

**BOROUGH OF CLARKS SUMMIT
REGULAR COUNCIL MEETING
WEDNESDAY, AUGUST 3, 2005
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The regular January Meeting of Borough Council was conducted on Wednesday, August 3, 2005 at 7:25 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, Councilperson Margaret (Peg) Jackson, and Councilman Patrick Williams. Also attending were Mayor Wesley W. Dunn, Sr., Borough Solicitor, Malcolm L. MacGregor, Officer In Charge Louis Vitale, and Borough Secretary, Barbara Grabfelder. 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. Armbrust and seconded by Mr. Williams to approve agenda. Discussion: None. Motion carried 7 – 0.

APPROVAL OF MINUTES:

Motion made by Mrs. Carey and seconded by Mr. Armbrust to approve the Minutes of the July 6, 2005 Public Hearing and Special Meeting: Ordinance 2005-04 – Vacate and Close Portion of Grandview Street. Discussion: None. Motion carried 7 - 0.

Motion made by Mr. Rowland and seconded by Mr. Armbrust to approve the Minutes of the July 6, 2005 – Regular Council Meeting. Discussion: None. Motion carried 7 – 0.

BIDS & QUOTATIONS:

None

PUBLIC COMMENT & INPUT:

Maple Avenue Petition

Mr. Joseph Quinnan presented a petition to Council from area residents who are concerned about speeding on Maple Avenue and cited a recent accident as proof. They want something to be done to protect the residents, visitors, and travelers to that street. Council directed that Hemlock & Maple Street and Fern & Maple be added to the list of streets to be examined by the Police Department as possible locations for stop signs or other traffic improvements and then the Borough Engineer will do a traffic study. Based on Mr. Karam's recommendations, Maple Street may be added to the streets to be discussed at a public hearing to be acted upon.

Jack Anderson, 114 Maple spoke stressing the need to control the speeding. He feels that nobody stops at the stop signs as it is. The neighborhood needs help. Can rumble strips be used? Mr. Moyer said that the Engineer must review the situation and he will make appropriate recommendations.

Jim Bonzak, 700 Winola Road – Drainage

Mr. Bonzak expressed drainage concerns and concern regarding additional development at Old Winola Road. Mr. Moyer stated that all development applications must go before the Planning Commission and they would be able to address the drainage issues.

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Grandview Street

Solicitor MacGregor gave an update on the Grandview Street litigation. Council's ordinance to vacate and close a portion of Grandview will be finalized and become effective as of August 16, 2005.

Mr. Rowland spoke to a representative of Commonwealth Telephone Company about removing the concrete barriers at the end of Grandview Street so that work can be done at the service location. Council directed that the barriers be removed and Mr. Rowland will finalize an agreement with the telephone company so that a temporary gate-type barrier will be installed at the location and will be paid for by the telephone company. Keys will be given to the Borough for the temporary barrier. Discussions will be held at a later time to decide what kind of barrier, if any, will be needed in the long-term.

BOROUGH TREASURER'S REPORT

The Borough Treasurer's Report, as of July 31, 2005 was before Council. Motion by Mr. Rowland to approve the Report as presented. Second by Mrs. Jackson. Discussion – None. Motion carried 7 – 0.

COMMITTEE REPORTS:

Planning Commission – Request to Council – Nextel

The Planning Commission received an application

Motion made by Mr. Williams and seconded by Mrs. Carey to require Launch Wireless-Nextel to pay for a radio frequency engineer, agreed to by the Planning Commission, to perform tests and provide documentation that a need does indeed exist and that they have selected the BEST location available to service their need. Discussion: None. Motion carried 7 – 0.

Planning Commission – Preliminary Approval for Land Development – Dunkin Donuts

Motion made by Mr. Rowland and seconded by Mr. Davis to approve the Preliminary Land Development Plan for Dunkin Donuts with the conditions listed. Discussion: None. Motion carried 7 – 0.

Multi-municipal Comprehensive Plan Agreement

Mr. Williams gave a report of a meeting that was held to see if there was any interest among the surrounding/contiguous communities to band together and work on a multi-municipal comprehensive plan. South Abington Township and Newton Township are going ahead with an agreement to work together on such a plan and they are inviting surrounding communities to join. Next meeting will be held August 9, 2005 at the Newton Municipal Building. Mr. Rowland said Clarks Summit has updated and revised their Planning, and their Zoning Ordinances, but our Comprehensive Plan is nonexistent. This may benefit us. It was suggested that Council members attend the meeting on August 9th and obtain additional information so that this matter can be further reviewed at the September 7, 2005 Council meeting.

