

**BOROUGH OF CLARKS SUMMIT  
REGULAR COUNCIL MEETING  
WEDNESDAY, JUNE 7, 2006**

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The regular June Meeting and Special Hearing on Ordinance 2006-01 (Trees) of Borough Council was conducted on Wednesday, June 7, 2006 at approximately 7:12 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, Council Vice President Margaret Jackson, Councilman Richard W. Armbrust, Councilperson Gerri Carey, Councilman Roy Davis, Councilman Raymond Taylor, 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. 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.

**PRESENTATIONS:**

Mayor Kelly presented a framed letter of thank you from Council to Herman Johnson, Clarks Summit Borough EMA Director.

**APPROVAL OF AGENDA:**

Motion made by Mrs. Jackson, seconded by Mr. Armbrust to approve the agenda. Discussion: None. Motion carried 7 – 0...

**APPROVAL OF MINUTES:**

Motion made by Mrs. Jackson, seconded by Mr. Armbrust to approve the minutes of the Public Hearing and Special Meeting on Ordinance 2006-01 Regulating Trees, May 3, 2006 with a correction to indicate that Mr. Raymond Taylor was present for that meeting. Discussion: None. Motion carried 7 – 0.

Motion made by Mr. Armbrust, seconded by Mr. Davis, to approve the minutes of the Regular Council Meeting of Wednesday, May 3, 2006 with the correction that Mr. Ray Taylor was present for that meeting. Discussion: None. Motion carried 7 – 0.

**PUBLIC COMMENT & INPUT:**

**Continuation of Public Hearing on Ordinance 2006-01 Tree Ordinance**

President Moyer announced that Councilman Ray Taylor has researched the possibility of obtaining grant money for pruning, cutting, and planting trees. In order to obtain grant funding it is necessary to form an official Shade Tree Commission.

Motion made by Mr. Taylor, seconded by Mrs. Jackson that the Shade Tree Commission be re-activated and that Ordinance 2006-01 Tree Ordinance be tabled. Discussion: Borough Manager Grabfelder asked if the grants under discussion were "matching" grants whereby the Borough had to contribute. Mr. Taylor responded that yes, the grants were matching but you do not necessarily have to match with Borough money; it could be matched with private citizens' money or you could use Borough labor to plant the trees and count that as money toward the match. The Borough would also have to pay to purchase the trees. The Shade Tree Commission would be comprised of three to five people. Mr. Davis asked Mrs. Grabfelder that in the meantime, do we have the money to continue the program the way we've been running it now without a Shade Tree Commission? Mrs. Grabfelder answered no, Council decided in November, 2005, that they would NOT fund the cutting of trees and to change the existing ordinance to indicate that the Borough would not cut trees; it would be the homeowner's responsibility for pruning and removing dead trees in 2006. Mr. Davis stated that he did not disagree entirely with Mr. Taylor's idea but Mr. Davis would like to act on the ordinance in front of us. After adoption of the ordinance, Council can then work on getting a Shade Tree Commission in place with community volunteers and get it up and running. But in the meantime this ordinance gives the Borough Manager and the Borough an opportunity to put a hold on expenditures on trees. Mr. Taylor stated that he contacted an insurance adjuster, not an agent but an adjuster, and asked the adjuster what would happen in the "right of way" if a tree fell. The adjuster stated that it is definitely the property owner's responsibility. Mr. Davis agreed and stated that the ordinance is in front of Council; it has been worked on

