

**BOROUGH OF CLARKS SUMMIT  
REGULAR COUNCIL MEETING  
WEDNESDAY, MARCH 4, 2009  
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The regular January Meeting of Borough Council was conducted on Wednesday, March 4, 2009 7:07 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 and Commonwealth of Pennsylvania. Council members in attendance were President Gerrie Carey, Vice President Patrick Williams, Mrs. Kathy Drake, Mrs. Barbara Evans, Mr. Herman Johnson, Mr. Jeremy Adelman and Mr. Kevin Yetkowskas, and Solicitor Ernest Preate. Also attending were Borough Manager/Secretary, Virginia Kehoe. Mayor Harry Kelly and Chief Louis Vitale arrived at 7:08P.M. Mr. Roy Davis was absent. 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 led by Gerrie Carey.

**ACCEPTANCE OF BOB BENNETT RESIGNATION:** Gerry Carey read the letter submitted by Bob Bennett. Herman Johnson made a motion to accept the resignation and requested a letter of thanks be sent to Mr. Bennett. Barbara Evans seconded the motion and it carried 5-0. Mr. Bennett was then verbally thanked for his contribution by members of council.

**INTERVIEW OF APPLICANTS:** Mr. Murli Rajan, Mr. Ray Davis, and Mr. James Burke all introduced themselves, gave some background information, and stated why they wanted to be on council. Charles Martin introduced himself to council and said he faxed a resume that council did not receive. Mr. Martin said this seat should be filled by a Republican. Gerry Carey and Herman Johnson said they are looking for the best person to fill the position not just a political party. Barbara Evans made a motion to have Murli Rajan replace Bob Bennett. Kathy Drake seconded the motion and it carried 5-0. Council thanked everyone who showed interest in the position.

**SWEARING IN OF COUNCIL APPOINTEE:** Mayor Harry Kelly swore Murli Rajan in to council. Mr. Rajan was welcomed and took his seat at the table with council.

**APPROVAL OF AGENDA:** Herman Johnson made a motion to approve the agenda. Kathy Drake seconded the motion and it carried 6-0.

**APPROVAL OF MINUTES**

**November 18, 2008 Work Session:** Kathy Drake made a motion to approve the minutes. Pat Williams seconded the motion and it carried 6-0.

**January 6, 2009 Work Session:** Barbara Evans made a motion to approve the minutes. Kathy Drake seconded the motion and it carried 6-0.

**January 7, 2009 Council Meeting:** Barbara Evans made a motion to approve the minutes. Kathy Drake seconded the motion and it carried 6-0. Herman Johnson stated that the minutes are lengthy and he has trouble downloading them to go over ahead of time. Virginia said they are in council's mailbox ahead of time.

**PUBLIC COMMENT & INPUT:** Todd Dixon asked Ernie Preate the reason why all conversations are not reflected in the minutes. Ernie Preate asked what minutes he was referring to. Mr. Dixon could not give a date. Mr. Preate said there is one recording of the minutes per the Electronic Surveillance Law. Everybody has to be given notice that a person is going to tape record them and they have to consent. Mr. Preate said minutes are brief summaries and not meant to be a word for word transcription. Mr. Preate said a sign should go up stating that if a person speaks at a meeting, they will be recorded. Also, if someone wants to make sure a statement is transcribed in the minutes, they should state that.

Mr. Dixon also wanted it known to council that he doesn't feel as though there are set procedures for what goes on in the borough. He doesn't think many of the rules are completely understood by people who work for the borough or residents. He doesn't think you can get a clear cut answer. For example, he was told he needed so many copies of the plans for an addition then to find out that he needed more. Virginia said we opted in to the State plan when it comes to inspections. We use Building Inspectors Underwriters. Mr. Dixon said fees should be posted somewhere in the building as to what percentage of the fees the borough

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gets from the inspection. Mr. Dixon said the fees are according to the price of the project. Mr. Ziesemer stated that our fee is 20% for an administrative fee. The 20% maximum fee is allowed by state law. Clarks Summit Borough elected to take the maximum fee in 2004. Mr. Dixon suggested that BIU never opened a set a plans from him until the final inspection. Mr. Preate said that he needs to meet with Will Ziesemer to discuss this because a resident is making a very serious charge that BUI did not do their job. Mr. Ziesemer stated if you opt out, Labor and Industry would be doing the inspections. Pat Williams said that's a long, drawn out affair. Mr. Dixon said when his building inspection was complete, he had five days to get his occupancy permit. He still has not received that. Mr. Ziesemer said he has it done. He has the authority to hold it until he performs his inspection. Mr. Dixon said the point is that there is no system, no procedure, no process. No one answers to anyone. No one knows anything. He's frustrated. Gerry asked Will to send that tomorrow.

