

**BOROUGH OF CLARKS SUMMIT
REGULAR COUNCIL MEETING
WEDNESDAY, MARCH 3RD 2004
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The regular March Meeting of Borough Council was held on Wednesday, March 3rd 2004. The Meeting was conducted 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 Timothy D. Rowland, Councilman Richard W. Armbrust, Councilman Thomas Bradley, Councilperson Gerry Carey, Councilperson Peg Jackson and Councilman Patrick Williams. Also attending were Mayor Wesley W. Dunn, Sr. and Solicitor Malcolm Mac Gregor. Chief of Police English was called out just prior to the Meeting.

There being a quorum present the Meeting was called to order by the Council President, followed by a moment of self directed meditation and then the Pledge of Allegiance to the Flag.

PRESENTATIONS:

Mayor Dun read and presented Borough Resolutions to past Councilman Robert Bennett, past Councilperson Linda Jenkins and past Mayor Robert Kester. Past Council President Edward M. Bush, Sr. was not present to accept his Resolution.

APPROVAL OF AGENDA:

Motion by Mr. Bradley to approve the agenda as presented. Second by Mr. Armbrust. Discussion – None. Motion carried 7-0.

APPROVAL OF MINUTES:

December 3rd 2003 Regular Council Meeting.

Motion by Mrs. Carey to accept the Minutes of the December 3rd 2003 Council Meeting as presented. Second by Mr. Bradley. Discussion – None. Motion carried 7-0.

January 5th 2004 Organization Meeting

Not done

January 7th 2004 Regular Council Meeting

Not done

February 4th 2004 Public Hearing & Special Meeting

Not done

BIDS & QUOTATIONS:

Quote – 2004 Lawn Care At The Senior Center/RFQ # 097

Three (3) vendors were mailed the RFQ for 2004 lawn care at the Abington Senior Center. Two (2) responded with prices. Mr. Kenneth Rees with a price quote of \$ 180.00 per month and Abington Lawn Care at \$58.00 per cut. Motion by Mr. Rowland to award the contract to Abington Lawn Care. Second by Mrs. Jackson. Under discussion Mr. Williams asked if the Specifications included maintenance of the shrubs (pruning) on the bank as you enter the Senior Center. President Moyer responded, according the specifications – yes. Motion carried 7-0.

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BOROUGH TREASURER'S REPORT:

The Borough Treasurer's Report (as of February 29th 2004) prepared by Treasurer Stephens was before Council. Motion by Mr. Bradley to accept the Report as presented. Second by Mrs. Jackson. Discussion – None. Motion carried 7-0.

PUBLIC COMMENT & INPUT:

Parking At Linden Street Apartments

Mrs. Angie Kochis stated that there is a real parking problem at the Linden Street Apartments. She requested Council look into the matter. With the No Parking signs on Linden Street, when she goes home tonight she may have to park all the way at Manning's Ice Cream and walk home. Apartment Manager told Mrs. Kochis there is enough parking for the people who live there, but we have visitors, and nurses coming to check on the elderly residents, etc. Just not enough parking spaces at the Apartment complex.

Maybe the Borough can get together with Allied do something. President Moyer asked that Chief look into this matter. Mr. Armbrust explained the road character and the no parking signs to promote the flow of fire trucks.

Maybe the Borough can use grant money to get more parking. Perhaps, the shed could be moved by Allied. Mr. Rowland suggested that perhaps the staff and nurses could use the lot across the street next to the Stadium.

President Moyer stated the Borough would send Allied a letter and meet with them about this issue.

Grandview Street

(Attorney) Mari Van Wei, 512 Grandview Street very concerned about what is going on. Publicly thank all of Council for there support. Residents are gravely concerned about the safety on Grandview Street should the Noto/Amato development (in South Abington Township) succeed in gaining access via Grandview. She stated that if this allowed, she and her husband (also an Attorney) would Petition the Borough to bring Grandview Street up to code, in accordance the engineering study done by Borton Lawson. It was her understanding that the code would require that the street be widened, with sidewalks on both sides of the street. If the road (Grandview) is widened, it was her understanding that many the homes along Grandview Street would be condemned. Not only would Clarks Summit Borough have to compensate the homeowners (condemned property), but also the Borough would permanently loose that tax base (property tax). If any homes on the even side of the street are affected, the Borough may have to re-route its stormwater and sanitary lines, producing an additional cost. As it now I have very poor visibility when backing out of my property on Grandview, due to sharp curve and in morning the sun is shining down the street and the glare gets into your eyes. She then gave an example her difficulty in backing. Another concern is that when snow is deposited at the edge of the road, people, joggers, children going for school buses must walk in the road. This is difficult now, with the increased traffic volume that would created by the Noto/Amato development(s). This is a very dangerous situation now. From October to May people (pedestrians) use the roadway and there is no shoulder available. In October/November the leaves are piles at the roadside for collection. November through March there is a snow buildup. April and May, with the spring rains and flaws there yards and shoulders are wet and/or flooded. If traffic were increased sidewalk would be required. Even now our driveway is very steep. When we moved in the delivery trucks have to park on Grandview and walk up or they "hit bottom" The mailman does not drive up our driveway. This is every day and in the winter it is worse. I lived in Mountain Top before and had no trouble. We have studded tires and cannot get the momentum to make it up our driveway. We should be able to have guests come to our home and use our driveway. If this road (Grandview Street) were widened the slope of our driveway would

