

**BOROUGH OF CLARKS SUMMIT
SPECIAL COUNCIL MEETING
WEDNESDAY, FEBRUARY 28th, 2007
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A special Meeting of Borough Council was conducted on Wednesday, February 28th, 2007 at approximately 7:01 P.M, after having been duly advertised in the Suburban Newspaper. 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, Councilperson Gerry Carey, Councilman James Colman, Councilman Roy Davis, Councilman Ray Taylor, and Councilman Patrick Williams. Also attending was Borough Manager/Secretary, Virginia Kehoe. Absent: Council Vice President Margaret (Peg) Jackson, Mayor Harry Kelly, Chief Vitale and Borough Solicitor Bolock. 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 President Moyer.

President Moyer announced that no votes will be taken at this meeting. The meeting was called to discuss the proposed sign ordinance and the new landlord ordinance and other items that the public may want to discuss.

APPROVAL OF AGENDA:

Motion made by Mr. Roy Davis, seconded by Mr. Colman to accept the agenda as presented. Discussion: None.
Motion carried 6-0.

OLD BUSINESS: -

Ordinance 2007-01 – An Ordinance to Amend the Sign Standards in §505 of the Borough of Clarks Summit Zoning Ordinance of January 30, 2002 (Ordinance 2002-01).

Borough Manager Kehoe reported that a discussion was held at the last Council meeting regarding the legality of this ordinance and how it met with the Americans with Disabilities Act and also with PENDOT regulations. According to the Borough's Community Planner Carson Helfrich, PENDOT does not have any regulations regarding putting sandwich board or A-frame signs on their right of way. PENDOT's concern is that if they do not affect the visibility of drivers or be placed too close to an intersection or put out when businesses are closed, it would satisfy PENDOT. Borough Engineer Acker Associates verbally informed Ms. Kehoe that there is a minimum width requirement that the sidewalk needs to be free for the Americans with Disabilities Act. Other than that, there are not other requirements. Councilman Colman stated that he felt there was an insurance issue; if someone does collide with a sandwich board, somebody will get sued. Who is legally responsible? Is it the owner of the shop or will the Borough be dragged into it? He also doesn't think they should be there at this time of year because of ice and snow already on the sidewalk; it creates an additional hazard. Sonia Wysochanski, owner of the Drapery Shop, stated that there are currently boxes that house magazine/newspaper materials that are chained to poles. She asked who is responsible for those? Mr. Moyer said he didn't know and that's part of the problem. One resident stated that he didn't see any difference between the ice sculptures that are allowed to be placed on the sidewalk during the annual Ice Festival, and the placement of the A-frame signs. Councilman Williams stated that he didn't think these signs didn't add anything to the Borough. He stated that these signs are currently prohibited and the business owners have been warned about them time and time again and yet they continue to be there. He said there are plenty of other ways to advertise than to use these signs, because once this thing starts, it just snowballs. A local business owner asked if a permit was obtained for the large sign just in front of the Sunoco gas station indicating all the stores in the shopping center. Councilman Taylor replied that the sign in question is a major violation and is one of the reasons for reviewing our sign ordinance. President Moyer said that the Borough is looking for a new code enforcement officer to help with enforcement. The local owner said that it seems that Council is willing to overlook some violations and only go after certain individuals or types of signs. Mr. Taylor said that was not correct; the whole idea is to come up with a plan and then follow it because the plan that we had was not being followed. Mr. Taylor also added that the revised ordinance allows temporary signs, like garage sale signs, on telephone poles and he doesn't know why we're allowing that; it looks like heck. Virginia Kehoe said that that line in our ordinance was being removed because the utility poles are not Borough property and that we can't regulate it if it is not our property and the telephone and electric companies should be enforcing their own rules against putting signs on those poles. Another resident stated that it seems like the Borough has an enforcement issue, not a placement issue. She

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recommended that all business owners have uniform signs, then it would look like the town is together; it would look cute. She is willing to make her sign whatever you need it to be. President Moyer asked what do we do if the business people DON'T do that? She said you make up the rules, owners must go by them or you must enforce the penalty. President Moyer said that's where we are now. President Moyer said we've had businesses come in to the Borough for a permit and tell us they were going to do one thing, and then they wind up doing a totally different thing.