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for the last four months and we're just procrastinating. Council had unanimous agreement that we should ask the Borough Solicitor to put together a tree ordinance for us and we have it here ready to go. We've had public hearings on it and now it doesn't seem proper to postpone it again. Mr. Tom Vokes, Stone Avenue, Clarks Summit stated that he does not own that "tree box" otherwise known as the "right of way" and does not see how he can be held responsible for it if he doesn't own it according to his deed. Mr. Taylor stated that a Shade Tree Commission could probably be put together within the next two months. The grant monies have been allocated for this year and there is no money available until the next round of grants in 2007. The grant applications would be started in the fall of 2006. Mr. Taylor stated that we do not need grant money to enact an ordinance but Vinnie Catrone from the Penn State Extension thinks that it would be most appropriate if this is the first project of the Shade Tree Commission to review the various ideas presented. Mr. Davis asked what happens to trees that come down in July or August and the Shade Tree Commission still is not in place and we don't have any funds allocated. Where are we going to get that money? Mr. Davis said he was in favor of forming the Shade Tree Commission, but felt that it was important to adopt the ordinance in front of Council. Mr. Taylor amended his original motion so that the motion was only to re-activate the Shade Tree Commission. The second part of the motion, to table the discussion on Ordinance 2006-01 is to be deleted. Mrs. Jackson agreed to amend her second of the original motion to delete the tabling or the discussion on Ordinance 2006-01. Motion to re-activate the Shade Tree Commission carried 7 – 0.

Motion made by Mr. Roy Davis, seconded by Mrs. Carey to pass Ordinance 2006-01 known as the Shade Tree Ordinance. Discussion: Mr. Taylor asked if Ordinance 2006-01 can later be amended in the future. President Moyer responded that yes, that is possible. A roll call vote was taken: Mr. Taylor-Yes; Mr. Armbrust-Yes; Mrs. Jackson-Yes; President Moyer-No; Mr. Davis-Yes; Mr. Williams-Yes; Mrs. Carey-Yes. Motion carried 6 – 1.

Dixon Automotive Request for Electronic Sign – Mr. Dixon asked Council if he could install an electronic sign that would advertise his business and tell the changing time and temperature. The Borough Manager stated that a request of that nature should not be decided at this time; there is an application and permit procedure that Mr. Dixon should follow and when all the information has been submitted a determination would be made.

Mr. James Hill, 302 Lansdowne Avenue – Asked Council for help with a neighbor dispute and plantings in the "tree box or Borough right of way". Mr. Davis and Mr. Moyer volunteered to make an appointment with Mr. Hill and look at the situation to see how it conforms to existing Borough ordinances.

Vince the Pizza Prince- made a presentation on various aspects of signs/ parking/drainage pertaining to his business in the Summit Galleria next to the new Dunkin Donuts. Vince stated that in his opinion, the Planning Commission has failed to do its duty. Mr. Raymond Taylor stated that he served on the Planning Commission and the Commission had a lot of questions and did extensive work on the project. The residents of Lansdowne made a very large petition and wanted that road closed. That is not the Borough's roadway at all. So all of your concerns that you have addressed here pertain to private property and the Borough can't help you out on that. There is also the matter of the flood zone. That particular flood zone, which ran right through that parcel and changed everything when Mr. Fibus did that development, I can tell you that all permits were met. The reason that there are no curbs or sidewalks and landscaping is because of the water flow if there should be a flood of that underground creek. So many of the issues you have brought up, the Planning Commission was well aware of. The plans and specifications did pass all DEP's permitting and inspections. DEP will not allow curbs, sidewalks or landscaping in certain sections because it would impede water flow; they are very specific about that. Mr. Moyer said that if there is something that was required on the final plan, and that item is not present or done properly, then the Borough has the power to help you and make sure that all the requirements are met. Mr. Moyer said that the Borough administration will look again at the plan that was presented for the Dunkin Donut shop and make sure that it was done as it was supposed to be; the other thing is your complaint with Mr. Fibus and Council cannot help you with that; you would have to take legal action against him. The Borough has a statement and certificate from our inspection company, Building Inspection Underwriters that they inspected and that everything was done according to the plan.

