

**BOROUGH OF CLARKS SUMMIT
REGULAR COUNCIL MEETING
WEDNESDAY, APRIL 1, 2009
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The regular January Meeting of Borough Council was conducted on Wednesday, April 1, 2009 7:03 P.M. The Meeting was held 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 Gerrie Carey, Vice President Patrick Williams, Mr. Roy Davis, Mrs. Kathy Drake, Mrs. Barbara Evans, Mr. Herman Johnson, Mr. Murli Rajan, Mr. Jeremy Adelman, Solicitor Ernest Preate and Mayor Harry Kelly. Also attending were Borough Manager/Secretary, Virginia Kehoe and Chief Louis Vitale. Mr. Kevin Yetkowskas arrived at 7:30 P.M. 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 Mayor Harry Kelly.

PUBLIC HEARING – HIGHLAND ASSOCIATES CURATIVE AMENDMENT

Virginia said council has a copy of the application and all the backup documentation including Will's comments on it. Mr. Dominick Provini submitted a request to council to have the zoning changed from R-2 to CC and use it for parking only. They have been leasing a piece of property by the railroad that they use for parking for 18 years. They have been unsuccessful in purchasing that from the railroad. About 20 employee vehicles are parked there. Mr. Provini went over the location on a map. He said there is an agreement with the neighbor to create a buffer between the properties. They will relocate a fence that they already have. Mr. Preate said that there has to be pins in the ground. Mr. Preate also asked about the retention pond. Mr. Provini said it will drain into an existing catch basin. This is not a surface detention pond. It is a cistern that he will install at his expense. Virginia reminded council that this is just a sketch plan. The parking lot would exit out the current parking lot. They would not add another exit. Mr. Williams is concerned about the amount of traffic on Highland. Mr. Provini has an agreement with the neighborhood association to only use the land as a parking lot.

Will Ziesemer, Code Enforcement Officer, offered his opinion to council. He does not recommend approval of this amendment. He believes commercial areas are to be kept in and/or on the main roads through the community. They should not grow into residential districts and/or on local streets.

Barbara Wiley stated that she and her husband own the property in question located at 116 Highland Avenue. They lived there for over twenty years. She is not concerned with a pizza place open where Convenient was located because they were busy all the time. There are no children on Highland who walk to get the bus. There are some high school students who get the bus on the other side of the dentist office. There have never been children who walk down Highland to get a bus. She then read a letter from her husband who could not be at the meeting. They decided to relocate to North Carolina. A group of neighbors formed the Highland Avenue Neighborhood Association after Highland Associates purchased a home at 112 Highland Avenue, raised the garage and put down rough dimension stone to make a parking lot. A contract was executed and the relations remained stable. Highland Associates kept to their contract. Joann Nicoteri Considine and John Considine, who live at 119 Highland Avenue spoke. They live across the street from the proposed parking lot. They are concerned now that they heard this will be a 37 car parking lot. They are wondering how this will benefit them. There is a concern if/when they sell their home as to who would want to live in a commercial zone. She suggests Highland Associates purchase the railroad property and Spotless Cleaners where it is already zoned for that.

Paula Best spoke and said they just moved there in July. They have always lived on corner properties so they see this as an advantage. They will also gain some footage on their narrow driveway. They support the idea of the parking lot.

Mr. Provini added that he always lets area businesses use the parking lot on weekends for different events such as the Ice Festival and Karate because there is no on-street parking available.

Roy Davis said he thinks there is a concern with Basilico's coming in. That is the variable. This is a successful business in the surrounding area.

Mr. Ray Davis asked if Mr. Provini has considered take out traffic. He thinks it's going to be another Colarusso's situation.

Virginia informed council that we have 45 days from the public hearing to vote on this if they are not prepared to vote on this tonight. Virginia will tentatively put this on the May agenda.

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APPROVAL OF AGENDA: Patrick Williams made a motion to approve the agenda. Kathy Drake seconded the motion and it carried 7-0.

APPROVAL OF MINUTES

January 27, 2008 Work Session: Kathy Drake made a motion to approve the minutes. Murli Rajan seconded the motion and it carried 7-0.

February 4, 2009 Council Session: Barbara Evans made a motion to approve the minutes. Kathy Drake seconded the motion and it carried 7-0.