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be even steeper than it is now. My father is disabled, if the driveway was made un-useable, my father could not even come to our home. I just wanted Council to understand the difficulties we face everyday now. If the road was widened and sidewalks added it would become much worse. When Council is looking at all the issues involved in the extension of Grandview Street you give consideration to the concerns of the people who live there. Even if you decide to quickly settle you will still have an awful lot of expenses on Grandview Street. Thank you for your consideration.

Jack McNulty, 602 Carnation Drive spoke next. He requested a status report on what was going on. He knew there was a Hearing in Scranton late last year.

Solicitor Mac Gregor gave a status report. Hearing in December. There was to be another on February 19th and the Borough requested a continuance. Court asked for a conference. Judge brought some of the residents into Chambers at the end. At that Meeting there was not a lot of movement by either Noto/Amato or the two municipalities. Court was trying to find if there was any room for movement to reach an amicable resolution. Another hearing and court date was set by Mac Gregor did not have the exact dates.

Attorney Ernest D. Preate, Jr. spoke next. We (Borough) provided the developer with the Borton Lawson Report which clearly showed that they have another alternate entrance/exit using Shady Lane Road and not T-390 (Grandview Street in the Borough). The idea was they would come with a response. The Judge then would have the issue "focused". We felt we would then find out what they (Noto/Amato) had to say about our proposal (using Shady Lane Road). That was the purpose of the continuance. Not at liberty to tell you (publicly) what went on in the Judge's Chambers during the pre-trial conference. I can tell you nothing was resolved, but we did get for the first time a clarification from Giles Stanton (Chairman, South Abington Township Board of Supervisors) on their thinking. I was also advised by Attorney Van Wei that the Pittsburg case has been dismissed and the area was properly re-zoned by South Abington Township. Do not know if an appeal would be taken. Have not seen the Court Opinion yet. Now in a possible to have that placed into the Record, before Judge Mazzoni. The subdivision was before South Abington, and then the developer asked for a 90-day extension. That time will be up in April or May. (Solicitor Mac Gregor correcting to April) which would put it about the same time as the next Hearing before Judge Mazzoni, which is scheduled for April 15th 2004. Seven days later will be the actual trial. Our Engineer (Borton Lawson) is a very capable guys and he says an access road be created off Shady Lane Road, at a cost much less than \$2.5 Million Dollars (as represented by the developers (Noto/Amato). We say \$250,000 to \$500,00. PennDOT people have been saying all along that an entrance from Shady Lane Road was possible, while Mike Noto testified before Judge Minora that PennDOT would not give him a Permit off Shady Lane Road. This substantially enhances our case.

What Attorney Van Wei was addressing was a report from our Engineer (Borton Lawson). They were approved at the last (Council) Meeting to further do an analysis of traffic increases along Grandview Street. I received this substantial from Borton Lawson, which I just now provided to Solicitor Mac Gregor and Council President Moyer. It outlines the affect of broadening (widening) Grandview Street and virtually every home will be affected on Grandview Street. The problem here is if you open Grandview Street all the way through to Shady Lane, then by our subdivision ordinance it now become a collector street which must be sixty feet wide, and that means you (Council) will be paying a lot of money to a lot of people (37 homes) who live on Grandview Street. This is property taking and that is not counting the cost for widening the street, sidewalks, utilities, things like that. So that is the update from the engineers we have hired. Your (people present) have every right to be concerned.

Question from audience (Mr. McNulty?), Ernie I know what you mean by taking, but for the benefit of everyone else could you explain.

Attorney Jim Van Wei speaking next. If the Borough exercises Eminent Domain and takes property for the purpose of widening Grandview Street the property owners would be compensated for their

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property/loss. Preate stating that if the Borough takes your land to widen the road and the driveway becomes to steep to use, that is a de facto taking and if the value of your property is \$300,00.00 then you could be compensated \$300,000 just for that one home.

