

**BOROUGH OF CLARKS SUMMIT
REGULAR COUNCIL MEETING
WEDNESDAY, November 2, 2005
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The regular November Meeting of Borough Council was conducted on Wednesday, November 2, 2005 at approximately 7:03 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 were absent. Also attending were Mayor Wesley W. Dunn, Sr., Borough Solicitor, Frank Bolock, and Borough Manager/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 meditation and then the Pledge of Allegiance lead by Mayor Dunn.

APPROVAL OF AGENDA:

Motion made by Mr. Rowland, seconded by Mr. Davis to approve agenda. Discussion: None. Motion carried 5 – 0.

APPROVAL OF MINUTES:

October 5, 2005 – Regular Meeting

Motion made by Mr. Rowland and seconded by Mr. Armbrust to approve the Minutes of October 5, 2005. Discussion: None. Motion carried 5 – 0.

PUBLIC COMMENT & INPUT:

Mayor Dunn thanked the fire police for assisting with the Halloween Patrol. He also announced that Chief Vitale and Mayor Dunn were presented with certificates on November 2, 2005 from the Heritage Baptist Church, Clarks Green, for dedication and appreciation of their community service.

BIDS & QUOTATIONS:

None

BOROUGH TREASURER'S REPORT

The Borough Treasurer's Report, as prepared by Treasurer Alice Kohn, as of October 31, 2005 was before Council. Motion by Mr. Armbrust to approve the Report as presented. Second by Mr. Rowland. Discussion – None. Motion carried 5 – 0.

COMMITTEE REPORTS:

President Moyer stated that the Borough is currently in the process of paving. The Leaf Pick-up Program is in full swing until November 18. The drainage project on Division Street has been completed.

Another roof leak was discovered at the Senior Center and upon inspection it was determined that the shingles are bad. We're trying to incorporate that project into our Community Development Block Grant, to get a new roof at the Senior Center.

Councilman Roy Davis announced that he was notified by Senator Mellow's office that Clarks Summit Borough will qualify for a \$90,000 grant through the Clean Water Act. The original Growing Greener Grant that the Borough applied for did not go through; this new grant is an obscure grant that was found by Mr. Davis and Mr. Mellow. Mr. Moyer thanked Mr. Davis and Senator Mellow for obtaining the new grant and also a prior \$50,000 grant that was used to help defray the costs for the drainage project on Division Street. Mr. Davis stated that we continue to apply for grants in every direction possible; its important to leave no stone unturned.

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POLICE REPORT

Chief Vitale gave the October 2005 Police Report, and summary of police related activities. Chief Vitale reported that there were 7 citations and 3 warnings issued on Maple Street during the last month. The Police Department spent about 11.5 hours on speed enforcement there. Mayor Dunn also spent time there to observe the situation. He commended Chief Vitale for his handling of the Oct. 18th domestic situation that turned into a hostage situation. Mr. Roy Davis asked if all Borough officers are trained to use the defibrillator? Mayor Dunn answered that there are two machines and all officers as well as the Mayor are fully trained in the usage. Mayor Dunn reported that he contacted Johnson College and has secured agreement from them to provide assistance to the Borough in designing and providing labor to fix up the now vacant first floor area of the Borough Building in order to bring the Police Dept. up out of the basement and make the Department accessible to the public. The Borough will only have to pay for materials. Mr. Moyer stated that we are also able to use some Community Development Block Grant money to pay for the handicapped equipped bathroom and front door areas.

BILLS TO BE PAID:

Motion made by Mr. Rowland and seconded by Mr. Armbrust to pay the current bills of \$20,418.76 from the General Fund and \$29,894.76 from Payroll and to approve the bills paid between October 1, 2005 and October 31, 2005 of \$238,766.57 from General Fund, \$43,660.25 from Payroll. Discussion: None. Motion carried 5 – 0.

OLD BUSINESS:

PSAB Legal Assistance Committee – Grandview – Mrs. Grabfelder reported that a letter was received from Thomas A. Klaum, Executive Vice President of PSAB saying they received our application for financial assistance for legal expenses regarding the Board of View on Grandview. The maximum assistance available is \$4,000 and it pertains to cases that have been moved to an Appellate Court. We'll continue to keep them up to date on the progress of the case.

Nextel – Mrs. Grabfelder stated that the required Findings of Fact and Conclusions of Law were issued by Attorney Malcolm MacGregor due to Council's denial of the Nextel request to erect a monopole in the Borough.

NEW BUSINESS:

Pennsylvania Dept. of Transportation – Liquid Fuels: Mrs. Grabfelder reported that a notice was received for the Estimated Liquid Fuels Payment for 2006. The estimated amount is \$109,610.63. The amount is based on mileage of 24.47 and a population of 5,126. The payment will be made on April 1, 2006.

PSAB No Longer Providing Grant Writing/Consulting Services – Mrs. Grabfelder reported that a letter was received from PSAB stating that in accordance with the original contract the Borough signed with them, they are giving us 60 days notice that as of December 1, 2005 PSAB will no longer provide grant writing/consulting services. The Borough will be able to contract with Sand Associates directly for grant writing services if we desire.

Appointment of Snyder & Clemente to Perform the 2005 DCED Audit – Motion made by Mr. Armbrust and seconded by Mr. Roy Davis to appoint Snyder & Clemente to perform the 2005 DCED audit for the Borough at the price of not more than \$6,500.00.

