

**BOROUGH OF CLARKS SUMMIT  
REGULAR COUNCIL MEETING  
WEDNESDAY, APRIL 5, 2006**

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The regular April Meeting of Borough Council was conducted on Wednesday, April 5, 2006 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, Councilman Richard W. Armbrust, Councilperson Gerri Carey (arrived late at 7:06 PM), Councilman Roy Davis, and Councilman Patrick Williams. Also attending were Mayor Harold P. Kelly., Borough Solicitor, Frank Bolock, Police Chief Louis Vitale, and Borough Manager/Secretary, Barbara Grabfelder. Councilperson Margaret (Peg) Jackson and Council Vice-President Tim Rowland were Absent. 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 Kelly.

**APPROVAL OF AGENDA:**

Motion made by Mr. Davis, seconded by Mr. Armbrust to approve the Agenda as presented. Discussion: None. Motion carried 4 – 0.

**Resignation – Council Vice-President Tim Rowland – Motion made by Mr. Davis, seconded by Mr. Armbrust to accept with great regret the letter of resignation submitted by Mr. Rowland effective April 5, 2006, and to authorize a resolution thanking Mr. Rowland for his many years of service to the Borough of Clarks Summit.** Discussion: None. Motion carried 4 – 0.

Councilperson Geri Carey arrived at this point at approximately 7:06 PM.

Appointment of New Councilman to Fill Unexpired Term of Tim Rowland – Motion made by Mr. Moyer, seconded by Mr. Davis to have Mr. Raymond Taylor fill the unexpired term of Tim Rowland ending December 31, 200. Mr. Williams made a motion to table the original motion naming Mr. Taylor. Motion to table was seconded by Mrs. Carey. Discussion: Mr. Williams stated that a letter of interest was received from Mr. Bennett, Mr. Johnson, Mr. Burke, and Mr. Appleton. Mr. Taylor has not sent in a letter of interest. Mr. Williams said that no interviews have been conducted to decide which is the better qualified applicant. If, after an interview process, it was determined that Mr. Taylor is the best qualified candidate, then Mr. Williams would not object. Mr. Davis begged to differ with Mr. Williams and said that there was never any agreement by Council to interview for the council position but that Council did agree to interview for the Borough Manager position. Mr. Davis stated that this has never been done in the past, with himself being an example. He did not submit an application or letter of interest. He was asked, he considered it, and responded verbally and Council voted on it. Mr. Moyer stated that he made the motion for Mr. Taylor; Mr. Moyer believes in Mr. Taylor very highly to be a very good citizen of the Borough, a professional businessman in town. Mr. Taylor has learned that when times change, you make changes in your business in order to survive; he has been on Borough Committees before and in fact, the sidewalks in town are credited to his efforts, and he is a current member of the Planning Commission. His heart is totally in this town and that's why Mr. Moyer nominated Mr. Taylor. Roll Call Vote on the motion to table was taken: Mr. Moyer, No; Mr. Armbrust, No; Mr. Davis, No; Mrs. Carey, No. Mr. Williams voted yes. Motion to table was defeated. A Roll Call Vote was then taken on the motion to have Mr. Raymond Taylor fill the unexpired term of Mr. Rowland: Mr. Moyer, Yes; Mr. Davis, Yes; Mr. Williams, Yes; Mrs. Carey, Yes; Mr. Armbrust, Yes. Motion was unanimous.

Mayor Kelley administered the Oath of Office to Mr. Raymond Taylor.

Council Vice-President - Motion made by Mr. Armbrust, seconded by Mr. Davis, to nominate Councilperson Margaret Jackson to serve as Council Vice President. Mr. Williams made a motion to nominate Mrs. Carey. Motion failed for lack of a second. Mr. Moyer asked for any additional nominations; there were none. A Roll Call Vote was taken on the motion to have Mrs. Jackson serve as Council Vice President: Mr. Davis, Yes; Mr. Armbrust, Yes; Mr. Moyer, Yes; Mr. Williams – Abstained; Mrs. Carey – Abstained; Mr. Taylor – Abstained. Motion was approved 3 – 0 with 3 abstentions.

