

**BOROUGH OF CLARKS SUMMIT
REGULAR SEPTEMBER COUNCIL MEETING
WEDNESDAY, October 1, 2008**

Page 1 of 5

The Regular October Meeting of Borough Council was conducted on Wednesday, October 1, 2008 at approximately 7:01 p.m. in Borough Council Chambers, 2nd Floor, 304 South State Street, Borough of Clarks Summit, County of Lackawanna and Commonwealth of Pennsylvania. Council members in attendance were President Gerri Carey, Vice President Patrick Williams, Mr. Roy Davis, Mr. Bob Bennett, Mrs. Kathy Drake, Mrs. Barbara Evans and Mr. Herman Johnson. Also attending were Police Chief Louis Vitale, Mayor Harry Kelly who arrived at 7:06, Solicitor Ernest Preate who arrived at 7:03 and Recording Secretary Virginia Kehoe. 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.

APPROVAL OF AGENDA:

Mr. Johnson moved to approve the agenda. Motion was seconded by Mrs. Drake and carried 7-0.

APPROVAL OF MINUTES:

Minutes were presented for the August 26, 2008 Public Council Work Session. Mrs. Evans moved to approve the minutes. The motion was seconded by Mr. Johnson and carried 7-0.

Minutes were presented for the September 3, 2008 Regular Council Meeting. Mr. Davis moved to approve the minutes. The motion was seconded by Mrs. Evans and carried 7-0 after a correction was made by Mr. Bennett regarding the LED traffic lights to read Mrs. Carey gave details on the program.

PUBLIC COMMENT:

Pam Gorman, of 215 Midway Avenue, addressed Council. She spoke and shared pictures regarding the birm on her property and how high the birm is and how dangerous that is. She asked for some attention and resolution to this problem. She stated that she has MS and that climbing up and down over the birm, which is 16 or 17 inches, is lethally dangerous. She asked for help creating a step. She stated this situation was created by the Borough, and hoped they'd help resolve it. Virginia Kehoe shared Neil Bartholme's opinion that they can't place a step on private property and that the birm was a necessity. Ms. Gorman stated that she is a commercial designer and that ADA regulations do not allow for a situation to be created which can cause danger to the public. There was discussion as to how to solve this problem and what easements, etc. would be needed. There was also discussion of the water problem, which is why the birm was installed to begin with. There was also discussion of a railing. Ms. Gorman stated that with ADA you have to put a railing in with any step higher than 12 inches. There was discussion regarding such a railing blocking the sidewalk. Attorney Preate asked Ms. Gorman to provide information on her property line and her Deed to Virginia Kehoe, and then stated that from there they could look into an easement and water drainage problems. Ms. Gorman also stated that they are willing to split the cost, and are just seeking some help.

Shade Tree Commission – Presentation to Josh Arp: Donna Zagraban publicly recognized Joshua Arp for completing his Certified Arborist short course training and stated that Shade Tree now has a Certified Arborist and a Master Gardner on the Commission. Joshua Arp thanked the Borough for bankrolling many of the Shade Tree Commission's projects. He also spoke to raise awareness regarding the protection of trees in the Borough Right of Ways. There was discussion regarding the ordinance and the enforcement of it.

ADDITIONAL PUBLIC COMMENT:

Mr. Gene Gallagher of Barrett Street spoke and asked to be able to speak after the Swientisky issue is discussed.

Barbara Grabfelder, Clarks Summit Borough's representative to the Abington Area Joint Recreation Board, spoke. She addressed the budget and the monies given to the AAJRB. She also explained their summer program which targeted middle school age students and the Abington Community Garden and the overwhelming success of both.

**BOROUGH OF CLARKS SUMMIT
REGULAR SEPTEMBER COUNCIL MEETING
WEDNESDAY, October 1, 2008
Page 2 of 5**

She also stated that a large amount of fresh vegetables were given to area food pantries which helped to feed 120 families. She thanked Council for their support at the most critical of times. There was discussion of grass cutting expenses and the reduction of such expenses that occurred this year. Roy Davis congratulated and thanked Barbara Grabfelder for her tireless efforts. There was discussion that there are already 85% of the plots committed for next year, and it's only October.