February 24, 2009 Work Session: Patrick Williams made a motion to approve the minutes. Herman Johnson seconded the motion and it carried 7-0.

PUBLIC COMMENT & INPUT: Gene Gallagher, 205 Barrett Street in Clarks Summit, is confused on how the borough operates. He went over the scheduling of meetings. He is questioning the cancelling of special hearings. There are certain procedures to follow such as advertising and posting of the meetings. Mr. Preate explained that Mr. Boyd Hughes sent him a letter asking for a continuance because Mr. Ray Davis demanded a registered surveyed map. Mr. Swientisky is having trouble receiving this because Canadian Pacific Railroad's maps are located in Canada. He requested that more signage be posted when there is a cancellation. Mr. Williams advised him to look in the red board located by our lobby for any announcements because it looks more professional instead of taping paper to the front door. Mr. Gallagher also mentioned that we should keep the front door cleaner with the snow.

Mr. Ray Davis wanted it on the record that he has been asking at several meetings for a signed surveyed map. He also said the borough should have been asking for this. He wants to know how much of the borough's time was wasted. Mr. Ray Davis thinks the solution is for Mr. Swientisky to make that residential. That is his opinion. Mr. Preate said the borough has to apply for a highway occupancy permit not Mr. Swientisky. Mr. Ray Davis would like to know if he is paid up with all of this.

Mr. Ray Davis would like to see multiple calendar months on the website. He noticed that not all of council has an email address on the website. He should hope that if someone holds a public office that they should be accessible by email. He has a very busy schedule and does not have time for phone calls. He also asked for the ordinances to be posted on the website. Virginia said that will be part of the recodification. Ray Davis said for instance that he is sick of people not cleaning up after their pets. He'd also like to see the snow removal ordinance on their. Ray Davis handed out a letter to council that he wanted on the record. He had some suggestions for savings such as more time needed on parking meter enforcement, police overtime, Federal COPS Program, detail police reporting system, and the police pension funding.

Elizabeth Stein who lives at 404 Summit Avenue addressed council regarding her street needing to be paved. Herman Johnson said we need to come up with a paving program instead of just doing the problem streets. Virginia said many things go into deciding which roads to pave such as volume of traffic, the condition of the road, the condition of the infrastructure under the road, the water and sewer mains, and the storm water system. We try to factor those in when picking those roads. Mr. Johnson said there are some roads that need milling and paving and some that just need an overlay. Virginia said the more scattered the roads are, the harder for the staging and that means a higher bid per linear foot to do the work.

BIDS AND QUOTATIONS: Virginia reminded council that these bids were opened the night before. Virginia did the math and it came out to \$1.30 per linear feet for Roto Rooter. The total pricing for the bids is \$4,067.55 for Mr. Rehab to do the Cameraing, or \$4,598.10 for Roto Rooter. Herman Johnson made a motion to accept Mr. Rehab's bid. Roy Davis seconded the motion and it carried 7-0.

BOROUGH TREASURER'S REPORT: Kathy Drake made a motion to accept the Borough Treasurer's Report. Murli Rajan seconded the motion and it carried 7-0.

COMMITTEE REPORTS:

Vote – Resolution 2009-07 to adopt amended CAP:

