

**BOROUGH OF CLARKS SUMMIT
REGULAR COUNCIL MEETING
WEDNESDAY, FEBRUARY 7th, 2007
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The regular February Meeting of Borough Council was conducted on Wednesday, February 7th, 2007 at approximately 7:01 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 Margaret (Peg) Jackson, Councilperson Gerry Carey, Councilman James Colman, Councilman Roy Davis, Councilman Ray Taylor (arrived late), and Solicitor Frank Bolock (arrived late). Also attending were Mayor Harry Kelly, Chief Vitale, and Borough Manager/Secretary, Virginia Kehoe. Absent: Councilman Patrick Williams. 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 Mayor Kelly.

PRESENTATION:

Mayor Kelley presented a framed resolution to Mr. Timothy Rowland from Clarks Summit Borough Council thanking Mr. Rowland for his years of service to the Borough.

APPROVAL OF AGENDA:

Motion made by Mr. Roy Davis, seconded by Mrs. Jackson to accept the agenda as presented. Discussion: None. Motion carried 5-0.

APPROVAL OF MINUTES:

Motion made by Mrs. Jackson, seconded by Mr. Colman to accept the Minutes of the Regular Council meeting on Wednesday, December 6, 2006 as presented. Discussion: None. Motion carried 5 -0.

BIDS & QUOTATIONS:

None

BOROUGH TREASURER'S REPORT

Motion made by Mrs. Jackson, seconded by Mrs. Carey to approve the movement of any surplus funds, as available based on cash flow analysis, and this applies to all Borough fund accounts, to PA Invest Account; and also to approve ACH transfers from PA Invest to PNC accounts to be done as needed. Discussion: Virginia Kehoe stated that the current average daily interest rate is 5.186% and that this will give the Borough about the same interest as our current Certificates of Deposit but without all the lengthy paperwork. It also allows us to keep the funds very liquid and earn top interest. Motion carried 5 – 0.

Motion made by Mrs. Jackson, seconded by Mr. Colman to close out the inactive PNC Payroll account which has a zero balance and has been inactive for one year. Discussion: None. Motion carried 5 – 0.

Motion made by Mrs. Jackson, seconded by Mrs. Carey to accept the Treasurer's Report for January, 2007. Discussion: None. Motion carried 5 – 0.

COMMITTEE REPORTS:

Planning Commission

Resignation: Letter was received from Mr. Albert Viselli resigning from the Planning Commission effective February 7, 2007 due to other commitments. Motion made by Mrs. Jackson, seconded by Mr. Colman, accepting the resignation with regret. Discussion: None. Motion carried 5 – 0. Motion made by Mrs. Jackson, seconded by Mrs. Carey to appoint John Recicar, 111 Carol Drive, Clarks Summit, as replacement to fill Albert Viselli's unexpired term which will expire December 31, 2008. Discussion: None. Motion carried 5 – 0.

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Mrs. Carey left the room at this point in the meeting.

Coviello Subdivision – Motion made by Mr. Roy Davis, seconded by Mrs. Jackson, to grant the preliminary Coviello Subdivision plan CONDITIONED on 1) Approval is not effective until a fully executed easement is received by Council from either the United Methodist Church or Penn DOT; 2) The approval is not effective until the attached developer's agreement, prepared by Attorney Frank Bolock, is fully executed; and 3) The implementation of a dues collecting Homeowner's Association, which will be a single entity, representing the individual property owners in matters of corrective action to private infrastructure; and also authorize the President of Council to sign the developer's agreement. Discussion: Virginia Kehoe stated that Solicitor Bolock feels comfortable in recommending that it safe to accept this once the final numbers are plugged in. Motion carried 4 – 0.

Mrs. Carey returned to the meeting.

McMOKO Preliminary Land Use – Motion made by Mrs. Carey, seconded by Mr. Colman, to approve McMOKO Preliminary Land Use plan for the property at the corner of Stone Avenue and State Street as recommended by the Clarks Summit Planning Commission CONDITIONED on 1) Upgrade of the storm water detention system to include two 36" pipes; 2) Storm water then directed to the catch basin located at the entrance to Our Lady of Snows Church; and 3) Lighting plans must be provided in compliance with our zoning ordinance. Discussion: None. Motion carried 5 – 0.

Shade Tree Commission – Motion made by Mrs. Carey, seconded by Mrs. Jackson, to participate in the Chesapeake Bay Urban Tree Canopy Initiative/Study. Discussion: None. Motion carried 5 – 0.

Councilman Ray Taylor arrived at the meeting at this time.