Mrs. Rose Houl, Hosfeld Street – Appealed to Council for help. She asked for the Borough to help stop the erosion being caused by the adjoining creek by building up portions of her retaining wall with dirt and rock. President Moyer gave a history of the water problems and what the Borough has done to try to help residents. He stated that the Borough is not legally responsible for the drainage ditch in the back you're your property, but we

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have done what we can. We are working our way up the hill. Mr. Moyer stated that he would send the DPW out to investigate putting some dirt/rock on the creek side.

Nextel Partners – Mike Grab and Larry Lahr – Presented changes to the diagrams for the stipulation and an engineer’s certification that is under negotiation with the Borough. Mr. Moyer stated that an Executive Session would need to be held at the close of this Council meeting to discuss the negotiations. Mr. Williams questioned the diagram where it showed underground utilities. Mr. Lahr stated that Nextel was trying to show Council their good faith attempt to locate all utility lines underground where possible; Nextel does not have control over that and must defer to the telephone and power companies rules and regulations. Mr. Lahr suggested that a note be added to the building permit as well indicating that Nextel is willing to run underground utilities where ever possible and allowed. Mr. Taylor asked if the new flagpole plan was to be designed as a “break away” if there should be winds in excess of 90 miles per hour which is how the original monopole “break away” was shown? Mr. Lahr answered yes, even though it is a flagpole design, it will still be a “break away”. To the property of Whipple Lumber, the closest part of the pole is 151 feet. To the property of the rail road is 90 feet. It’s approximately in two dimensions 161 feet to the properties to the bank and then the next one would be well over 200 feet.

Mr. Steven Evers, Clarks Summit resident, stated he owns the property adjacent to the parcel in question for the location of the cell tower. He was here for the original application and said Council decided to reject the request for the cell tower on a safety issue. He does not know what has changed since then other than showing a flagpole rather than a monopole. We’re talking about a 15 story flagpole in the center of town and there’s not another structure anywhere in the town anywhere near 150 feet in height. They have acknowledged that they are only 90 feet from the rail road property. The rail road property is treed. If the pole hits a tree and drives that into a train or the track, then we have a real disaster on our hands. He encouraged Council to wait to hear comments back from the Lackawanna County EMA; they are entitled to have some input into this.

**BIDS & QUOTATIONS:**

Mr. Moyer reported that bids were obtained to purchase a new Flink 10’ Model LMC5H 6.4 Cubic Yard Hopper Complete with Spreading Disk, Chute Deflector Group, 10’ Hinged Screens, Tailgate Latch, Dump Body Mount Group, 20” Urethane Spinner and 9’ Light Aluminum Removable Light Bar. Installed with 6” x 6” Boards Under Hopper. To be Installed on Truck #2 and Was Included in 2006 Budget.

Bradco Supply Company	\$7,895.00
Flink Plows & Spreaders	\$8,250.00
U.S. Municipal Supply, Inc.	\$8,150.00

Motion made by Mrs. Jackson, seconded by Mr. Armbrust to accept the bid by Bradco Supply Company for \$7,895.00 and purchase the piece of equipment for DPW Truck #2 and to authorize the sale of the old spreader box. Discussion: None. Motion carried 7 – 0.

**BOROUGH TREASURER’S REPORT**

The Borough Treasurer’s Report, as prepared by Treasurer Alice Kohn, as of May 30, 2006 was before Council. Motion made by Mr. Roy Davis, seconded by Mr. Taylor to approve the Report as presented. Discussion – None. Motion carried 7 – 0. Motion made by Mr. Roy Davis, seconded by Mrs. Carey to accept the recommendation of the Borough Treasurer and purchase Certificates of Deposits at PNC Bank as follows: Cash in the existing \$100,000 CD with PNC which is expiring and purchase new CD for 60 days at 5.03% and buy a new CD at PNC for \$400,000 for 60 days at 5.03%. Discussion: None. Motion carried 7 – 0.

**COMMITTEE REPORTS:**

Personnel Committee: - Chairperson Peg Jackson reported that the committee has met numerous times regarding filling the position of Borough Manager. The position was advertised and 28 applications were received. Interviews were conducted and the field was narrowed down to four applications. The committee is doing background checks, working on the contract and they hope for an appointment within the next two weeks but definitely by the next Council meeting.

