by Mr. Roy Davis to (1) engage with South Abington Township and request a Congested Corridor Study be done by Lackawanna County, and (2) have the Borough write letters to Senators Mellow and Specter and Representatives Wansacz and Sherwood explaining that our traffic situation is bad and we've been told that PENNDOT won't be able to do anything until 2017 and asking what help they can give us. Discussion: Mayor Dunn reported that he attended the meeting of the Planning Commission and Bill Doble, the representative from PENNDOT and Mr. Doble reported that there is no state money available and that a bypass could not be considered until 2017. Mr. Doble suggested that small, interim things can be done to help with the increasing traffic. According to the PENNDOT Traffic Study, 88% of the traffic going through town is LOCAL traffic. Motion carried 6 – 0.

DEP Notice of Violation on Sewer System Infrastructure

Mr. Moyer reported that all our information has been forwarded to Mr. Karam as was requested by DEP. Mr. Karam will prepare the response. Mr. MacGregor stated that he prepared a letter asking for a 30-day extension until July 18, 2005 and that the Borough is working hard to cooperate and provide all information that was requested. Mr. Moyer announced that the Borough will be applying for another Growing Greener Grant.

Hire Michele Breslin to Complete Grant Applications

Motion made by Mr. Moyer and seconded by Roy Davis to hire Michele Breslin of Breslin Consulting, 1129 Sloan St., Scranton, PA to apply for the Growing Greener grant and be paid at the rate of \$55.00 per hour. Discussion: Mr. Davis suggested contacting our area representatives and ask for their help in obtaining the Growing Greener grant. Motion carried 6 – 0.

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Lackawanna County Council on the Arts

Barbara Grabfelder wrote a grant application for the NEPA Volunteer Fireman's Celebration Sept. 9-10, 2005. The Borough received notification that the grant was awarded in the amount of \$500.00 and will be used to provide music at the 75th Anniversary Celebration of the NEPA Fireman's Celebration.

NEW BUSINESS:

KBA Engineering – Sanitary Sewer Line for Laurelwood Apartments on Gravel Pond Rd., South Abington Township

Motion made by Mr. Rowland and seconded by Mr. Armbrust to (1) forward the request to add 36 new EDU's to pass through Clarks Summit's lines to the Borough Engineer, Mr. William Karam, for review, and (2) request that a letter of available capacity from Mr. Karam be forwarded to the Borough, and (3) authorize Solicitor MacGregor to send a letter to KBA Engineering advising them of our concern regarding the impact of this potential development and that we are sending it out to our Borough Engineer. Discussion: Mr. Moyer said that his sewage would come down Melrose Ave., go along Lackawanna Trail and down to the railroad tracks to the main line. Mr. Moyer stated that he was certain that if a development was put in upstream and it affects a development down below so that something must be upgraded, the first development can be made to bear the cost of the upgrade. Mrs. Carey asked if KBA Engineering can bear the cost of this review since it will benefit them. Mr. MacGregor said it may be possible down the line but not at this time. Motion carried 6 – 0.

PA American Water Company contract for Outsourcing Sewer Billing

Motion made by Mr. Williams and seconded by Mr. Armbrust to approve the contract and authorize Mr. Moyer to sign indicating the Borough's acceptance. Discussion: None. Motion carried 5 – 0 with Mr. Moyer abstaining due to his affiliation with the water company.

Resolution 2005-21 – Suspend Metered Parking for ABPA Sidewalk Sale Days, July 14-16, 2005

Motion made by Mr. Rowland and seconded by Mr. Armbrust to approve Resolution 2005-21 to suspend metered parking for the event. Discussion: None. Motion carried 6 – 0.

Resolution 2005-22 – Authorizing PA American Water Company to Bill/Collect for Borough Sewer Fees and Establishing Fees and Costs

Motion made by Mr. Roy Davis and seconded by Mr. Williams to approve Resolution 2005-22. Discussion: None. Motion carried 5 – 0 with Mr. Moyer abstaining due to his affiliation with the water company.

Henkelmen & Young Insurance Policy for 2005-2006

Motion made by Mr. Armbrust and seconded by Mrs. Carey to approve the coverage and authorize payment of the premium in the amount of \$36,708. Discussion: None. Motion carried 6 – 0.

Request for Various Traffic Revisions

Motion made by Mr. Armbrust and seconded by Mr. Roy Davis to (1) send the current list of traffic revisions to the Borough Police Department asking for their input and suggestions of other areas of which we are not aware, and (2) send the list to the Borough Engineer, William Karam, and request a traffic study that is required before any changes can be recommended and any public meeting can be held to make changes official. Discussion: Mr. Roy Davis asked if additional stop signs can be added to Oakford Road or better yet, install a traffic light at Oakford Road and State Street. Motion carried 6 – 0.

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Resolution 2005-23 – Establishing New Fee Schedule for Permits and the Planning Commission

Motion made by Mr. Rowland and seconded by Mr. Carey to approve Resolution 2005-23 approving the new fee schedule for permits and the Planning Commission. Discussion: None. Motion carried 6 – 0.