POLICE REPORT

Officer Vitale gave the July 2005 Police Report, and summary of police related activities. Mr. Roy Davis asked if all Clarks Summit police officers were certified to use the new speed detecting equipment. Mr. Vitale answered yes, even part-time people. Mr. Davis said that it was his understanding that this device was going to be utilized to its fullest capacity, all the time. It would be our main deterrent to speeding because it was so technically advanced. With the complaints from the citizens here at this meeting, it seems that we need to be using it much more. Can we bring in a part-time officer for a period of time to use this 6 hours a day? That way it doesn't interfere with the

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department's daily activities and it sends a real message to speeders in our neighborhoods that we're serious about reducing the speed. Mr. Vitale said that the officers are using the equipment; it hasn't been put in the closet. The department can target speeders, especially as we get to the opening of school. Mr. Davis wants the equipment to be used as a deterrent; let the public know it's out there and its being used so that it is a deterrent to speeders.

BILLS TO BE PAID:

Motion by Mr. Rowland and seconded by Mrs. Jackson to approve payments of \$100,000 for the Tax Anticipation Note from the General Fund and \$95,129.60 for the quarterly payment to the Joint Sewer Authority from the Sewer Fund as current bills. Discussion: None. Motion carried 7 – 0.

Motion by Mr. Rowland and seconded by Mrs. Jackson to approve payments of \$280,490.47 from the General Fund, \$66,427.94 from Payroll Account, and \$767.36 from Sewer Fund for the period of June 1, 2005 to June 30, 2005, and to approve payments of \$210,859.59 from the General Fund, \$43,019.72 from the Payroll Account for the period of July 1, 2005 to July 31, 2005. Discussion: None. Motion carried 7 – 0.

OLD BUSINESS:

Interim Audit Conducted

Mr. Moyer reported that due to the outsourcing of the sewer billing and the end of employment of Dee Ann Stephens, an interim audit was conducted. The issue of sewer bypass (pass through) fees was raised by the auditors. The auditors wanted to know how the pass through fees were calculated and they wanted to know why they have not gone up over the past ten years. The major sewer project to be done at the rail road tracks will cost over \$500,000, they wanted to know why the people of Clarks Summit must absorb all the costs when the sewerage from the other municipalities is going through these pipes. This pipe is being expanded from the existing 18-inch pipe to 21-inch to accommodate the increased sewerage. Mr. Hennemuth stated that Council might want to investigate changing the specifications from a 21" pipe to a 24" pipe. The 21" pipe may cost more because it is an "odd-ball" size and you may get greater capacity by using the 24" pipe for little or no extra cost.

Mr. Moyer stated that there are three people who live on Hosfeld Street who are unable to use their sewers when it rains; the borough is paying for a back-flow preventer to stop sewerage from coming BACK into their house. This won't let them use the sewers during the rain, but at least it stops the flow from entering their homes. It is very unfair that people in this borough have these problems and can't use their sewers when we continue to take on additional sewerage from other communities.

Mr. Rowland wanted to know what other communities charge for their pass through fees.

Another problem discovered by the auditor is an issue of control and supervision. In past years, in preparation for issuing the invoice to each municipality for pass through fees, the Borough Secretary has contacted South Abington Township and Clarks Green Borough and asked THEM how many EDU's have been added to our sewer lines. The municipalities give us the number and then the Borough Secretary bills them for that stated number. The auditor said this is extremely poor practice. There is no control or verification. Mr. MacGregor stated there should be some mechanism in place to verify these numbers.

Mr. Moyer said that the quarterly fees that the Borough must pay to the sewer authority have been increased by about \$20,000. Our quarterly charge to our own Clarks Summit Borough residents had been \$55.00 per quarter for quite some time, but then they, too, were decreased to where it is now at \$50.00 per quarter. So our costs have increased but the fee has not kept pace. This leaves less money for maintaining our pipes.

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Mr. MacGregor stated that we now have a number of people and developers coming to the borough asking for hook-ups to our lines. Mr. MacGregor doesn't think we have sufficient information to be able to grant additional hook-ups at this time.

Mr. Rowland said that maybe the borough should not be using a flat rate for EDU's as we are now. Maybe we should look at the relationship between the amount of water used and the amount going into the sewers, and consider billing on water usage. The city of Scranton sold their sewer system for quite a bit on money; perhaps that option should be examined also.

We need to assess our capacity and also examine any fee that is related to sewer, whether it is EDU, hook-up, bypass, tapping fees

Mr. Roy Davis said that he felt Council should be more aggressive and get Mr. Karam to come in for a meeting and sit down and ask him if we are being fairly represented with his office doing both South Abington and Clarks Summit. Ask him if our taxpayers are absorbing more of the punishment than what we should be? Why can't we do something, even if it's going to ruffle some feathers, to get this up and moving? Here it is August and we've been discussing this since January.

Mr. MacGregor said that we need a basis to come up with a pass through fees. We need information. We can't simply raise the pass through fee back to \$57.00 or some arbitrary number. Mr. Rowland asked what was the basis for DROPPING the fee?