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**Planning Commission:** - Motion made by Mrs. Jackson, seconded by Mr. Armbrust to appoint Tim Rowland to fill the unexpired four-year term of Raymond Taylor on the Planning Commission. The appointment will expire on December 31, 2007.

**Coviello Request For Subdivision** – Mr. John Hennemuth addressed Council on behalf of Mr. Coviello, West Grove Street, requesting a waiver from the Borough's ordinance and asked permission to build a private road off West Grove Street across from the PENNDOT facility. He stated that a formal application was submitted to the Planning Commission and the Planning Commission did recommend approval of the waiver along with several conditions that must be met. Mr. Hennemuth stated that if the proposed road was a public road, PENNDOT's reimbursement for liquid fuels for that road would only be \$192.00 so it would not generate a lot of income for the Borough. The cost to pave the road at today's costs would be \$10,433.00 which is extremely expensive. Council members had many questions regarding draining and possible run-off and directed that a meeting be held between the Borough Solicitor Frank Bolock, Borough Engineer Acker Associates, and Mr. Hennemuth. Acker Associates and Mr. Bolock must approve the wording of the conditions and make a recommendation to Council next month.

**Scranton-Abingtons Planning Association (SAPA) – Approval of By-Laws** – Mr. Tim Rowland, Sunset Street, Clarks Summit addressed Council as one of the Borough's appointed delegates to the multi-municipal planning group. He presented the new by-laws that have been recommended by the group and asked for Council's approval. Motion made by Mr. Davis, seconded by Mrs. Jackson, to approve the By-Laws for the Scranton-Abingtons Planning Association. Discussion: None. Motion carried 7 – 0.

**Abington Area Joint Recreation Board – Approve bid from Urban Research & Development Corp to prepare the Master Site Plan** – Mr. Rowland spoke to Council on behalf of the Joint Recreation Board (AAJRB). He explained the process of sending out the request for proposal, the bids and proposals that were received, and the interviews that were conducted of the various companies. He asked for approval of the proposal for the Master Site Plan that was submitted by Urban Research & Development Corp... Motion made by Mrs. Jackson, seconded by Mr. Armbrust, to approve the firm of Urban Research & Development Corp., to prepare the Master Site Plan, conditioned upon DCNR's approval. Discussion: Discussion: None. Motion carried 7 – 0.

**Borough Newsletter and Map Project** – Borough Manager Barbara Grabfelder reported that this project had been approved by Council last year and is finally coming together. The Borough's business registration list was given to the PRINT Company; they are currently soliciting ads from those businesses. The Council subcommittee of Mrs. Carey, Mr. Williams, and Mr. Davis need to begin their work designing the content pages so that the deadline for an early fall mailing to Borough residents can be met.

**POLICE REPORT**

Chief Vitale gave the May, 2006 Police Report, and summary of police related activities. Council President Moyer suggested that the Police Committee should meet with Chief Vitale and Mayor Kelly and see what it would cost to repair the police car with the rotted floorboards and make it ready so it passes inspection and make a recommendation back to Council on what should be done.

**BILLS TO BE PAID:**

Motion by Mrs. Jackson, seconded by Mr. Armbrust to approve the payment of bills as follows:  
Paid Between 5/1/06 – 5/31/06: Paid 5/1/06-5/3/06 Approved at 5/3/06 Council Meeting: General Fund \$20,117.60, Payroll-\$31,588.28, Sewer-\$6,624.50. Paid 5/4/06 – 5/31/06 To be approved by Council at 6/7/06 meeting: General Fund - \$106,766.31; Payroll - \$38,442.96; Sewer - \$136,164.36; Capital Reserve – 0; Liquid Fuels – 0. Current Paid Between 6/1/06 – 6/7/06 to be approved by Council at 6/7/06 meeting: General Fund - \$31,752.25; Payroll - \$30,781.76. Total bills to be approved by Council for 5/4/06 – 6/7/06: General Fund - \$138,518.56; Payroll - \$69,224.72; Sewer - \$136,164.36; Capital Reserve – 0; Liquid Fuels – 0.