Resolution 2005-24 – Establishing New Fee Schedule for Pave Cuts

Motion made by Mr. Rowland and seconded by Mr. Armbrust to verbally amend the printed resolution and add the same provision that appears in Glenburn's resolution regarding more extensive road openings and approve Resolution 2005-24 establishing new fee schedule for pave cuts raising the basic fee from \$35.00 to \$50.00. Discussion: None. Motion carried 5 – 0 with Mr. Moyer abstaining.

Resolution 2005-25 – Authorizing Borough Secretary to make purchases of supplies and/or equipment in excess of \$100.00 but less than \$1,000.00.

Motion made by Mr. Roy Davis and seconded by Mrs. Carey to approve Resolution 2005-25 authorizing the Borough Secretary to make purchases of supplies and/or equipment in excess of \$100.00 but less than \$1,000.00 after securing the consent and approval of the Council President, and/or the Council Vice President, and/or one (1) Council Member. Discussion: None. Motion carried 6 – 0.

Request from Abington Rotary for Contribution toward Fourth of July Fireworks

Motion made by Mr. Rowland and seconded by Mr. Moyer to contribute \$1,000.00 to the Abington Rotary toward the Fourth of July Fireworks. Discussion: Mr. Williams and Mrs. Carey suggested \$500.00 due to Clarks Summit's tight budget. Motion carried 4 – 2 with Mr. Williams and Mrs. Carey voting no.

Shawn Stockdale, AAA Tax & Accounting Practices, Inc. – Closure of Front Street

Mr. Stockdale telephoned the Borough regarding his concerns on the closing of Front Street and he was asked to put his concern in writing and come to Council. Mr. Armbrust stated that Front Street has already been closed by Ordinance and Mr. Stockdale wanted to re-visit the issue and re-open the street. A resident whose property abuts Mr. Stockdale's property spoke from the audience. She stated that Mr. Stockdale uses his back yard for parking and does not cut the grass. The property owner stated the Mr. Stockdale took folding tables and rocks, NOT Mr. Fibus, Mr. Stockdale did this, and stacked them there to make it look terrible. Mr. Stockdale refuses to cut the grass along side.

Council directed Solicitor MacGregor to send a letter to Mr. Stockdale explaining that the road has been closed by Clarks Summit Ordinance and will not be reopened and that Clarks Summit also has an Ordinance regarding grass/weeds and he should comply with this.

Sturbridge Road Repair

Mr. Roy Davis gave an update on Sturbridge Road. In 2004 Council agreed to "fill potholes" only on Sturbridge because our plows and trash trucks use a section for convenience. Solicitor MacGregor drew up easements that were to be signed by Doctors Misiura and Beson. Dr. Beson returned the signed easement immediately but Dr. Misiura never signed. No potholes were filled. Residents of that street complained to Mr. Davis and both doctors were contacted. Dr. Misiura has now signed and returned the easement and Clarks Summit DPW will be asked to fill the potholes.

BOROUGH SEWER OFFICE REPORT:

The June 2005 Sewer Office Report was before Council. Motion made by Mr. Armbrust and seconded by Mr. Roy Davis to approve the Report as presented. Discussion: None. Motion carried 6 – 0.

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SOLICITOR'S REPORT:

Solicitor MacGregor reported on his appearance before Judge Minora to argue the Preliminary Objections. Also, Council should begin to discuss the current barriers on Grandview Street and get back to Judge Mazzoni with their intent.

CORRESPONDENCE:

Joseph Kopicki – Thank you letter received for Council's memorial donation.

EXECUTIVE SESSIONS:

President Moyer reported that one Executive Sessions had been held prior on June 1, 2005 for Police Chief, Personnel issues, and Professional Services Bids – Sewer Billing; and one will be held during the meeting to discuss the Police Chief, Professional Services, and Personnel issues; and none were to be held subsequent.

Council President Donald Moyer recessed the meeting at approximately 9:40 PM to move to Executive Session.

Mr. Moyer reconvened the meeting at approximately 10:45 PM.

Motion made by Mr. Moyer and seconded by Mr. Rowland to authorize Mr. MacGregor to send a letter to Building Inspection Underwriters to terminate their services. Discussion: None. Motion carried 6 – 0.

Motion made by Mr. Rowland and seconded by Mr. Armbrust to establish a "tree cutting policy" effective immediately. The policy regarding the cutting of trees in the Borough shall be that the homeowner is responsible for maintenance and/or removal of all dead/damaged trees in accordance with the provisions of the Borough Code. The Borough will only be responsible for cutting that portion of a tree that overhangs a roadway or sidewalk and is deemed to be a danger to public safety. Discussion: None. Motion carried 6 – 0.

ADJOURNMENT:

There being no further business before Council Mr. Rowland made a motion, seconded by Mr. Moyer to adjourn. Discussion: None. Motion carried 6 – 0. The Meeting adjourned at approximately 11:00 PM.

Respectfully submitted,

**Barbara R. Grabfelder
Borough Secretary**

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