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Mike Donahue, Solicitor for the Clarks Summit South Abington Sewer Authority came to give good news and to ask for help. There have been problems with the collection system for our sewers. The collection system is served by each of the three municipalities which it serves. There has been a problem with infiltration of groundwater. Last February and early March, we had a perfect storm with melting ice and rain. There were four instances of bypass which were reported to DEP. DEP issued four notices of violation. That required us to take serious action. There had to be a moratorium for any more connections onto our sewer system. We then prepared a Corrective Action Plan and a Task Activity Report for the Authority and the three municipalities we serve. The plan says they will do several things. We would start by purchasing and installing five flow meters at the major inlets to the interceptor line to the sewer system. The hope is to identify where the main problems are. They worked with three municipal engineers to see what needed to be done in terms of televising and investigation and what was a cost effective way to reduce infiltration. They agreed that the joint authority would front the cost of phase one. All three municipalities recognized that it was both an environmental and an economic problem and they went along with us. Clarks Summit approved the memorandum of the agreement of the corrective action plan that they submitted to DEP and agreed to commit to going forward and they agreed to the task activity report called for by that plan. The PA code calls for submission of those documents to DEP for them to review and hopefully approve and to start to release connection permits. We are very proud of the package because it showed cooperation and recognition of the problem. It was very important to install the flow meters at a time when water was flowing. The municipalities were asked to take a leap of faith and agree to have them installed before DEP gave approval. Last week, they went to a meeting at DEP to ask if the corrective action plan and the task activity report were accepted, and to say that they needed the connections released so economic activity could be restored. Virginia came with us to this meeting and she was a great team player and a great help. She spoke on behalf of the borough and in support of the joint authority. Her presence was a great help. They also brought Tom Browning, the chief executive assistant of Senator Mellow for his presence. DEP gave us their suggested changes in the CAP. The author of the plan, Jim Elliot, is with us tonight. We have incorporated those changes into the amended plan. Today, at 4:00 PM, we received an email from Kate Crowley, the program manager of the water management program of DEP. The CAP, subject to the enactment of an amended 537 plan, is approved. The Task Activity Report is acceptable. Everything we do will be eligible to be partially paid by a DEP grant. Upon the passage of the resolutions, the 264 edu's are released. Those are all the edu's that will be needed by the three municipalities based on their projections approximately for the next five years. Mr. Williams asked if the sewer authority could handle that many edu's. He was told that they could. Mr. Preate asked for a timeframe when they will have data available in order to make decisions. The mapping of the sewer system is underway and expected to be complete in May or June. The flow meter installation started in March and has been done for about a month. They will meet with representatives in the communities the day after the sewer authority. The next thing they kick off is projections for population. Herman Johnson made a motion to accept resolution 2009-07. Barbara Evans seconded the motion and it carried 7-0.

Jr. Council Update:

They met with Mr. Rajan concerning funding for the memorial project. About 400 letters will be sent out to area businesses. A copy of the letter is in the packet. They are requesting help stuffing envelopes. Gerrie Carey asked if any classmates will help with the envelopes.

Vote-replace REIT for Police Pension from Piedmont Office REIT to Grubb & Ellis Healthcare REIT:

Barbara Evans made a motion to accept the transfer of monies to Grubb & Ellis Healthcare REIT. Kathy Drake seconded the motion and it carried 7-0.

Great NEPA Cleanup:

Patrick Williams said on April 18, 2009 we will be participating in this cleanup. The county is offering supplies. He asked if we can ask everyone in the borough to assist. It is going to go from 9am to 3pm. We will meet at the borough building. Virginia asked if council was interested in tire recycling. The County cannot accept tires until the week after our clean up. Virginia said the County is asking for a \$2 donation for a regular tire and \$5 for a truck tire. We need some volunteers to be at the DPW during the time for the tire drop off. Council decided to have the tire drop off on April 25th.

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POLICE REPORT: Mayor Harry Kelly wanted to acknowledge the great job the police department did in the recent burglary ring. He was up to see the extensive inventory of stolen merchandise. Chief Louis Vitale gave the March 2009 Police Report and summary of police related activities. They seem to be getting more calls regarding scams. Herman Johnson asked if there was a class the police can hold. Herman Johnson would like a letter of appreciation sent to Officer Orzalek for the job he has done on the burglary case. Virginia offered to write the letter. Mr. Williams had some questions for Chief Vitale about seatbelt money from the county. We do get reimbursed. He also asked if the police have used the preventative maintenance program at KOST. There was also discussion about a taser and a CPR update. Ernie Preate suggested a written policy on the taser.

BILLS TO BE PAID: Kathy Drake made a motion for the bills to be paid. Barbara Evans seconded the motion and it carried 7-0. Herman Johnson said he'd like to see the documentation that Swientisky is being billed and is reimbursing us. Virginia said she will get back to him with the exact billing and payment. Pat Williams asked about billing for Emris Kehoe. He is questioning the amount. Virginia said it is for multiple invoices. She is going to be going by Em's Cleaning from now on.

OLD BUSINESS:

Vote-2009-02 COLA Adj for police pension – Herman Johnson made a motion to table this. Murli Rajan seconded the motion and it carried 7-0. Mr. Rajan just received the information last night and he'd like to look it over and get more information.