**OLD BUSINESS:**

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Purchase of 2007 Ford F-550 - President Moyer stated that we have been notified that the chassis of the new Ford F-550 that the Borough ordered has arrived at Bradco and Bradco will now install the 9-foot snow plow package which will take an additional three to four weeks. Motion made by Mrs. Jackson, seconded by Mr. Armbrust to authorize the Borough to sell the existing (old) Truck #4 after the new truck has been accepted and delivered. Discussion: None. Motion carried 7 – 0.

**NEW BUSINESS:**

Lewis Lane Park – Subdivision – President Moyer stated that there was a proposal by Council last year to attempt to obtain additional revenue and explore the possible sale of land owned by the Borough. There is a wooded area attached to the Lewis Lane Park; there are two parcels there. A letter was received from a neighbor stating that trees were falling over and they offered to buy part of it. Part of the land may be “wet” and it was suggested that Council advertise the property to see if there is any interest; a buyer would have to pay all costs of subdividing it. He said in the R-1 zone where the property is located, a 90-foot frontage is required. Mrs. Carey stated she thought the Borough, at some point in the past, had called that a wetland area. Mrs. Grabfelder said she was not aware of any “official” designation but there may be something way back in the records. President Moyer directed that the Borough Manger contact DEP to find out how much it would cost to have DEP make an official determination on the wetlands status of the parcel and report back to Council.

Rotary Club of the Abingtons – Request for donation of \$1,000 – Motion made by Mrs. Carey, seconded by Mr. Davis to authorize the payment from the General Fund of \$1,000 to the Rotary Club of the Abingtons as budgeted for 2006. Discussion: None. Motion carried 7 – 0.

Resolution 2006-18 – Suspension of Parking Meters for Sidewalk Sale Days: July 13-July 15, 2006 – Motion made by Mrs. Carey, seconded by Mr. Taylor to adopt Resolution 2006-18. Discussion: None. Motion carried 7 – 0.

State Street Grille – Request for letter pertaining to the playing of outdoor music – President Moyer said that the State Street Grille is interested in playing outdoor music on Wednesday nights. A letter was received also from the ABPA, Abington Business and Professional Association, supporting the effort to bring live, outdoor music to the downtown area and that it would be beneficial to all the downtown merchants. The Borough has a noise ordinance that says music is permitted until 9:00 PM as long as the decibel levels are met and not exceeded. Mr. and Mrs. Vokes, Stone Avenue spoke against allowing the music. Mr. Moyer said that it would be up to the State Street Grille to obtain permission from the Liquor Control Board and comply with all their requirements but Council will send a copy of our ordinance to the State Street Grille. As long as they comply with the ordinance already in place, there is nothing we can do about it; they are conforming to our laws. Councilman Patrick Williams stated his objection to the outdoor music indicating that he is concerned about noise levels, but also traffic issues; cars passing by will slow down to see what’s going on and there may be accidents as a result. Mrs. Vokes asked if the Borough has an “open container” law, prohibiting a patron from buying beer/alcohol at the State Street Grille and sitting on the sidewalk or curb and drinking it out in the open. President Moyer asked Chief Vitale to look into that question and report back at the next meeting.

Resolution 2006-17 – Authorization to enter into municipal Cooperation Agreement – Solicitor Bolock presented Resolution 2006-17 authorizing Council to enter into an agreement with South Abington Township as well as the actual agreement relating to the traffic control systems on Route 6 & 11. The way the boundary lines run between the two municipalities, in each traffic light situation, part of the light is in the Borough and part of the light is in South Abington Township so both municipalities end up responding to calls on the lights, insuring them and maintaining them. This agreement separates them so that the Borough takes care of the light at the Waffle House and Blockbuster, and South Abington Township takes care of the light at Maple Street and McDonald’s. Motion made by Mr. Armbrust, seconded by Mrs. Jackson to approve both the resolution and the agreement. Discussion: None. Motion carried 7 – 0.