Mr. Dixon called the police department about an abandoned vehicle about a week ago. Two to three days after he called, a police officer came down. After Mr. Dixon explained the situation, he was told there is nothing the police can do about it. Mr. Dixon gave Chief Vitale an ordinance regarding abandoned vehicles from Penn Dot's web site. Mr. Preate asked if it was a licensed vehicle on private property. Mr. Dixon did not receive a copy of the vehicle code. Chief Vitale confirmed that there was work done on the vehicle prior to this abandonment. Mr. Preate said this is a private issue Mr. Dixon has with the car owner that the police department made an investigation on. The police department determined it is his responsibility. Chief Vitale said he would stop to see Mr. Dixon in the morning.

Ray Davis spoke about the new web site. He said it looked much better but it still is missing some things. He thinks all the ordinances should be on the web site. He thinks the minutes should be available prior to their approval. He asked that they be put on the site. Ray Davis said he has pictures on the sidewalks were not clear from ice and he notified the police department. He does not think the police are doing their job. He also asked about the police reporting system. The chief said they are using a portion of that program.

**BIDS AND QUOTATIONS:**

**Vote – Sunset Street Bids** – Virginia said that these were opened last week. Virginia sent a copy of the actual requests that went out to the bidder and their responses to the finance committee. We received three bids. Shupp's excavating bid \$9,895, Roto Rooter bid \$8800, and LJ Milo bid \$17,050. Virginia said we were very specific on the request for quotation. The contractor is responsible for excavation, disposal, installation, maintaining sewage flow, supply labor and equipment to complete the project and to maintain protection of traffic and safety controls. Kathy Drake made a motion to accept Roto Rooter as the low bidder. Herman Johnson seconded the motion and it carried 6-0.

**Vote – Vehicle Service Bids** – Virginia said we sent out a bid that we reviewed in the January work session. We re-bid this. We have three bids to service our police vehicles and small trucks. We do not have a qualified provider bidding on the large vehicles. Mr. Dixon said he did not receive a second letter asking his to re-bid. Mr. Johnson asked Mr. Dixon to meet with the safety committee to come up with specs. Ray Davis said we should have asked for credentials. Ernie Preate asked for Ray Davis to also meet with the committee. Kathy Drake made a motion to accept Kost Tire as the low bidder. Barbara Evans seconded the motion and it carried 6-0.

**BOROUGH TREASURER'S REPORT:**

**January 2009** - Herman Johnson made a motion to accept the January 2009 report. Kathy Drake seconded the motion and it carried 6-0.

**February 2009** – Barbara Evans made a motion to accept the February 2009 report. Herman Johnson seconded the motion and it carried 6-0.

The wishing well donations that were made during the ice festival amounted to a little over \$80 and it was put into the account for the junior council members who are trying to raise funds for the monument. Also, Clarks Summit Cauldron did a café during the ice festival and their receipts were put into the general fund.

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They are being allocated toward the council's goodwill account. Gerrie Carey wanted to thank everyone for their help.

**COMMITTEE REPORTS**

**Junior Council** – The junior council drafted a letter that is currently being revised to be sent to local businesses. Ernest Preate said as long as the monument is on borough property, council can extend funds. Junior council said they are interested in putting the monument in the park across from Community Bank. They feel as though it's more accessible. Junior council asked council to front the money for the cost of the stone then get paid back. The amount is \$5,750. Mr. Preate does not know if council can do that because it is taxpayers money. He understands that they need the money up front so they can get the stone but he'll have to check into this. Barbara Grabfelder said that she did not think this was a good idea. She thinks they should get out in the community to get the communities support and raise the money and then come to council to say what they accomplished. She knows they can do it. Mr. Preate agrees with Mrs. Grabfelder that this may take a couple years and it is ok for it to take a couple years.

**AAJRB** – Barbara Grabfelder spoke and the money the joint recreation board receives from the four municipalities goes towards maintenance. They can't use the money to run the parks. They went to the county and the state to obtain money. They received the grant in the amount of \$250,000 for a playground. In between the two soccer fields, they will come right in and totally install it. We will be responsible for maintaining it where we will utilize the contributions from the municipalities. By banning together and making this a regional effort, that's how we're getting the grant money. We were able to access money from landfill and gaming money. That money must be used for recreation. Borough council asked them to investigate in becoming incorporated. The Joint Recreation Board got a volunteer solicitor who did research and drew up a draft. Herman Johnson asked if a copy of the draft could be sent to us. Barbara said she would have it here tomorrow. Barbara Grabfelder also stated the Community Garden is up and running. They had one educational seminar. They have 6 plots left.