Joint Sewer Authority – Borough Manager Kehoe gave a report on DEP's concern regarding the seven "bypassing" events that occurred in a 6-month period during 2006. She said that DEP has the power to either shut down the Sewer Authority until they are in compliance, or to prohibit additional sewer hook-ups, if DEP is not satisfied that we're making every effort to prevent these problems. The Joint Sewer Authority is asking Council to actively enforce Clarks Summit Borough's Ordinance regarding storm water; storm water runoff should NOT be directed into the sewer lines. Particularly with older homes, there is a high rate of infiltration. She reported that the Joint Sewer Authority is looking for reports from South Abington and Clarks Green for 2005; Clarks Summit Borough did complete and properly file this report. She also reported that the sewer line replacement at the rail road track area is still in the hands of the Army Corps of Engineers, that DEP is aware of that and DEP is satisfied with that. Mr. Roy Davis stated that there are a large number of older houses in the Borough and it would be a financial burden on us to have to check every single home. He said he thought the Sewer Authority should look at some way of financing this because it is a JOINT authority and our problem is really their problem. Mr. Davis continued and said that the majority of homes in South Abington Township have been built subsequent to rules requiring that storm water not be directed into the sewer lines. He cautioned Council against the request because of the tremendous financial burden.

POLICE REPORT

Chief Vitale gave the January, 2007 Police Report, and summary of police related activities.

BILLS TO BE PAID:

Motion made by Mr. Taylor, seconded by Mrs. Jackson to approve the bills as follows:
Paid between January 1 and January 31, 2007: General Fund - \$96,721.31; Payroll - \$64,698.41; Sewerage Fund - \$13,054.03; Liquid Fuels - \$0; Capital Reserve Fund – \$525,000.00. Discussion: None. Motion carried 6 – 0.

NEW BUSINESS: -

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Parking Meter Inspections – President Moyer announced that the parking meters have been inspected and they are all up to date. Borough Manager Kehoe stated that the state requires that all parking meters be inspected every three years. Since the Borough just installed new meters on Davis Street and Spring Street and had to have those meters inspected, they inspected every meter in town. This is done for free.

Fire Company Agreement: 2007 – 2010 contract update. Borough Manger Kehoe reported that she received the contract from the fire company for the next three years and submitted it to Solicitor Frank Bolock who had some minor verbiage changes/suggestions. Motion made by Mrs. Jackson, seconded by Mr. Taylor to accept the proposed Agreement between Clarks Summit Borough and the Clarks Summit Borough Volunteer Fire Department with the changes recommended by the Borough Solicitor. Discussion: None. Motion carried 6 – 0.

Resolution 2007-04 Winterfest – Motion made by Mrs. Carey, seconded by Mrs. Jackson to approve the suspension of the metered parking regulations on January 18, 19, and 20, 2007. Discussion: None. Motion carried

Resolution 2007-05 Ice Festival – Motion made by Mr. Colman, seconded by Mrs. Carey, to approve the suspension of the metered parking regulations on February 16, 17, and 19, 2007 for the Ice Festival sponsored by the Abington Business and Professional Association (ABPA). Discussion: None. Motion carried 6 – 0.

BOROUGH SEWER OFFICE REPORT:

The January 2007 Sewer Report was before Council. Motion made by Mrs. Jackson, seconded by Mr. Taylor to approve the Report as presented. Discussion – None. Motion carried 6 – 0.

SOLICITOR’S REPORT:

A written report was distributed to Council members.

CORRESPONDENCE:

Solicitor Bolock arrived at this point in the meeting.

Natural Resources Conservation Service – sent notification that they received a 7.2 million dollar grant towards emergency watershed protection programs such as debris removal and stream bank stabilization.

Rotary Club: Clock Tower Update – letter received from Rotary indicating they are going to fix the clock by the Borough Building as one of their service projects.

Robert C. Edwards Scholarship Foundation – information and application received regarding a \$1,000 scholarship for graduating senior students.

Carol Lee McDonald – thank you letter regarding storm water work the Borough did on Fern Street.

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). Virginia Kehoe stated that Council asked the Planning Commission to review the Zoning Ordinance and to start with the sign standards sections. A draft copy was put together with the recommendations from the Planning Commission and forwarded to all members of Council for their review. Carson Helfrich, Community Planner, is present tonight to answer any questions Council may have. The draft was given to Solicitor Bolock for his review and he made recommendations in his letter to Council. Mr. Moyer called attention to the fact that the proposed ordinance now allows for “sandwich” boards or “A-frame” style signs that were not permitted under the existing ordinance. Mr. Tom Vokes, borough resident,

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asked who would be liable if one of these signs caused damage. Mr. Helfrich said he assumed it would be the sign owner, just like it would be with any other sign. Mr. Vokes asked if they checked with the State to see if they could be put on State Street since it was a State right of way. Mr. Helfrich said they had not checked on that. Motion made by Mrs. Jackson, seconded by Mr. Taylor, to table the discussion and send the ordinance back to the Planning Commission to check with the State regulations and to make sure it meets the standards of the Americans with Disabilities Act (ADA). Discussion: None. Motion carried 6 – 0.