Mr. Moyer said that we're going to spend over \$500,000 on the project at the railroad tracks of which our Borough are going to pay and the bypass or pass through people are not paying. Mr. Rowland said that maybe the thing to do now since we're investing the huge amount of money into the tracks project, is to turn around and say to everybody else in other communities that are hooking to our pipes, here's the deal – we just spent all this money to improve the pipes now we have to raise the rates to pay for it.

Mr. MacGregor said that there is another thing that we have not asked and we are authorized to under the Borough Code. If you have a municipality like South Abington that comes to you and says they want to pump into Clarks Summit pipes, the Borough Code says that they can, but it also says that if you can't reach a reasonable agreement on a fee OR that there has to be construction, new construction, or repairs, then we can file a petition with the court. Have the court decide if they should be allowed to hook up and who should bear what cost. When push comes to shove, that is something that the Borough can invoke. However, you can't push or shove until you have all the information.

Mr. Davis said that he doesn't understand what Mr. Karam was his thinking was when he came up with the fee of \$36.10. What was his position when we went from \$57.00 to \$36.10? What did Mr. Karam think when that was happening to your customer, Clarks Summit Borough. What did you think when they were dropping the fee from \$57.00 to \$36.10 to the advantage of your other customer which is South Abington. Obviously, if we stayed at the \$57.00 fee, Clarks Summit would be much more solvent.

Mr. MacGregor said that the auditor came in and said you have to do something about this; this isn't right. We need to go to Bill Karam and tell him that he needs to give us this information; we've got to have it for the auditor. If you can't generate it, we'll have to go somewhere else.

Motion made by Mr. Rowland and seconded by Mrs. Jackson to set up a meeting with the Borough Engineer William Karam and authorize him to do a thorough review on all sewer-related fees to see why the existing fee was calculated and put in place and then calculating today's costs and expenses: construction of new sewer lines and hooking up from outside the Borough, tapping fees, pass through fees, and current EDU fees to Borough residents. Discussion: None. Motion carried 7 – 0.

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KBA Engineering – Request for 36 additional EDU's at Laurelwood Apartments

Motion made by Mr. Rowland and seconded by Mr. Davis to table this request for further investigation and review and have Solicitor MacGregor communicate with Gary Wilding regarding Council's intent. Discussion: None. Motion carried 7 – 0.

NEW BUSINESS:

Resolution 2005-26 – Authorize President Moyer to sign all documents pertaining to FEMA application #1485.

Motion made by Mr. Rowland and seconded by Mr. Armbrust to adopt Resolution 20205-26 to have Mr. Moyer sign all documents relating to this FEMA application. Discussion: None. Motion carried 7 – 0.

Sewer Permit Request for Hookup at Sturbridge Street

A letter dated July 12, 2005 from John R. Hennemuth was received asking for two parcels to be allowed to hook up to the Clarks Summit Borough's sewer system. He represents Dr. and Mrs. Gavin and the parcels are located in Abington Township. Mr. Hennemuth spoke to Council and stated that he is changing his request from two hook-ups to one and he is now asking that only the new parcel that will be created from subdividing Dr. Gavin's existing lot be given permission to hook up to the last manhole on Sturbridge Road, which will be one EDU.

Mr. Moyer thanked Mr. Hennemuth for actually coming to Council and asking permission. This is the way things should be done, not just hooking up and notifying the Borough at the end of the year that this is the number of EDU's that have been added. Council appreciates that.

Solicitor MacGregor stated that it was his opinion that an inter-municipal agreement would not be necessary. This will be a direct hook-up.

Motion made by Mr. Rowland and seconded by Mrs. Jackson to allow Dr. Gavin to hook up Parcel Number Two to the last manhole at Sturbridge Road and that all costs associated with this be borne by the owner: making road cuts, installing the lateral, obtaining sewer application and paying \$900.00 permit fee, continuing to pay the current quarterly fee to the Borough that is mandated by Clarks Summit Borough's Sewer Ordinance, and repaving any road cuts as required by the Borough's new Paving Cut Resolution. Also, if an inter-municipal agreement is found to be necessary, to authorize Solicitor MacGregor to prove such. Discussion: None. Motion carried 7 – 0.

Richard Jablonski – Request to Reduce EDU's from 5 to 4

Solicitor MacGregor explained that when a building is erected, the plans call for a total number of EDU's. This means that the property has the CAPACITY for using that number. If there are offices in the building and an office moves out, the EDU's are not reduced because the capacity is still there and another tenant will be found. However, in this case, the building was approved for 5 EDU's but the interior space has been divided into only 4 office/business spaces. There is no possible room for expansion. For eight years, Mr. Jablonski has been paying for 5 EDU's and only using 4.