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**APPROVAL OF MINUTES:**

Motion made by Mr. Davis, seconded by Mr. Armbrust to approve the Minutes for the Regular Council Meeting of March 1, 2006. Discussion: None. Motion carried 6 – 0.

**PUBLIC COMMENT & INPUT:**

Noise Relief on Winola Road - Mr. Martin Nazar, 413 Winola Road, and Mr. Norm Bourcier, 407 Winola Road addressed Council with a request for help in getting the large trucks that go down Winola Road to stop using the loud engine retarders. Chief Vitale stated that the road signs preventing truck drivers from using the engine retarder are based on a percentage of grade of the road. Council asked Chief Vitale to check with PENDOT to obtain the actual grade of Winola and asked Solicitor Bolock and Chief Vitale to check into the law and requirements. Motion made by Mr. Davis, seconded by Mr. Williams to have the Borough Police Department look for some relief for these residents and legally pursue a procedure to alleviate the mechanical engine retarder. Chief Vitale said we ARE permitted to put up speed limit signs and enforce the speed limit at that location. Mr. Vitale will contact South Abington Township to see if they can work together on the speed issue. Discussion: Mr. Charlie Martin, Grandview Street, said we also have a Borough noise ordinance that the police department can enforce. Solicitor Bolock stated that Winola Road is a Pennsylvania State road and their ordinance may preempt the Borough's ordinances so further research is needed. Motion carried 6 – 0.

Herman Johnson – Borough Emergency Management – Mr. Johnson presented to Council a rough draft of the Emergency Management Operations Plan that is required to be updated by the Borough every two years. Mr. Johnson asked that Council review the plan before it is sent out for approval to Lackawanna County and send any appropriate comments to him as the Borough's EMA. Once the comments have been received, a copy will be sent to the Police Department and the Fire Department He complimented the Borough Manager, Assistant Borough Secretary, and Treasurer for their cooperation and assistance in putting the Operations Plan together. Mr. Moyer publicly thanked Mr. Johnson for his extensive work and help to the Borough, and Mr. Davis congratulated Mr. Johnson for his election as President of the Lackawanna County Police Association.

**BIDS & QUOTATIONS:**

**Borough 2006 Summer Pipe and Inlet Projects:**

The Borough obtained quotes for a full truckload of 15" A.D.S. N-12 Perforated Pipe and 15" Bands to join the pipe together for work that will be done by the DPW during the summer of 2006.

Bradco Supply Co., Towanda quoted Pipe: \$5.53/foot and Bands: \$5.53 each.

Central Clay Products, Inc., Wilkes Barre quoted Pipe: \$5.57/foot and Bands: \$5.57 each

Pena-Plas Co., Jessup quoted Pipe: \$6.00/foot and Bands: \$9.06 each.

Motion made by Mr. Moyer, seconded by Mr. Davis to accept the quote and authorize purchase of 1,100 feet and 50 bands from Bradco Supply Co., Towanda for \$6,359.50. Discussion: None. Motion carried 6 – 0.

**BOROUGH TREASURER'S REPORT**

The Borough Treasurer's Report, as prepared by Treasurer Alice Kohn, as of March 31, 2006 was before Council.

Treasurer Alice Kohn made a presentation to Council pertaining to consolidating and closing certain accounts and moving money into short-term Certificates of Deposit to take advantage of rising interest rates.

Motion made by Mr. Moyer, seconded by Mrs. Carey to accept the Treasurer's Report and to close the following bank accounts at Community Bank which are now inactive since the transfer of payroll and disbursement activity bank to PNC as of 1/1/06. General Fund: Account 800175591 (Checking) \$20.55; Account 800414322 (Savings) \$12,470.00; Account 800175671 (Payroll) \$0.38 cents; Account 800225441 (Personnel) \$15,295.19. Sewer Fund:

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Account 800175751 (Checking) \$160.55; Account 800427572 (Savings) \$103,426.00. Discussion: None. Motion carried 6 – 0.