Councilman Taylor said he would like the Planning Commission to take another look at the wording for the utility poles and see if we can support the utility companies and prohibit signs on the poles. He said, also one section said it was "subject to approval of the zoning officer." He asked if we are giving authority to the zoning officer to CHANGE the ordinance? Ms. Kehoe replied that according to the wording, it does appear that we're giving that authority to the zoning officer. That should be looked at. He said on page 22, Section D, line 1, it talks about the area of window signs. He's concerned about temporary paper signs. He feels he should be able to put any number of signs that he wants. He asked if this wording only pertains to permanent signs. He also questioned the section regarding location of signs. Why do we have to restrict the placement of signs to only the front; can't they place signs at the back of their business? Mr. Taylor explained that this revision of the ordinance now says that the A-Frame signs WILL be allowed and that they can't be more than 8 square feet and they can't be illuminated or displayed when the business is closed and they must be weighted and that not more than 6 permits per year are allowed. Mr. Taylor said he didn't know what it would look like if EVERY business on the street had a sandwich board or A-Frame sign, the town wouldn't look good and pedestrian traffic would be difficult. A local business owner said that she would agree if we had that many businesses on this street. She said a neat, well-kept board, kept in a good position is an asset. If it's a windy day, we'll have to run out and bring it in. Mr. Taylor said what about the building that has seven businesses in that building; are they all entitled to one of these sandwich boards? Does this mean each building or each establishment?

Councilman Colman polled the audience business owners and asked if they would be opposed to getting signs that were all the same so the look was uniform and pleasing. Sonia Wysochanski said she would bring it up at a board meeting and discuss it. Borough Manager Kehoe said the Planning Commission was meeting on March 21 and she could re-open this discussion and ask them to re-define it. She offered time to have the business owner's board come and address the Planning Commission.

A discussion was then held regarding message boards. Mr. Dixon, Dixon Automotive, asked questions about the Borough's message board and questioned why the Borough's board is exempt. Mr. Taylor replied that they must be free to post Amber alerts and emergency situations and to inform people of what is happening in their town. Mr. Dixon felt that this is censorship; you are exempting yourself. President Moyer said that governmental entities have certain powers; if he digs a hole in a road, he has to have shoring, but the law exempts the state; they don't have to have that. President Moyer said that when Mr. Dixon came in to apply for a permit, he knew the regulations on the electronic sign and he agreed to it. Mr. Moyer said the Borough Solicitor will look at this and make a determination.

President Moyer said the A-Frame issue does not just affect those businesses on the main street in town; there are people in commercial areas on side streets that also have these signs out. He said we're trying to look for a compromise on the sign rules and then enforce it. Councilman Roy Davis said this discussion has raised more questions that it has answered and he is not prepared to vote on the issue. He asked if Council should sit down with the Planning Commission and see what their reasoning was on some of these issues.

Herman Johnson, Highland Avenue, Clarks Summit suggested that Council table this discussion and send it back to the Planning Commission for further review and ask both parties (Borough and business owners) to work out their differences. President Moyer suggested sending the final ordinance to the ABPA, Abington Business & Professional Association, so that all owners will be aware of the new ordinance. Ms. Kehoe announced that the next Planning Commission meeting will be held on March 21, 2007 at 7:00 PM in Council Chambers and she invited all residents and/or business owners to attend that meeting to discuss this further and make your comments known.

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Ordinance 2007-02: Regulation of Rental Units – Councilman Taylor stated that he reviewed the ordinance and he understands its goal and intent. He said he thinks the cost to implement the ordinance could be a lot, however, there are penalties in there that would help offset some of the costs. He questioned whether we could get everything done in 30 days as required in the ordinance, to be up and running and Ms. Kehoe agreed. Ms. Kehoe also said that there will definitely be costs to implement this ordinance and the staff she has right now would not be able to handle this additional project. She felt it would not be a burden on the owners to collect a small fee, perhaps \$5.00-\$10.00 ONLY when the tenant changes, NOT on an annual basis. Mr. Taylor said that the cost to mail out the ordinance and the forms to all landlords may be significant. Ms. Kehoe said that we also need a definition for landlord because the proposed ordinance does not specify whether it is only residential units or if commercial/storefront properties are to be included. President Moyer stated that we already have the Business Registration ordinance so we already know who is in our town as a business; he feels this should be restricted to residential units. Mr. Taylor said that his feeling is, between the fines and the additional tax revenues, it's a win for the Borough, without charging a \$5.00 or \$10.00 fee. Ms. Kehoe reminded Council that there is no money budgeted for this ordinance for this year.