BIDS AND QUOTATIONS:

Virginia Kehoe stated that Laurelwood is looking for additional EDU's and has agreed to pay \$20,000.00 to pay for the repairs to make this project work. She stated that 8 bids have been received and opened and that the low bid was received by Stark Enterprises for \$14,800.00. Virginia Kehoe asked that pending the engineer's final approval that the award is given to Stark Enterprises. Mr. Johnson moved to approve the project and award the bid to Stark Enterprises contingent upon the engineer's approval. Mr. Bennett seconded the motion and it carried 7-0.

BOROUGH TREASURER'S REPORT: The Borough Treasurer's Report, as of September 30, 2008 was before Council. Motion made by Mrs. Drake to approve the Report as presented. The motion was seconded by Mrs. Evans and carried 7 – 0.

COMMITTEE REPORT:

Vote- Clarks Summit Non-Uniform Union Association Contract: Virginia Kehoe stated that the most recent copy of the contract is in Council's binder. Mr. Bennett explained that this has been discussed at several work sessions, meetings and executive sessions and made a motion that the Council accepts the contract. Mr. Davis seconded the motion and it carried 7-0. Mr. Bennett thanked the DPW for their professionalism and compromise.

Vote – adoption of Benecon: Virginia Kehoe stated that the quote from Benecon is included in Council's binder. Kathy Drake made a motion to adopt Benecon. Mr. Bennett seconded the motion and it carried 7-0.

Vote – change of Borough Representative to Senior Center – Robert Gilbert to replace Fred Major: Mr. Warren Watkins, one of Clarks Summit Borough's reps to the Senior Center, stated that there needs to be 2 representatives for the Senior Center. He would like to replace Fred Major, whose health is failing, with Robert Gilbert. He sought approval from Borough Council. Mr. Williams made a motion to approve Mr. Gilbert. Mr. Johnson seconded the motion and it carried 7-0.

Vote – PC Recommendation for Swientisky Conditional Use and Land Development: Virginia Kehoe stated that in Council's binders was information regarding the Swientisky Conditional Use. She also shared a letter from Clarks Summit Planning Commission. The letter stated that with a vote of 3-1 they recommended approval of this Conditional use and Land Development with one condition addressing the plantings of at least 6 ft arborvitae along the buffer. There was also a hold harmless agreement and comments by Willard Ziesemer, CEO. It is his opinion that for the most part the issues have been met, though the inside parking dimensions need to be shown on the plan. He is giving recommendation for approval with the condition for the parking and deferred to the engineer for further comments. Attorney Preate expressed his feelings that it is unsafe and he is not ready to recommend for Council to approve this. He requested various reports from the Planning Commission mainly addressing traffic issues. All individuals who were opposed to the approval of this plan stated their name on record and summarized why they did not agree with this. They were: Doris Parry, 212 W. Grove Street; Mr. O'Dell, 209 Barrett Street; Gene Gallagher, 205 Barrett Street who submitted written comments to the record; Ray Davis, 211 Barrett Street who submitted written comments to the record; Sister Mary Ryan, of Grove Street. There was discussion regarding the ownership of the alley. Attorney Preate told the residents that they could sue for adverse possession of the alley if they've been taking care of the alley for an extended period of time. The issue was tabled.