Mrs. Louise Lee, 611 Lilac Lane corner of Lilac and Grandview Street. Her driveway runs parallel with Grandview Street. Preate stated they would take a strip of your property. What happen now, when they plow the snow they come down Lilac Lane and push all that snow into my yard. I will not be able to get out of my home. We have already had a large increase in traffic when they built Oakmont, I had a small wooded area in the back of my house and I am sorry to say they use my property as a dumping area. Things are thrown on my lawn that were purchased at an adult bookstore. President Moyer asked, who is doing that? Many things are dumped, marijuana pipes, empty beer cases, used condoms. Preate, not sure what your question is but your property will be affected, most everyone's house. This is the reason why we want to close a portion Grandview Street, because if we do not we will have to widen the Street, install sidewalks and have many other costs. This report from Borton Lawson is very complete. There will have to be a taking by the Borough, if the traffic from this development and Shady Lane Road is allowed. This is a reason for us to fight this. President Moyer stating that the major reason is for safety reasons. Right, that is the reason for the taking, and by the way you would have to relocate utility poles. You would have to straighten certain curves on Grandview to improve the "line of sight". Some homes properties will lose more than others, but all will be affected and that is all I have to say.

Attorney James Van Wei, not only does this affect the homes on Grandview but all the surrounding area and the property values of all these homes will be affected. They will go way down. This entire area of Clarks Summit will be adversely affected.

Attorney Marie Van Wei, also Grandview Street, the engineer is saying a turning lane would have to be installed on West Grove Street. Preate, every intersection would require evaluation. Solicitor Mac Gregor interjecting, Ernie I do not want these people to think someone is coming to their homes tomorrow and taking their property. Right now we only have a report by an expert (Borton Lawson), which was solicited to help us with our case. I do not want people to leave here thinking when will the man come to take my driveway away. This is an important issue and an important report, which Council and I have just received.

Attorney Preate, the last piece of evidence we will need now is getting an appraiser and that is one of the items we will discuss in Executive Session tonight.

Mr. Jerry Williams, 1202 Marion Circle. Would like to say that this is a problem in northeast Pennsylvania. They make the developments first and worry about the infrastructure later. The time to examine and do these roads was before they put Floral Park in and before Oakmont Terrace. Now Grandview is undersized and substandard to handle what we have now, one more development will be the straw that broke the camel's back and the Borough will have no other alternative but to make Grandview a standardized road and a lot of money is at stake now.

President Moyer stated we just put a ton of money into Grandview a few years ago. Mr. Williams responding that that is negligible compared what may be spent there soon.

Mr. ?, 506 Grandview stated that this is a great deal for South Abington Township, because they get all this added property tax money and we in the Borough have to suffer with increase traffic and costs for the road(s). We are getting screwed. A lot of houses on Grandview Street will be up for sale. If they open this up, we are all in trouble, it will cost the Borough and Council so much money that it would out weight any benefit we would get. This is a no brainer, if they can get out of this proposed development using Shady Lane Road than that is the least expensive alternative of everything and safer. If the developer had to pay to upgrade Grandview Street they would never propose this. There is no reason why we should take the hit on our property values because they are concerned about their values on undeveloped land.

Mr. Charles Martin of Grandview Street reflecting on the cost of taking on Grandview. Some homes worth \$300,000.00 and some less, but if you take the median cost and multiply that by thirty-seven homes this "taking" alone will cost this Borough I know Council knows this, but that is why everyone from Grandview Street is here to make sure that you know this is a very serious issue and we have to stay on top of it. I have had dialogue with Mr. Stanton and they are leaning. They are a little friendlier towards Clarks Summit now than they have been (South Abington Township Board of Supervisors). If we can get South Abington Township on our side it would be better. We also have to consider the lawsuit that has been threatened or filed about the \$Four or \$Five Million Dollars the developer has or will lose. There is no plan, not a shovel has been turned. How can they say they lose Four or Five Million Dollars? Alice Evans asked the Judge the best question that was asked, she asked how can a developer come in from one community and want use that road to sell a development in another community and make all this money, and then the first community, which is us (Borough of Clarks Summit) lose all the trees, streets widened, homes taken, and ruin this community? The Judge that is the best question I have heard. so that is another consideration. Keep fighting guys (Borough Council), we are behind you.

Mr. Tom Moran, with wife Marie are residents on Grandview for ten years now and wanted to take this opportunity to thank Council, the Mayor and the Borough for their work and support. It is appreciated and it will not be forgotten. Mr. Noto brought these problems on himself, we cannot compromise, and we have to fight this all the way.

Mr. Martin again, wanting to publicly recognize the work two resident did on this matter for Council, the Borough and the residents. One I cannot name since he is a federal employee (right Jim Van Wei) and the other one we can who is his wonderful and beautiful wife Marie Van Wei. She has been working this issue from the first and giving great advise to residents and writing legal briefs, that their own expense to help with this issue. Council should give the Van Wies a gold plated plaque when this is all finished.