Vote-2009-04 Submission in digital format – Herman Johnson made a motion to accept resolution 2009-04. Murli Rajan seconded the motion and it carried 7-0.

Vote-2009-05 Thank you to Bob Bennett – Herman Johnson made a motion to accept resolution 2009-05 thanking Mr. Bennett for his services as a councilman. Pat Williams seconded the motion and it carried 7-0.

NEW BUSINESS:

Vote – 2009-06 CDBG – Virginia said we made a decision to dedicate this money to housing rehabilitation for the low income and that we are moving money from a different fund because it wasn't needed in 2006. It will be moved from the Sheridan Avenue project to the Bedford Street project. There are 26 curb cuts that approved for the project. Kathy Drake made a motion to accept this resolution. Barbara Evans seconded the motion and it carried 7-0.

BOROUGH SEWER OFFICE REPORT:

N/A-will be included with May's report. The reports are not out from the water company. Virginia will have them tomorrow.

SOLICITOR'S REPORT:

Mr. Preate said there is a request for an ordinance for a municipal utility alliance, a PP&L project. This would allow us to buy electricity cheaper as a pool. We need to set this on the agenda for May and vote on it in May. It needs to be advertised.

Regarding the Menichello/Kieve property on Colburn, Justin Sula filed a deed of correction on March the 19th on that property they had originally joined together into one property and put a house on it. They decided to break it down into two parcels again. Will Ziesemer said the prints and application will be going to BIU for review.

Pat O'Dell has the property on Barrett Street which is one deed, two parcels and the one parcel is only ten feet wide. He wants to put an addition on that will be 15 feet from his property line but only five feet from the parcel line. The question is how we look at that because he meets the setbacks on the size of his property, is he making the setback when he's only five feet from the parcel line? Virginia had asked for direction. Will said there is going to be a variance. This has a bearing on his lot coverage issue that will require a variance. That 10 foot parcel actually is a property line and requires the issue that it will increase by 10% his lot coverage. We have an issue that is before us where we have to overcome these issues. With this small ten foot parcel, it will cost us a small sub-division to go through this which could cost the applicant up to \$3,000.00 with the engineering costs.

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Mari VanWie spoke in regards to the Grandview property. Jack Nogi refused to speak to her. She is asking for Ernie Preate to speak for the Grandview Association on legal issues. Noto has already started clearing the lots for the townhomes. They will be very close to Nogi's property. She wants to protect the property from people driving on the property to view the new townhomes. Noakes is waiting for Nogi to sign his property over. Another issue is the watering. Mari said they already came up with money that was given to the borough. Gerrie Carrie said Nogi gave his word of honor. He is waiting for the Shade Tree to put the flowers in. The Shade Tree was going to design it but volunteers would put them in. Herman Johnson made a motion to Madame President for Ernie Preate to handle all the legal issues and do the talking for us. Roy Davis seconded the motion and it carried 7-0. Barbara Evans thanked Mari for her help.

On March 4th, Mr. Preate met with Mr. Joe Pelosi from Penn Dot regional. We received a letter from him giving us notice that we are responsible for what happens on Grove Street, not them. They said we never got a permit to exit that road and there is no grandfathering in. Swientisky doesn't have to apply for a permit because he exits onto the alley which he thinks is public. Neihart and the Ryans think it's private. Pelosi said to figure out who owns it. No matter what happens, someone needs to apply for a permit to get onto our road on Grove Street. Mr. Preate thanks us for putting up the stop sign. Virginia discovered a Penn Dot map from 1923 that calls it Barrett Street. In 1934 is when the Council put the sewer main down there. We started taking care of it over the years. Mr. Preate said he asked for a registered survey with a deadline of March 18th to submit that. They knew they couldn't meet that deadline so they filed for a continuance. This is rescheduled for the end of May. At that time, he has to have the registered survey.

Herman Johnson presented the police department and the DPW with an emergency radio compliments of the EMA.

CORRESPONDENCE:

EXECUTIVE SESSIONS:

Prior – March 4, 2009 Litigation

During –

Subsequent – None

ADJOURNMENT:

With no further business before council, Barbara Evans made a motion to adjourn at 11:27 PM. Murli Rajan seconded the motion and it carried 7-0.

Respectfully submitted,

**Lori A. Harris
Borough Secretary**

**Germaine Carey
Council President**