Motion made by Mr. Moyer, seconded by Mr. Armbrust to transfer the \$27,554.84 currently in the General Fund at Community Bank to the PLGIT Plus account which currently offers an interest rate of 4.46% with a 30 day minimum holding period. This balance should also be designated as the "Personnel" Account which is to reserve funds for the accumulated unused sick time obligation for the Police Department. Discussion: None. Motion carried 6 – 0.

Motion made by Mr. Davis, seconded by Mrs. Carey to transfer the \$103,586.55 currently in the Sewer Fund at Community Bank to PNC Bank and open a 90-day Certificate of Deposit currently offering 4.78% effective until April 11, 2006. Discussion: None. Motion carried 6 – 0.

The cash forecast for April/May estimates net receipts of \$420,000 which is for real estate taxes net of estimated payroll and disbursements. We should take advantage of this temporary large cash balance by opening some Certificates of Deposit before repaying the \$300,000 Tax Anticipation Note later in the year. Cash receipts will start to decrease significantly starting June/July 2006 since the majority of real estate taxes will have been received and disbursements will exceed receipts.

Motion made by Mr. Moyer, seconded by Mr. Armbrust to open a \$100,000.00 Certificate of Deposit by April 7, 2006 at PNC Bank for 60 days at 4.69% utilizing funds from the General Fund. Discussion: None. Motion carried 6 – 0.

Motion made by Mr. Davis, seconded by Mr. Williams to open a second Certificate of Deposit by April 21, 2006 for \$100,000.00 when tax receipts of at least \$150,000 are received. Discussion: None. Motion carried 6 – 0.

Motion made by Mr. Taylor, seconded by Mr. Davis to immediately transfer \$150,000 from the PNC Bank Sewer Fund into a 60-day Certificate of Deposit at PNC Bank which is offering 4.69% effective until April 11, 2006. Discussion: None. Motion carried 6 – 0.

**COMMITTEE REPORTS:**

No Parking Signs – Mrs. Carey asked if No Parking signs could be placed on Gladiola Drive next to the Lewis Lane Park fence. Teenagers daily park on the edge of the pavement and it has become crushed and will soon require major repair. Council agreed to place that area on the list of streets to be given to the Borough Engineer for the upcoming traffic study.

Abington Area Joint Recreation Board – Borough Manager Barbara Grabfelder reported that at the last AAJRB meeting it was announced that developer Rick Florey had rescinded his plan to place an ingress/egress road to his new proposed development through the Senior Center driveway.

Scranton-Abingtons Planning Association (SAPA) – Due to the fact that Mr. Rowland resigned from Clarks Summit Borough Council, he can no longer serve as the Borough's main delegate to SAPA since the main delegate must be either an elected or an appointed representative. Motion made by Mr. Davis, seconded by Mr. Taylor to name Lenny Wesolowski as the Borough's appointed delegate to SAPA and name Tim Rowland as the alternate. Discussion: None. Motion carried 6 – 0.

Planning Commission – Change Request from Dunkin Donuts – The owners of Dunkin Donuts have asked for a slight change in the layout of the sidewalk and landscaping and they want to switch the landscaping and the sidewalk on the parking lot side of their building. Since this is a minor change, the Planning Commission recommended that it go to Council directly. Community Planner, Carson Helfrich, recommended the change and stated that it is an improvement over the original design. New drawings and a letter were presented. Mr. Williams