Councilman Williams said that he was very pleased that an ordinance was being drawn up because there are existing rental properties in the Borough that are concerns and we need to be able to address them. He agreed that business properties can be excluded. Mr. Colman asked if the ordinance could be implemented in stages since money was not budgeted for 2007.

Grandview Street Signs – President Moyer gave an update on the signs and indicated that the cost for the required signs will be in excess of \$800.00. These signs meet PENDOT's specifications. Herman Johnson will speak with Borough Manager Kehoe with information on a company that may be less expensive.

Joint Sewer Authority Request – Councilman Colman provided an explanation of what the Joint Sewer Authority is doing to help alleviate the by-pass problems: the Authority is increasing its capacity; Clarks Summit Borough is replacing its main pipe along the rail road tracks; South Abington Township will immediately begin a "door to door" campaign to attempt to find all residents who are allowing their storm water/drainage to go into the sewer pipes. President Moyer said that the Borough did a similar procedure during the 1980's. Mr. Colman suggested that anyone in the community that has a sump pump should contact the Borough and we would have the DPW go out, at no charge to them. After we've gone through this period, then we'll have to begin to implement some type of a fine when we get some kind of an officer who will enforce these regulations. President Moyer suggested that we send a letter to every member of the community that this is a problem with rain gutters and sump pumps going into the sewer. Tell them that if they call us, even if we find something, you will not be fined; you'll have the opportunity to straighten it out. Mr. Colman reported that he spoke with a Clarks Green resident and was told that they were considering installing flow meters at certain locations to tell them which areas were having problems. Mr. Moyer said that DEP was aware that Clarks Summit has documentation on all our lines that have been camera-ed and all the drainage pipes that have been repaired/replaced when our paving projects are undertaken; Jim Vones kept all those records, and DEP is satisfied with this and our railroad project. We don't know what the other municipalities have done.

Mr. Taylor said that in this whole analysis of the financial aspect of the sewer situation, he received a huge email from the representative of Pennsylvania American Water Company, that has every resident's water consumption for the past year. He said what we're trying to do is figure out how we can bill for sewer usage. If the average home uses 10,000 gallons, they would be billed the same sewer. But if somebody was using 12,000 gallons of water, they would pay more. He said there are some residential water customers, not commercial, who are using 150,000 gallons of water per month. He asked if we could show the Joint Sewer Authority or DEP that we have some residents using this much water and that's why we have so much water going down the sewer. President Moyer said that on a normal day, the Joint Sewer Authority handles only three million gallons; on a rainy day, it spikes to ten million gallons. Where is that water coming from? Mr. Taylor agreed and said he does think we need to send a letter out to people to check their downspouts and sump pumps. Councilman Roy Davis said he attended the meeting with the Joint Sewer Authority also, and they talked about an ordinance and a fine for "grey water" going into the sewer line. We were informed that in Clarks Summit there is a \$300.00 fine. In Clarks Green, it's a

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\$1,000.00 fine. In South Abington Township, there is NO fine. The general consensus was that this is a Joint Sewer Authority problem; they should have more authority and generate an ordinance to US so that all municipalities have the same rules and fines. Mr. Davis felt that the Sewer Authority should have the authority to say, you SHALL and you MUST.

Mr. Colman stated again that he would like to see a letter come from the Borough to all residents informing them that we have a problem. This is our first mailing. There is an ordinance that is in effect to fine people who are violating the ordinance. We are offering the services of our DPW to check out your property free of charge to help them determine whether or not their downspouts and sump pumps are being directed into the sewer lines and no fines would be assessed at this time. If the grey water is being directed into the sewer, we would ask the homeowners to rectify the situation. Councilman Williams asked what would happen if a resident called and said that he knew he had a sump pump that was going into the sewer and he wanted to change that. Mr. Williams said he's aware that a homeowner can't direct the storm water onto his neighbor's property. How do you handle that? Mr. Moyer answered that all he would have to do is direct the water and pipe it out to the street; then the drains on the street handle it.

Mr. Taylor asked if there was any way to get some assistance from the local newspapers on this issue and get this problem out in front of the public. Virginia Kehoe stated that she already has an appointment to meet with the reporter from the Scranton Times-Tribune.

President Moyer announced that there would be an Executive Session held immediately following this meeting to discuss personnel and litigation.

ADJOURNMENT: There being no further business, President Moyer adjourned the meeting.

Respectfully submitted,

**Virginia Kehoe
Borough Secretary**

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