Deleted: the Borough

Vote – PC Recommendation for UCP Land Development: Virginia Kehoe explained that the Planning Commission has heard an application for UCP for the razing and reconstruction of their building. She has a letter

**BOROUGH OF CLARKS SUMMIT
REGULAR SEPTEMBER COUNCIL MEETING
WEDNESDAY, October 1, 2008**

Page 3 of 5

from Planning Commission with their comments and recommendations as well as comments from Acker Associates. Planning Commission, by a vote of 4-0, recommended approval. Mr. Ziesemer stated that he would defer to the comments of the engineers, but that he does not recommend approval at this time. There was discussion of a need for narratives addressing several outstanding issues prior to approval. It was explained that the representatives of UCP are aware of what they need to do. Mr. George Albert explained that they have attended 3 Planning Commission meetings for this project after having received 4 variances from the Zoning Hearing Board. He explained that they are simply tearing down the building and replacing it and that the landscaping, lighting, etc. will go untouched. He stated that the Planning Commission had six conditions, out of which they have responded to five. Attorney Preate asked who their architect was. Mr. Albert stated that it is Jim Rogers. Attorney Preate stated that Mr. Rogers is also his architect and that he is therefore prejudiced. Mr. Albert also addressed the sewer use, etc. which he stated will not change. Attorney Preate asked if UCP could wait thirty days and get the issues addressed and resolved. Mr. Johnson asked if they could be given Conditional Approval. The issue is tabled until the November 5, 2008. Barbara R. Grabfelder spoke regarding the idea of Conditional Approvals and suggested that the Planning Commission not allow such approvals and to only bring completed applications to Council. Much of Council agreed.

Response to capital budgeting plan by CSSAJSA: Virginia Kehoe stated that the Joint Sewer Authority approached Clarks Summit, as well as the other municipalities in the Authority, with 2 options to handle the funds for the capital improvements. Virginia Kehoe explained the two options: a) the municipalities could transition by paying more quarterly to the authority; or b) the authority could float a bond until the improvements are completed and there would be one large hike when it's time to pay back the bond. Virginia Kehoe supplied Council with a copy of the letter detailing numbers. She also stated that she has approached them with numerous questions and supplied Council with their answers. Virginia Kehoe sought feedback from Council and stated they need to receive a response by October 8th. It was discussed that Attorney Preate was supposed to contact Attorney Bill Jones and to date, still has not attempted to do so. Attorney Preate then stated that he wants one more attempt on behalf of Virginia Kehoe and Council before he gets involved. After discussion, the issue was tabled for Executive Session.

POLICE REPORT: Mayor Kelly gave the September 2008 Police Report and summary of police related activities. There was brief discussion as to the part time officers and traffic patterns and problems due to construction. Chief Vitale also presented Council with the details of the traffic study they requested.

BILLS TO BE PAID: A motion was made by Mrs. Evans to pay bills as presented. The motion was seconded by Mr. Davis and carried 7-0, with Robert Bennett abstaining from all bills associated with Met Life.

OLD BUSINESS:

Moody: CEO Willard Ziesemer stated that the antennae and support structure have met all conditions which were negotiated. Mr. Ziesemer provided Council with a copy of the permit and his letter regarding the permit. He stated once it is inspected, Mr. Ziesemer will issue a Certificate of Use after verifying that all engineering requirements, etc. are met. There was discussion regarding various aspects of the tower requirements. Helene Magnotta commented and presented some informal notes to Council addressing the tower. She stated that her main question was with regard to the deadlines.

Town Hall: President Carey gave an update on how the Town Hall meeting went. She stated there was a lot of good input regarding the curfew. Mr. Johnson addressed the Curfew Ordinance. He stated that listening to the community; it seemed that 98% of the community is for it, in the interest of the safety of the children. It was stated that the draft ordinance was given to Attorney Preate for final approval prior to advertising. The exemptions regarding work, etc. were discussed.

**BOROUGH OF CLARKS SUMMIT
REGULAR SEPTEMBER COUNCIL MEETING
WEDNESDAY, October 1, 2008
Page 4 of 5**

Railroad Project: Virginia Kehoe stated that the bids are open, but that they have not been rewarded, as the Army Corps of Engineer's check clearing process takes 2-3 weeks. President Carey has contacted Congressman Carney to try and expedite the process. Virginia Kehoe explained that it will at least be spring until the project is completed.

