

**BOROUGH OF CLARKS SUMMIT
MARCH SPECIAL MEETING
TUESDAY, APRIL 28, 2009
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The April Special Meeting for Borough Council was conducted on Tuesday, April 28, 2009 at 7:02 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, Mrs. Kathy Drake, Mrs. Barbara Evans, Mr. Herman Johnson, Mr. Murli Rajan, Mr. Kevin Yetkowskas, and Mayor Harry Kelly. Also attending were Borough Manager/Secretary, Virginia Kehoe. Mr. Roy Davis arrived at 7:04P.M., Will Ziesemer arrived at 7:05P.M., and Solicitor Ernest Preate arrived at 7:10P.M. Mr. Jeremy Adelman was absent. There being a quorum present the Meeting was called to order by Council President.

SPECIAL MEETING:

Dr. Kareha – Mr. Herman Johnson, EMA director, requested Dr. Kareha join the meeting to speak to council about the Swine Flu. There are about 100 people affected by the Swine Flu across the country. Dr. Kareha said the Swine Flu is the latest in the long strain of pandemics scares we've had in the United States. We've had the Bird Flu, SARS, and West Nile. The last pandemic that actually affected the United States and was labeled as a true pandemic was in 1968, it was the Hong Kong Flu. The young and the elderly are most at risk. There are simple precautions you can take. The best way to protect yourself is hand washing. If you feel sick, stay home or go see your doctor. Also, use good hygiene and cough and sneeze into your sleeve. He said last he checked, we have had 50 reported cases in the United States. He stated that the treatment is the same as the flu, including Tamiflu. The general healthy population is not at risk of death from this. He strongly suggests getting the flu vaccine. Roy Davis asked if it would be helpful for council to place an ad in the paper with some preventive measures. Dr. Kareha says it's a good idea to remind people about washing their hands. Herman Johnson said he didn't think a newspaper article is a good idea because he doesn't want our elderly population to over-react. Roy Davis thinks it would be good for the residents of the community to be aware that we are meeting regarding this matter. Mr. Johnson said the EMA would like to document a film along with the DPW, police department, and Fire Company on how to evacuate this town. Herman Johnson said he doesn't think residents are aware that the Borough Building is a certified national defense building and the elementary school is a meeting place in case of a disaster. There was a suggestion that it should be posted on the website. Mr. Johnson is just concerned about the citizens. He would like them to know what to do and where to go. Gerrie Carey said the council would authorize anything he would need to do to get started on this.

Dr. Sundheim – Addressed Council about the poor condition of the 400 and 500 blocks of Colburn Avenue. He states he has spoken to Council many times about this. He states that it needs more than resurfacing. Virginia said that the 400 and 500 blocks of Colburn are on the list of streets to be paved. The utilities have all been notified. Dr. Sundheim thanked Council.

Mr. Jim Michaels – Resident of 521 Knapp Road spoke to Council. He handed out three documents to Council. He is requesting an open burning ban in the Borough. Virginia reminded Council that last year we passed an ordinance regarding fire bowls and chimineas. Mr. Michaels said a permit can be obtained from our Fire Department free of charge for burning during daylight hours. The fire company is tasked with enforcement. There is no limit on the number of burning events. Smoke contains a lot of fine particles that aggravates lung conditions. In the last month, there have been several burn instances on Knapp Road where they were burning yard waste. He does not think any garbage is being burned. It is not in a barrel but in a pit. He knows that one person has a permit. Lackawanna County is part of a clean air action. A burning ban would also help global warming. There was a burn advisory on Saturday, so he called the police who determined they did have a permit. He said in his opinion there is no need to burn anything with the DPW picking up branches and leaves and the trash service with J.P. Mascaro. Herman Johnson said maybe we need a fire marshal. Gerrie Carey said this is the first complaint we've had. Mr. Michaels said maybe we can come to a compromise where we can limit the amount of burns a resident can have. Gerrie Carey said we can look into this. Pat Williams asked Virginia to contact the Fire Department as to how many permits have been issued.

Ordinance 2009-04 – Virginia said this is what the Planning Commission is sending with regard to nuisances. This is the rewrite reflecting the changes. Virginia said she advertised this and the other

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ordinances Council will receive tonight. Herman Johnson suggested that Ernie Preate receive ordinances before Council received it so he can review it. Roy Davis said he disagrees, he wants them at the same time as our solicitor. Virginia said we don't have to vote on this at the next meeting. Mr. Preate said this is very detailed. He would like time to study this and meet with one or more representatives of the Planning Commission. He was hoping that we wouldn't need to vote on this next week.

Ordinance 2009-10 - Virginia said this is the verbiage for the request that was put before us for Highland Associates. We had our hearing last month on this and we have 45 days to take action on this. Mr. Preate said this is a Curative Amendment, it can be voted on or rejected. He thinks we should take action on this because there is a transaction of property at stake. Mr. Rajan was reminded that only one neighbor did not approve of this. Mr. Preate said the objection was mild and Mr. Provini addressed the concern with landscaping and not letting traffic engage in front of her property. Mr. Provini said in the agreement it states that they would not build on the lot, only use it for parking. Mr. Rajan is concerned with the encroachment up the hill. Mr. Williams added the safety issue saying Highland Avenue is a highly traveled intersection. Mr. Williams asked if they considered exiting on Colburn Ave. Mr. Provini said Colburn is closed off with a chain link. Ernie Preate said he does recommend this. He is very concerned with the employees parking by the railroad and walking to Highland Associates. Virginia said it would be a benefit to the Borough to prevent those employees from walking there. Virginia said even if Council changes this zoning district to CC, a parking lot is still a conditional use. Mr. Provini would still have to go before the Planning Commission and this Council before the actual parking lot could be installed because of land development. Mr. Preate says Mr. Provini has been a good neighbor and has done so many good things for this Borough. It would take a court action to remove the Curative Amendment. Mrs. Wiley said the stop sign at the top of Highland slowed down traffic. Pat Williams said the addition of a restaurant will not help traffic. Mr. Provini said the most traffic will be after 5:00 PM for dinner time and at lunch time. Mr. Provini is willing to open up Colburn if necessary. Mrs. Wiley said there was a concern about cars using the parking area to cross over to Highland and that is why Colburn was chained off. Virginia mentioned that there is a lot of traffic on Colburn from the Civil League after 4:00 PM. Herman Johnson said we should move forward on this and have Virginia place this on the agenda for the Council Meeting.