Traffic Signal Maintenance Agreement – Borough of Clarks Summit and South Abington Township – Motion made by President Moyer and seconded by Mr. Rowland to authorize Mrs. Grabfelder to institute a meeting and come to an agreement with South Abington Township Manager David O'Neill regarding traffic signals. Discussion: When the traffic signals were installed, there was supposed to be a maintenance agreement discussing ownership, insurance, and maintenance of the new signals between the two municipalities. If there was such an agreement in writing, it cannot be located at this time. A written agreement should be on record and if no copies can be found, a new agreement should be put in writing. Motion carried 5 – 0.

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Resolution 2005-34 Linda Melvin/Short Street

Borough Solicitor Frank Bolock presented Resolution 2005-34 authorizing the Borough to enter into an agreement with Linda Melvin regarding the development of an access way along what is identified on an old map as Short Street.

Motion made by Mrs. Carey and seconded by Mr. Armbrust to approve Resolution 2005-34. Discussion: Short Street was never dedicated, named, or maintained by the Borough, but it exists on a plan of development that was laid out in the late 1800's. Linda Melvin purchased a property along Short Street with the understanding that she would be able to develop an access way and that she would maintain it and develop it essentially as a driveway. There was some concern that the Borough would eventually be called upon to take the street, dedicate it and ordain it as a Borough street and then be responsible for it. The agreement is a mechanism to allow Linda Melvin to improve the driveway but place the burden for maintaining it on her, her heirs and assigns. The Borough needs to be concerned about at some time in the future this street coming back into the public domain. Ms. Melvin is agreeing to cooperate with the Borough and participate in the petition process that is required to remove that street from the plan of streets. Mr. Bolock recommended that sometime in the spring of 2006 Council utilize the provision in the Borough Code and take a look at removing other paper streets in the Borough that have not been improved. Motion carried 5 – 0.

Request for Public Hearing to Allow Self Storage Units in an HC District

Attorney Patrick J. Lavelle appeared before Council regarding a property owned by Judith A. Forkal at the Rear 315 N. State Street Clarks Summit, PA This property is situated in an HC zoning classification and Ms. Forkal is seeking to be allowed to erect 74 self-storage units on the site. Mr. Lavelle originally submitted a letter asking to appear before the Zoning Hearing Board for this request. The request was submitted to Carson Helfrich, Certified Community Planner for his review and opinion. Mrs. Grabfelder read directly from the letter to the Borough from Mr. Helfrich stating that "granting of the application by the ZHB would constitute a use variance. I believe this would be an improper action by the ZHB because it essentially is rewriting the zoning ordinance which is the purview of Council." Mr. Helfrich's letter went on to say that "if the applicant changes his approach and requests a zoning amendment to include self storage in the HC District, I do not believe the Council is obligated to conduct a hearing under the MPC. There is nothing in the MPC that requires a municipality to respond to each and every request for a zoning change. However, some municipalities choose to conduct a hearing simply to ensure the applicant has the opportunity to be heard."

Mrs. Grabfelder asked Mr. Lavelle if he would agree that it is understood that there is no "time clock" running on this request. Mr. Lavelle replied that he agreed. Also, she asked that the suggested zoning amendment be drafted by the applicant. The Borough can accept the letter from Mr. Lavelle dated October 17, 2005 as the application but the Borough requests that Mr. Lavelle submit the actual wording for the amendment. Mr. Lavelle said yes, he could be more specific. And finally, she asked that Mr. Lavelle agree that the public hearing could not be scheduled until both the Clarks Summit Planning Commission and the Lackawanna County Planning Commission have had adequate chance to review the request and comment on it and also that the Borough has a chance to advertise the meeting and post the property. Mr. Lavelle stated that he agreed.

Motion made by Mr. Rowland, seconded by Mr. Armbrust to schedule a public hearing/special meeting following the discussed guidelines to hear public comment on the request for the zoning amendment. Motion carried 5 – 0.

BOROUGH SEWER OFFICE REPORT:

Mrs. Grabfelder gave a report updating Council on the process of the transition of the sewer billing over to Pennsylvania American Water Company and the Borough's attempts to collect delinquent accounts.

Motion made by Mr. Roy Davis, seconded by Mr. Carey to authorize the Borough Manager to work out payment terms with residents who have existing delinquent accounts. Discussion: President Moyer stated that if a hardship exists, an arrangement should be worked out by the Borough Manager rather than bringing every case in front of Council. Mr. Davis

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asked that the Borough Manager keep Council informed and allow Council to offer insight on certain appeals if necessary. Motion carried 5 – 0.

Motion made by Mr. Moyer and seconded by Mr. Rowland to authorize the Borough Manager to refund all credit balances to existing sewer accounts. Discussion: Mrs. Grabfelder estimated that refunds would amount to \$800-\$850. Motion carried 5 – 0.

SOLICITOR'S REPORT:

None

CORRESPONDENCE:

Mr. & Mrs. Joseph Chermak sent letter thanking the Borough, DPW Supervisor Neil Bartholme, and the entire DPW department for their efforts in correcting the drainage problem at Division Street.

EXECUTIVE SESSIONS:

President Moyer reported that one Executive Sessions had been held prior on October 5, 2005 prior to the Regular Council Meeting for Personnel and none were held during the meeting and none were to be held subsequent.

PUBLIC COMMENT:

Mr. Charles Martin, Grandview Street, asked if any plans had been made for a permanent barrier at the end of Grandview. President Moyer stated that no plans were before Council at this time. It was suggested several times in the past that the residents get together to agree on one form/style that they would suggest to Council for approval.

ADJOURNMENT:

There being no further business before Council the Meeting adjourned at approximately 8:12 PM.

Respectfully submitted,

**Barbara R. Grabfelder
Borough Secretary**

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