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commented that there is a large gas meter right alongside the drive-through. It not only looks bad but it must be dangerous; what if somebody drives into it or its hit by a snowplow? Mr. Williams also raised concerns about the shrubs to be placed in front of the drive-through. It is imperative that the shrubs be tall enough to totally block the headlights of the cars coming through the drive-through and that they be continually maintained and/or replaced so that the headlights are blocked at all times. Mr. Taylor asked what happens if the business does comply with the shrub requirement, obtains a certificate of use and occupancy and then in three years, the shrubs die. What can the Borough do about that? Borough Solicitor Frank Bolock stated that the Borough could actually initiate litigation to compel the developer and/owner to maintain all the conditions that were approved by the Planning Commission and by Council. A lien could actually be placed on the property. Motion made by Mr. Moyer, seconded by Mr. Williams, to approve the applicant's change regarding the sidewalk and landscaping as submitted on the revised drawings with the condition and stipulation that pylons be placed as a protective barrier surrounding the gas meter, and that the owner of the building and the owner of the property sign a statement that the shrubs placed in front of the drive-through will be constantly maintained in a manner that the shrubs are high enough and full or bushy enough so that all headlights are fully blocked at all times. Discussion: None. Motion carried 6 – 0.

Community Development Block Grant for Senior Center Kitchen and Roof – Borough Manager Barbara Grabfelder reported that there will be a pre-bid meeting on April 19, 2006 at 1:00 PM for the two projects.

**POLICE REPORT**

Chief Vitale gave the March 2006 Police Report, and summary of police related activities. He announced that the 1999 Ford vehicle is totally out of service. It cannot be inspected unless the floorboards are replaced and is therefore not drivable.

**BILLS TO BE PAID:**

Motion made by Mr. Moyer, seconded by Mr. Armbrust to approve the following payments:

Current: April 1 through April 5, 2006

\$49,981.06 from General Fund

\$30,099.39 from Payroll

Paid Between March 1 and March 31, 2006:

\$240,739.54 from General Fund

\$58,913.56 from Payroll

\$96,937.30 from Sewer

\$ 0 from Capital Reserve Account

\$ 0 from Liquid Fuels

Discussion: None. Motion carried 6 – 0.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

Healthy Communities-Healthy Youth – Motion made by Mrs. Carey, seconded by Mr. Moyer, to pay \$1,000 from the General Fund, which represents one-half of the 2006 budgeted amount to Healthy Communities-Healthy Youth in response to their urgent request for support letter. Discussion: None. Motion carried 6 – 0.

Resolution 2006-15 – National Youth Service Days - Motion made by Mrs. Carey, seconded by Mr. Armbrust to adopt Resolution 2006-15 that the dates of April 21-23, 2006 be proclaimed as National & Global Youth Service Days in Clarks Summit and urging all citizens to participate. Discussion: None. Motion carried 6 – 0.

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**Recommendation of Tax Claim Bureau** – An “Offer to Purchase Real Estate Estimate Sheet” was received from the Lackawanna County Tax Claim Bureau indicating an offer of \$1,000.00 was received from Judy and Jeffrey Belch, 1018 Sleepy Hollow Road, to purchase a piece of property on Sunset Acres, Map# 10014-020-032. The property was approved for sale by the Tax Claim Bureau according to the Real Estate Tax Sale Law of 1947 Sec. 613 (72 P.S.5860.613) as amended. Motion made by Mr. Moyer, seconded by Mr. Armbrust to accept the recommendation. Discussion: Mr. Davis questioned if the back taxes that are currently owed are to be paid. Mr. Moyer answered that there are \$2,426.44 owed in taxes and that the offer to purchase is only \$1,000.00 so not all taxes are paid. This sale closes the file and allows the property to go back on the tax rolls so that taxes are paid as we go forward. Mr. Davis stated that Judy Belch is the Borough’s Tax Collector. He asked Solicitor Bolock is there is a conflict of interest here. Solicitor Bolock said there is no conflict of interest. The property has been advertised repeatedly and the public has had plenty of opportunity to bid on it. Motion carried 6 – 0.

**2005 Audit by Snyder & Clemente** – Borough Manager Grabfelder reported that the audit has been completed and all required DCED reports have been filed. She stated that the report is available for public review and that there were no findings or recommendations from the auditor. Motion made by Mr. Moyer, seconded by Mr. Davis to accept the audit. Discussion: None. Motion carried 6 – 0.