Mr. Bradley offered that tomorrow night (Thursday, March 4th 2004) at 7:30 P.M. there is a meeting at the elementary school. The PennDOT traffic study dealing with the By-Pass Issue in the Abingtons will be presented and is sponsored by the Abington Council of Governments (COG). They will be presenting their traffic study at that time. One of the proposals was to re-do the tunnel at the bottom of Shady Lane Road.

Mr. Rowland stating that this was similar to he presentation made a few months ago. Mr. Bradley responding yes, but this study is needed now to address future growth and traffic in the future.

COMMITTEE REPORTS:

Mr. Bradley reported that the Abington COG would be working on this transportation issue over the next coming year. Both Rogers study with PennDOT doing the study. Need Jim Vones to do a Resolution from this Borough to keep pushing this study and not let it just drop. Mr. Rowland offered that he went to last one, Mayor Dunn and Mrs. Jackson went. At that time they had like seventeen different proposals.

Mrs. Jackson motioning to adopt a Borough Resolution (to be developed by the Borough Manager/Secretary when he returns) to continue the traffic study started by PennDOT and Both Rogers. Motion seconded by ?. Motion carried.

POLICE REPORT:

Mayor Dunn gave the February 2004 Police Report.

Mayor Dunn advised Council the Department had received an offer for an electric scooter and the police officers felt this would be used in the Borough. Council authorized the Mayor to proceed with this acquisition.

BILLS TO BE PAID:

Council authorized the payment of current Borough obligations; \$ 2,071.44 from the Payroll Account; and to approve the payment made between 12th and February 26th 2004 \$ 122,693.44 from the General Fund; \$ 36,373.25 from the Payroll Account; and \$ 91,464.43 from the Sewer Fund.

OLD BUSINESS:

None

NEW BUSINESS:

Appointment of Vacancy Board Chairman/Chairwoman

Motion by Mr. Rowland to once again appoint Mr. Townsend O'Dell of Highland Avenue as the Borough Vacancy Board Chairman. Second by Mrs. Jackson. Motion carried.

Non-Uniform Labor Agreement 2002 & 2003

Tabled until after the Executive Session.

Fire Protection Agreement 2004 to 2006

Motion by President Moyer to approve the "Fire Protection Agreement" for 2004 to 2006 with the Clarks Summit Fire Company, No. 1. Motion seconded by ? Motion carried 7-0.

BOROUGH SEWER OFFICE REPORT:

The February 2004 Sewer Office Report for the month of February was before Council. The Report was approved as presented.

SOLICITOR'S REPORT:

As provided above relating to Grandview Street.

CORRESPONDENCE:

February 6th 2004 Letter from Watkins (Senior Center) to President Moyer; re" floors and kitchen equipment.

Undated (received February 13th 2004) Letter from State Street Grill to Borough; re: PLCB noise regulations.

February 25 2004 Letter from State Representative Jim Wansacz; re: state owned roads, which require state funding (within Borough).

EXECUTIVE SESSIONS:

President Moyer announced that no Executive Session had been held prior and none were scheduled, but one would be held during this Meeting.

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RECESS:

Council recessed to an Executive Session and came back at 10:50 P.M.

GRANDVIEW STREET:

Motion to hire Bill Mickere Real Estate Appraiser, based upon a review to do the appraisal work relating to Grandview Street litigation, subject to submission, review and approval of costs. Motion by Mr. Rowland. Second by Mr. Armbrust. Motion carried 7-0. Solicitor Mac Gregor to have that information transmitted to Jim Vones so that he can circulate this information to Council.

CLARKS SUMMIT BOROUGH EMPLOYEES ASSOCIATION LABOR AGREEMENT:

Motion by Mrs. Jackson to approve the 2002 to 2003 Labor Agreement with the Clarks Summit Employees Association. Second by Mrs. Jackson. Discussion – None. Motion carried 6-0 (Mr. Williams had left by this time).

DPW CREW MEMBER:

Motion by Mrs. Jackson to advertise the DPW Crewmember vacancy. Second by Mr. Rowland. Mr. Bradley asked where being advertised? President Moyer, the Abington Journal/local newspapers. Motion carried 7-0.

DECLARATORY RULING:

Motion by Mr. Rowland to authorize the Borough Solicitor/Labor Solicitor to seek a Declaratory Ruling on the validity of the Chief of Police's Contract. Second by President Moyer. Motion carried 4-2 (Bradley and Carey voting no).

ADJOURNMENT:

There being no further business before Council the Meeting was adjourned.

Respectfully submitted,

JASMES G. VONES, SR.
Borough Manager/Secretary

DONALD H. MOYER, III
Council President