Vote 2008-42 – Signature on State Street Grille: Virginia Kehoe stated that State Street Grille asked to change the time of the resolution from 5 to 8, until 6 to 9. President Carey suggested moving along on this rather than stalling. Mrs. Drake made a motion to sign the resolution. The motion was seconded by Mr. Johnson and carried 6-1.

NEW BUSINESS:

Vote 2008-41: Junior Council Person: Mr. Johnson proposed appointing two Junior Council persons, one junior and one senior, who would attend all meetings, would have a mentor, would not attend executive sessions and would not vote. Mr. Johnson asked that a motion be made to approve this resolution. Mr. Bennett made the motion to accept the resolution. Mr. Davis seconded the motion, after commenting on time issues on school nights. There was further discussion regarding the depth of student involvement. There was further discussion regarding the compensation Mr. Johnson suggested. After discussion, the motion carried 7-0. Barbara Evans made a motion to recommend Mr. Johnson serve as the mentor. Mr. Davis seconded the motion and stated he would be more than happy to help Mr. Johnson. The motion was not voted upon.

Vote Minimum Municipal Obligation (MMO) for 2009 for the Clarks Summit Borough Non-Uniform Pension Plan to accept and adopt the Minimum Municipal obligation of \$18,373 for the Clarks Summit Borough Non-Uniform Pension Plan. Mr. Johnson made a motion to accept and adopt the MMO. The motion was seconded by Kathy Drake and carried 7-0.

Vote Minimum Municipal Obligation (MMO) for 2009 for the Clarks Summit Borough Police Pension Plan to accept and adopt the Minimum Municipal Obligation for \$39,791 for the Clarks Summit Borough Police Pension Plan. Mr. Johnson made a motion to accept and adopt the MMO. The motion was seconded by Kathy Drake and carried 7-0.

BOROUGH SEWER OFFICE REPORT: The August 2008 Report was presented.

SOLICITOR'S REPORT: Attorney Preate gave his update. He stated that Mr. Peters withdrew his lawsuit against the Borough. He stated that the Nextel Argument went well and that he believes the judge will vote in our favor, and that a meaningful settlement can be agreed upon. There was a letter received from Jack Nogi regarding the conveyance of the property. It stated that they are perfectly willing to convey the property with the understanding that if the road is ever opened, or the barrier is not properly maintained, it will revert back to him, his heirs, successors and assigns. It was explained that this land conveyance would be to the Grandview Neighborhood Association. A motion was made by Mrs. Evans to accept Mr. Nogi's letter with the reservations. Mr. Bennett seconded the motion and it carried 7-0.

CORRESPONDENCE:

Rotary – Thank You: For donation to the fireworks display.

Malcolm Pirne – John Durdan Review Letters: The letter addressed issues with Lake Barbara Ann and the PennDOT catch basin on Winola Road. Mr. Johnson addressed the situation with regard to EMA issues.

**BOROUGH OF CLARKS SUMMIT
REGULAR SEPTEMBER COUNCIL MEETING
WEDNESDAY, October 1, 2008
Page 5 of 5**

Mr. Bennett stated that he would like to form a grant committee. He specifically recommended Finance Committee getting in touch with Joyce Vitala regarding the Garbage contract and recycling committee. Herman Johnson stated that he believes the Recycling Committee should address this. Mr. Bennett disagreed and said the garbage contract is a monetary issue and needs to be addressed by the Finance Committee. Virginia Kehoe stated that it had been decided prior that the Finance Committee would address the Garbage Contract.

EXECUTIVE SESSIONS:

Prior – September 3, 2008 – Litigation and Personnel
September 23, 2008 – An active Work Session for Litigation and Personnel
During – None
Subsequent – Immediately following

ADJOURNMENT:

With no further business to discuss Mr. Johnson made a motion to adjourn. The motion was seconded by Mrs. Evans and carried 7-0. The meeting adjourned at approximately 10:30 p.m.

Respectfully submitted,

**Katie M. Bower
Borough Secretary**

**Germaine A. Carey
Council President**