**BOROUGH SEWER OFFICE REPORT:**

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The May, 2006 Report by Virginia Kehoe was before Council. Motion made by Mr. Armbrust, seconded by Mrs. Jackson to approve report. Discussion – None. Motion carried 7 – 0. President Moyer asked the Treasurer to research the relationship between the amount of money the Borough is collecting for sewer rent and the amount the Borough is paying to the Joint Sewer Authority. Out of the \$50.00 that the Borough receives per quarter for each residence, we send almost \$41.00 to the Joint Sewer Authority. He wanted to bring this to Council's attention: the Sewer Authority amount has been steadily increasing each year but our sewer rent has remained at \$50.00/ quarter for the last 12 years. This leaves only \$9.00 per quarter to maintain our sewer lines and fix our problems. The same situation exists with our By-Pass fees to other municipalities; they have not been increased in 12 years. Meetings have been held with the Joint Sewer Authority to advise us that major renovations will be required at the plant which will increase the costs to each municipality. Acker Associates are currently working on a study and hopefully that study will give us the ammunition and information we need.

**SOLICITOR'S REPORT:**

Solicitor Bolock reported that the Grandview Appeal case will be heard in court in Philadelphia tomorrow, June 8, 2006 at 9:00 AM.

**PUBLIC COMMENT:**

Mr. VanWie, Grandview Street, Clarks Summit Borough spoke to Council regarding the pending Oakmont storm water run-off litigation. The residents are requesting that in case you are involved in any settlement offers, that consideration be given to help them out on Grandview Street as far as drainage goes. In other words, don't just look at the drainage problem as it exists between Oakmont and the Noto development, but look at the entire picture, and protect the homes on Grandview and Floral Park from additional water. He and his neighbors have appealed to the South Abington Township Board of Supervisors as well. President Moyer said Council could send a letter to South Abington Township expressing your concerns.

Mr. Charles Martin, Grandview Street, Clarks Summit Borough said Council asked him to speak with the residents on Grandview to come up with an idea that is acceptable to all on a permanent closure to the vacated section of Grandview. The general idea right now would be to do something that is aesthetically pleasing at the end of Grandview Street and have the people that live on Grandview pay for it; that way it wouldn't be costing the Borough any money. Some of the ideas being floated are: several U-shaped pipe in the ground across the roadway; or just vertical pipes filled with concrete in the ground all the way across; approaching the high school class to undertake building a brick wall as a class project. Mr. Moyer stated that the school no longer has a masonry class.

Mr. Steve Evers, Clarks Summit Borough resident, asked Council to consider his request regarding not approving the cell tower. He stated that just as some Council members felt that the live outdoor music would not enhance the quality of life in the Borough, he feels that the cell tower would not enhance his quality of life and asked Council

**CORRESPONDENCE:**

Michael G. McLane, VFW Post 7069 – Thank you for helping to make this year's Memorial Day Parade and activities a great success.

**EXECUTIVE SESSIONS:**

President Moyer reported that an Executive Session was held on April 5, 2006 for Litigation and Personnel; on May 5, 2006 for a discussion on all pending litigation; on June 5 for Personnel (Borough Manager position); and at 6:30 PM on June 7 prior to tonight's meeting on Police Personnel. One Executive Session was scheduled to be held at the end of tonight's Council meeting and None were to be held subsequently.

**ADJOURNMENT:**

There being no further business before Council the Meeting adjourned at approximately 10:02 PM.

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Respectfully submitted,

**Barbara R. Grabfelder  
Borough Secretary**

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