**Milissa and Bill Carey – 510 Gladiola Drive** – Letter was received from the Careys regarding dead and dying trees on the Borough-owned parcel of land adjoining the Carey property. The Careys feel that the parcel has wetland conditions and presented a “Wetland I.D. Sheet” that was taken from the DEP website. The Careys asked that either the dead trees be removed or that the Borough sell them the parcel, which they consider to be a problem area. Mr. Moyer stated that there are actually two parcels on one deed. The Lewis Lane Park is one parcel and the second parcel is the land in question next to the Carey property. President Moyer obtained consensus from Council to direct the letter to the Planning Committee’s attention and ask them to review it and recommend how to divide the parcels and proceed.

**BOROUGH SEWER OFFICE REPORT:**

The April 2006 Report by Virginia Kehoe was before Council. Motion made by Mr. Davis, seconded by Mr. Armbrust to accept the Report as presented. Discussion – None. Motion carried 6 – 0. Borough Manager Grabfelder reported that no water shut offs occurred due to the fact that payments and payment arrangements were received from each of the accounts that had been identified as delinquent from the July 1 through October 31, 2005 billing. Motion carried 6 – 0.

**SOLICITOR’S REPORT:**

Solicitor Bolock stated that he has a number of litigation matters that he would like to discuss in Executive Session.

**CORRESPONDENCE:**

**Barry Kaplan – Abington Business & Professional Association** – Thanking Council for its participation in the highly successful Ice Festival.

**Countryside Conservancy** – Inviting Council members to the next awards meeting on April 26, 2006.

**PUBLIC COMMENT:**

Borough resident Charlie Martin spoke about the issue of cutting down dead trees in the Borough’s right of way. He stated that he just had a tree taken down at a cost of \$6,500 and he asked Council to investigate the possibility of negotiating with a contractor for a reduced price to Clarks Summit homeowners if the Borough decides to enact a

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new tree ordinance which would require the homeowners to bear the cost of removing trees from the right of way. President Moyer stated that several ideas are being investigated and Council is also looking for grant money to help with the costs.

President Moyer recessed the meeting at approximately 9:00 PM to move to Executive Session.

**EXECUTIVE SESSIONS:**

President Moyer reported that one Executive Session had been held prior on March 1, 2006 on Litigation on Grandview and Nextel and Personnel for Police and Borough Manager; and one was scheduled to be held during the meeting to discuss Litigation on Nextel, Oakmont, and Grandview, and Personnel for Borough Manager; and none were to be held subsequent.

President Moyer reconvened the meeting at approximately 11:10 PM.

Motion made by Mr. Davis, seconded by Mr. Moyer to accept the negotiated amount of \$2,434.00 in full and final settlement in the matter of the sanitary sewer hookup at the property located at 1009 R. West Grove Street, Clarks Summit, PA. Discussion: None. Motion carried 6 – 0.

Motion made by Mr. Davis, seconded by Mr. Taylor to advertise the proposed tree ordinance, (Ordinance 2006-01) and hold a public hearing and special meeting on May 3, 2006. Discussion: None. Motion carried 6 – 0.

Motion made by Mr. Davis, seconded by Mr. Armbrust, to regretfully accept the resignation of Barbara Grabfelder as Borough Manager effective June 30, 2006. Discussion: None. Motion carried 6 – 0.

Solicitor Bolock was directed to correspond with Mr. Larry Lahr of Nextel Partners and communicate that putting the tower in the corner of the property was not favorable, but there might be some sympathy on Council's part if the tower were to be of the "flag pole" type and the tower be placed in the middle of the lot as mentioned in the meeting that was held on April 4, 2006.

President Moyer directed that Mr. Armbrust from the Safety Committee and Mayor Kelly should get together with Chief Vitale to discuss the open shift and how many part-time officers are needed and also the cost of equipping any new hires and the possibility of the Borough owning some of the equipment.

**ADJOURNMENT:**

There being no further business before Council the Meeting adjourned at approximately 11:20 PM.

Respectfully submitted,

**Barbara R. Grabfelder  
Borough Secretary**

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