Ordinance 2007-02: Regulation of Rental Units – Borough Manager Kehoe stated that she provided Council members with a draft of this ordinance last month. President Moyer said he had a lot of feedback regarding the \$35.00 fee that was required. Mr. Colman said that Virginia Kehoe has really done her homework and obtained information from other municipalities that have similar ordinances and he recommended opening up the discussion to the public and having a public work session scheduled in the near future to allow everyone to comment. Attorney Carlene Gallo spoke on areas of the proposed ordinance that she felt were open to a court challenge. President Moyer set the date of Wednesday, February 28, 2007, at 7:00 PM for a public work session on the issue. Motion made by Mr. Taylor, seconded by Mrs. Carey, to table discussion on Ordinance 2007-02 until Wednesday, February 28, 2007. Discussion: None. Motion carried 6 – 0. Mr. Moyer said that Council would hear comments on both of the proposed ordinances at this upcoming work session.

Update on Borough Building renovations – Ms. Kehoe gave an update on the project. Mr. Ray Davis, Borough resident, asked what is the cost of the handicap accessible elevator and all the modifications. He said he felt it was a waste of taxpayer's money. He asked what Council's plan was for using the first floor of the building. President Moyer stated that the plan was to renovate the bathrooms on that floor so that hopefully, the police department and the Mayor could be brought up there and make them more available to the public; or maybe the area could be rented out. Mr. Ray Davis said the police didn't need to come up to the first floor; they're fine down there. This is where local municipalities should start saying we need to cut down the tax rate. He feels the bids will come in at least \$100,000 and it's totally unnecessary. Councilman Roy Davis said that the money received from Community Development Block Grant is earmarked for communities throughout the state. All we're looking for is our own fair share and if we don't take our fair share, or try get it, or write grants for our fair share, then we're fools. You can say all you want about sending the money back to Senator Mellow, but when I came on Council, I stated that I felt we should get MORE help from the state. I think we should get more help from the Sewer Authority. I think we should get more help from a lot of people. We're trying to protect the value of this building and make it viable. We cannot do certain things unless we comply with handicap regulations; there are state regulations and we're looking for state money to help us pay for them. Borough resident Ray Davis said he wants to know what Council's plan is; it is piece work right now, that's all it is.

Border Realty PUC Application – Solicitor Bolock gave background information on the history of this project. He said Clarks Summit's approval of this pass through project was conditioned upon the fact that the PUC would NOT assert jurisdiction over Clarks Summit borough sewers for purposes of rates, connections or other issues. Border Realty is petitioning the PUC for clarification on this. Border Realty listed Clarks Summit Borough as a co-petitioner to give the petition greater weight and credibility. He stated that all attorney fees are being borne by Border Realty and none would fall to the Borough. Motion made by Mr. Taylor, seconded by Mrs. Carey to authorize the Borough to sign on as co-petitioner to the PUC application. Discussion: None. Motion carried 6 – 0.

PUBLIC COMMENT

EMST Tax – Mr. Vokes, Borough resident, asked if there was a possibility that Council could amend the EMST ordinance and exclude the first \$12,000 of earnings like some other municipalities have done. President Moyer said they could discuss that at the meeting on February 28th also. Ms. Kehoe said that the Pennsylvania state legislature is currently working on this, too.

Mr. Herman Johnson, Highland Avenue, Clarks Summit – stated he would like to see Council return to the practice of having work sessions so that they fully understand each issue ahead of time.

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Business Registration Ordinance – A Clarks Summit business owner asked if the \$25 registration fee is considered a license or a fee and what is it used for. President Moyer stated that the fee was instituted to cover the Borough's costs of having a person go up and down the streets to actually verify all the businesses and to follow up and make sure they have registered. The business owner stated he has done research and feels that it is unconstitutional and asked the Mr. Bolock investigate and come back next month with an answer. Solicitor Bolock said the issue is not whether it is unconstitutional. When you have a charge like this and it isn't a tax, the amount that you charge has to be equivalent to the administrative costs. Beyond that cost, it becomes a tax and it would have to be enacted as a tax which requires hearings a proper process. Council will look at the ordinance during 2007 and see if it could be changed to collect a one-time fee of \$25 to register a new business.

Mr. Raymond Davis – Borough resident Ray Davis voiced his agreement with Mr. Herman Johnson as to the need for Council work sessions. He said that there were at least four lengthy issues tonight and stated that you cannot run this municipality with just one meeting a month.

Charles Martin, Grandview Street, Clarks Summit – asked for an update on how things are going regarding the barricade for Grandview. President Moyer said that discussions have taken place and the next step is to have a meeting with the property owners of the abutting property.

EXECUTIVE SESSIONS:

President Moyer reported that one Executive Session had been held at the conclusion of the January 3, 2007 Council meeting to discuss litigation and personnel and one was held on February 5, 2007 Council Meeting at 7:00 PM to discuss pending litigation. No executive sessions were held during the meeting, and none were scheduled subsequent.

ADJOURNMENT:

Motion made by Mrs. Jackson, seconded by Mr. Colman to adjourn the meeting. Discussion: None. Motion carried 6 – 0.

Respectfully submitted,

**Virginia Kehoe
Borough Secretary**

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