**Borough Parks-** Mr. Patrick Williams said he drove through the community to the parks. They did a survey of the Parks.

**POLICE REPORT:**

Chief Louis Vitale gave the February 2009 Police Report, and summary of police related activities.

**BILLS TO BE PAID:**

**January 2009** – Herman Johnson made a motion to approve the bills to be paid for January 2009. Pat Williams seconded the motion and it carried 6-0.

**February 2009** - Kathy Drake made a motion to approve the bills to be paid for February 2009. Barbara Evans seconded the motion and it carried 6-0.

**OLD BUSINESS:**

A date was set for March 31, 2009 at 6:00pm for the Swientisky hearing. Virginia will run an ad and send Attorney Neyhart confirmation of this meeting. Ernest Preate said we did receive a map that was prepared by Mr. Neyhart today signed by a registered surveyor. It will be used at the hearing. Virginia has copies for council she will get out in advance of the hearing. Mr. Preate and Virginia met with Boyd Hughes, the lawyer for Mr. Swientisky. They also met with Mr. Neyhart and they met at the offices of Joe Pelosi who is the permit person for the region for Penn Dot in Dunmore. He will speak to us in executive session. There are things we have to know. PJ McClain was also there from Acker Associates. There are some very significant developments going on.

**NEW BUSINESS:**

Vote – Resolution 2009-04 Submission in digital format – In our work session, we had a demonstration on technology. Virginia did some research and legally we cannot bind applicants to submit applications or plans in digital format. They can request or encourage it, but not require it. Ernie Preate said we can change our ordinance and make it mandatory. He suggests that we have it done through the planning commission, specifically Carson Helfrich. Gerry Carey and Ernie Preate said we will do this next month.

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**BOROUGH SEWER OFFICE REPORT:**

Herman Johnson made a motion to accept the Borough Sewer Report. Kathy Drake seconded the motion and it carried 6-0.

**SOLICITOR'S REPORT:**

Mr. Preate stated that the Highland Ave. Real Estate matter has been withdrawn. Menichello is going to come in with the property transfer. Virginia said this is a property that was improperly subdivided. Mr. Preate is supposed to receive a deed of correction. He has not received it yet. Site Tech has not come in with anything new yet. There is nothing developing on the Walsh property. Virginia said that the engineer said the wall moved. There is nothing to be concerned about yet but it did definitely move. Herman Johnson said he would be concerned because it moved a ½ inch and that is a lot. Ernie Preate wants us to monitor this because spring is here and things will thaw out.

**CORRESPONDENCE:**

**Letter from Michael and Laura Malone** – Virginia said this is regarding the damage from the sewer backup. Ernie Preate said our responsibility ends at the “Y”. He said it is our responsibility to install the backflow preventer and it should be installed on our property at the “Y”. Virginia said we need a decision about the reimbursement. Ernie Preate said they have to go through insurance. Gerry Carey said insurance will cover it minus the deductible. Ernie Preate said we are not going to admit responsibility by paying the deductible.

**Letter from Patricia Foresman** – She is requesting council re-evaluate the snow removal ordinance. She feels as though not enough time is given to address the sidewalks. Virginia said we sent some reminder letters from the office but we have not sited anyone. Virginia read the snow ordinance. Herman Johnson said the ordinance should be changed for residential. Will Ziesemer said other municipalities give 24 hours. Mr. Johnson said it is a management call. Depending on the size of the storm, only a couple plows should be out and the rest shovel. Ernie Preate said he thinks we should go with Will's suggestion of 24 hours. Make it part of the new codification with the street signs, alleys, etc.

**Letter from Ada Thomas and Letter from Linda Phillips** - Virginia said we should consider these letters together. These letters say we should reconsider the increase for sewer that went from \$20 to \$30 a month per EDU. Virginia said council spoke about billing according to usage. She thinks this would be satisfactory to a lot of our residents. Virginia said she forwarded some information to council and we should get working on that. She thinks it would be a good response. Gerrie Carey asked what committee should work on this, possibly the finance committee.

Also, Virginia reminded Gerry Carey that they need to work on the list of committees.

**EXECUTIVE SESSIONS:**

Prior – February 4, 2009 Litigation and Personnel  
February 24, 2009 Litigation

During –

Subsequent – Immediately Following

**ADJOURNMENT:**

Herman Johnson made a motion to adjourn the meeting. Kathy Drake seconded the motion. Herman Johnson suggested that we put on the agenda that we start back up with the community advisory. There are a lot of people out there who want to help out.

**Respectfully submitted,**

**Lori A. Harris  
Borough Secretary**

**Germaine Carey  
Council President**