Virginia stated that the Swientisky vote needs to come up before end of the month. Additionally, we have another request that came in today that requires a public hearing. Virginia handed out packets to Council. She recommends that we make this part of the meeting on the 26th since we will already be meeting for our work session. She can advertise and we can vote on these two issues if we are ready to vote. Ernie Preate added that the Swientisky continuance request started on March 31st and has given us 60 days. The reason for the delay is they weren't able to deliver us a valid map from the surveyor. They were still waiting for a map to come in from Canadian Pacific. Mr. Preate would like to write a letter to Boyd Hughes saying that we were promised a map in February and then in March. It's the end of April and we still don't have a map. Mr. Preate said he would like the map looked over by our engineer when we receive it because it might conflict with the Ryan's map. Roy Davis didn't think we should have to pay for that if we were to receive a certified map. Mr. Preate said the Borough has an obligation to review plans that are submitted to see that they are proper. He also said the cost is always the responsibility of the applicant. Mr. Preate stated that we can put a lien on Mr. Swientisky's property if he does not pay the bill. Virginia stated that the bill is already close to \$10,000. Mr. Preate said he will send Mr. Hughes a letter telling him we need proper maps two weeks before the meeting so we can properly evaluate them. Virginia said the maps will have to be in by May 12th because the hearing will be on May 26th. Will Ziesemer, Code Enforcement Office, spoke regarding this issue. If the building is the issue it would be a construction issue in zoning. He would take care of that with the final inspection and not issue him an occupancy permit. We have two things involved here which is conditional use and land development. The parking area deals with land development. They are two different issues and the Planning Commission said they had to be done together and reviewed together. Only the conditional use is coming before Council, we never got an application or fee for land development.

TEFF – Virginia received a fax request for a public hearing for a transfer of a liquor license. Virginia will put this at the June meeting unless there is an issue with the facts provided.

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Ordinance 2009-08 - Virginia explained that in order to participate in a purchasing alliance of electricity, we need an ordinance. It's working as part of a group to negotiate the best electric generation prices. Mr. Preate has reviewed this and is comfortable with it. Mr. Preate said this is very important because electric rates are going up dramatically.

Ordinance 2009-09 – Virginia explained that this is an ordinance banning parking on a portion of School Street because of a wall.

Junior Council Update – Virginia will have a total amount of donations received so far for the Council Meeting. They did ask for an additional twenty copies of the letter requesting donations.

Resolution 2009-02 – Cost of living adjustment for Police Pension. Murli Rajan spoke and said granting this COLA is not going to make a huge impact. Roy Davis said we have three or four officers who could retire in the next three or four years. He does not recommend this increase on the advice of Mr. Williamson. He thinks we should pass on this because of the atmosphere. This will require a vote next week.

Ricardo Pereira – 203 Colburn Avenue – Virginia said two years ago a property owner bought a house that was a two family home. He converted in to one family but left the water in two accounts. He just realized now that he's getting two sewer bills. They have that straightened out but he's now asking that we go back the two years that he's lived there and reimburse him. It's roughly \$600.00. Roy Davis said that if he could go back and show that two years ago he converted the water from two services to one and the water company's records could show that, he would say reimburse him.

Colman Letter – Virginia said the Colman sisters sent a letter to Borough Council asking for a donation for their trip to Kenya. Council agreed that if you give to one, you have to give to all, therefore we cannot make one.

Grandview Update – Ernie Preate gave Virginia a copy of the judge's order on Grandview Street for our records. He said they had a conference yesterday and the judge set down some new guidelines. He has two months to get everything together. Mr. Preate said he feels comfortable where we are. This is a trial by a jury of twelve. The trial is set for September 25, 2009. It's firm. It's not going to change. He feels that if this is properly presented, we have a winner. He can make a good argument to the jury not to grant them any money. This is all about their damages. Even though we closed Grandview, they had the road come in from Country Club Road and Shady Lane. It's not about whether we have the money to pay but when we took the road, did we take their property and caused them damage. Mr. Preate is encouraging the Shade Tree Commission to plant. Donna Zagraban did the design plans. Roy Davis agreed with Mr. Preate and said to just get the planting done.

Zoning Ordinance – Virginia said our zoning ordinance is vague. There is verbiage that is confusing. If somebody has two parcels, our zoning says in an R-1 you have to have minimum of 90 foot frontage. They have two parcels, 40 feet each so they are at 80 feet. They are already nonconforming. But, because it's two parcels, that are both nonconforming, can they build two homes? Mr. Preate's answer is yes, they can. Mr. Preate says we need an amendment to the zoning ordinance. We are a small borough and our ordinance prohibits growth. It says if you have one owner and he gets the lot that's next door to him, then you have to combine the two and you can only build one house. Virginia said Ernie Preate needs to draft an amendment. Mr. Preate said it was already drafted by the Planning Commission. It was determined that this was discussed at the meeting, it was not voted to be sent to Council as of yet. They are still working on that.

ADJOURNMENT:

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

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Respectfully submitted,

**Lori A. Harris
Borough Secretary**

**Germaine Carey
Council President**