Motion made by Mr. Rowland and seconded by Mr. Williams to authorize the reduction of EDU's for the property at 320 South State Street, Clarks Summit, from 5 EDU's to 4 EDU's. Discussion: None. Motion carried 7 – 0.

Joseph T. Majeski, M.D. and Ted M. Stampien, M.D. Request a zoning change for parcel of ground on the Morgan Highway.

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A letter was received dated August 3, 2005 from Joseph T. Majeski, M.D. and Ted M. Stampien, M.D. requesting a zoning change for a parcel of land on Route 307, the Morgan Highway, opposite the Scranton Country Club. They wish to construct a medical office building on the site which is currently zoned R-1. There may be wet-land problems with the parcel but they wish to take the first step with Council in requesting a zoning change and they have submitted a formal request for a zoning change to Council. Solicitor MacGregor stated that a Curative Amendment would be required and that he needs to research this. Mr. MacGregor will research the formal steps and order of procedures necessary and will communicate his findings to Council and Dr. Majeski.

Community Development Block Grant

Mr. Moyer gave an update on the Senior Center and the Eagle Scout's project for landscaping the front hill there. Also, we need to get an architect to give us a quote on what it would cost to do two handicapped equipped bathrooms and a handicapped accessible front doorway for the first floor of the Borough Building. A meeting was held with someone from the Bulena Design Group to come up with ideas. Also, it will be possible to use this CDBG money and install sidewalks along Bedford Street to Center Street and then along Center Street to Winola Road. Council desires to assist the large number of elderly residents at the McDade apartments.

Motion made by Mrs. Carey and seconded by Mrs. Jackson to hire the Bulena Design Group to investigate the design and provide an estimate of costs with the understanding that his services will be paid for from the CDBG money. Discussion: None. Motion carried 7 – 0.

Commonwealth Telephone Company – Request to Remove Barriers

Motion made by Mr. Rowland and seconded by Mrs. Jackson to authorize Commonwealth Telephone Company to pay for a temporary barrier and authorize the permanent barrier to be removed, with the understanding that a key be issued to Clarks Summit Borough for the temporary barrier. Discussion: None. Motion carried 7 – 0.

Jay Miller – Memorial Donation to VNA

Council authorized \$50.00 to be given to VNA Hospice as a donation in memory of Jay Miller's father.

BOROUGH SEWER OFFICE REPORT:

The July 2005 Sewer Office Report was before Council. Motion by Mrs. Carey to approve the Report as presented. Second by Mrs. Jackson. Discussion – None. Motion carried 7 – 0.

SOLICITOR'S REPORT:

None

CORRESPONDENCE:

None

EXECUTIVE SESSIONS:

President Moyer reported that one Executive Session had been held prior on July 6, 2005 to discuss Police Chief, Professional Services, and Personnel Issues, and one session would be held during this meeting to discuss the Police Chief, Litigation, and Personnel, and none were to be held subsequent.

Mr. Moyer recessed the meeting to move to Executive Session at approximately 9:40 PM.

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The meeting was reconvened at approximately 10:55 PM.

Motion made by Mrs. Jackson and seconded by Mrs. Carey to authorize a Treasurer's bond be placed for Barbara Grabfelder. The last day of employment for Dee Ann Stephens as Treasurer was June 24, 2005. Bond for Mrs. Grabfelder will be placed beginning June 24, 2005 and state that there has been no loss during that time. Discussion: None. Motion carried 7 – 0.

Motion made by Mrs. Jackson and seconded by Mrs. Carey to hire Barbara Grabfelder full-time retroactive to October 18, 2004 in recognition that she worked full time hours since then which entitles her to pension benefits and authorizing full participation in health, dental, and life insurance benefits as of July 1, 2005. The stated hourly wage will be \$15.00 per hour. Jim Valentine will review comp time and vacation and sick time issues and make recommendation to Council for both Virginia Kehoe and Barbara Grabfelder. Discussion: None. Motion carried 7 – 0.

Lackawanna County Tax Sale

Motion made by Mr. Rowland and seconded by Mr. Armbrust that we accept the Offer to Purchase Real Estate as received by the Lackawanna County Tax Claim Bureau on 204 Lansdowne Avenue with the stipulation that we get any unpaid sewer fees outstanding. Discussion: None. Motion carried 7 – 0.

Motion made by Mr. Rowland and seconded by Mrs. Jackson to authorize the Borough Secretary to advertise for a part-time Treasurer at 20 hours per week with a pay scale to be determined by the Personnel Committee. Discussion: None. Motion carried 7 – 0.

Motion made by Mr. Rowland and seconded by Mr. Armbrust to accept the resignation of Malcolm MacGregor as Borough Solicitor with deep regret. Discussion: None. Motion carried 7 – 0.

ADJOURNMENT:

There being no further business before Council the Meeting adjourned at approximately 11:02 PM.

Respectfully submitted,

**Barbara R. Grabfelder
Borough Secretary**

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