

BOROUGH OF CLARKS SUMMIT
July Council Meeting
Wednesday, July 1, 2009
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The July Regular Meeting for Borough Council was conducted on Wednesday, July 1, 2009 at 7:05 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, and Mayor Harry Kelly. Also attending were Borough Manager/Secretary, Virginia Kehoe and Chief Louis Vitale. Solicitor Ernest Preate arrived at 7:07PM. Mr. Rajan was absent. There being a quorum present the Meeting was called to order by Council President.

CALL TO ORDER: President Carey called the meeting to order and completed role call.

MEDITATION

PLEDGE OF ALLEGIANCE

PUBLIC HEARING – COMCAST CONDITIONAL USE

Vote to authorize conditional use –

Mr. Willard Ziesemer, Borough Code Enforcement Officer, was sworn in. Mr. Ziesemer read off a handout. He has completed a review of the Comcast Plan Conditional Use submittal. The hub station building is located on the back side of the upper parking lot at the Elementary Campus in an underdeveloped area of the campus, mostly secluded from site. This was approved by the Borough in March 1998. The original and /or new lease agreement and approved land development drawing only show an area on the school property but no lease lines were or are established for setback criteria. The original agreement between the cable companies dated back to 1983 with a steel tower adjacent to the E. Grove St. Annex Bld., redone 1998 where the current structure now resides.

Tony Bernardi Jr. represented Comcast. Comcast is updating their facilities and that is why they are putting on the expansion. Mr. Preate asked why they wanted to put the building on. The Regional Building Manager for Comcast, Randy, spoke. He explained that they have outgrown the building. They would like to add more cable channels and more services. They are out of space. Kathy Drake made a motion to allow the conditional use request of a 10'x12' addition. Roy Davis seconded the motion and it carried 6-0.

APPROVAL OF AGENDA:

Patrick Williams made a motion to approve the agenda as presented. Roy Davis seconded the motion and it carried 6-0.

APPROVAL OF MINUTES:

Kathy Drake made a motion to accept the May 26, 2009 Work Session minutes. Barbara Evans seconded the motion and it carried 5-1. Mr. Herman Johnson pointed out a correction with the writing on the Mission Statement. Mr. Preate verified that everyone agreed with this technical correction.

Barbara Evans made a motion to accept the June 3, 2009 Regular Meeting minutes. Kathy Drake seconded the motion and it carried 6-0.

PUBLIC COMMENT AND INPUT:

Gene Gallagher who lives at 205 Barrett Street in Clarks Summit spoke about the legal cost for Swientisky. He is wondering what action has been taken since he does not see this on the agenda. Virginia Kehoe said bills were sent off. He thinks we need a little more action than sending out another bill. Gerry Carey said there was a lot of litigation going on with this. We are following the lead of our Solicitor. Mr. Johnson said that this is the fourth notice sent out and it's over \$10,000. He thinks we owe it to our citizens to start

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collecting some of that money. He doesn't think we'd be overstepping our bounds with the solicitor. Mr. Preate said it is a fair question. Mr. Swientisky is going before the Zoning Hearing Board on the fourteenth. He does agree that we should collect some money. Mr. Preate suggested that Virginia ask Mr. Swientisky for a payment at the time of the Zoning Hearing Board Meeting.

Ray Davis, 211 Barrett Street, spoke to Council about residents cleaning up after their pets. He wants to know if dog laws are being enforced in the Borough. He also brought up the Police Reporting System. If we had this in place, he wouldn't have to ask this question. He wants to know from the Chief what citations have been issued. He suggests that we have stronger wording on our electronic bulletin board. He also asked why we have a sign at the bottom of the hill regarding the left lane. The police department contacted Penn Dot to ask for help with traffic because of the construction on Interstate 81. The police department does enforce that. Mr. Ray Davis offered to sit down with the police department and do a managerial study as to how much time it takes to complete a task. Mr. Ray Davis asked if we have had a Watermill Hearing for Mr. Kopicki. Mr. Preate said it's being taken care of. He can't say anything else because it's in litigation.

Charlie Martin from Grandview Street and the President of the Grandview Neighbor's Association read a letter to give an update on the closing of the street. On June 16, 2009, Carl and Mary Noakes deeded their portion of the closed road to the Grandview Street Neighbor's Association. They have placed no trespassing signs up. He also has a copy of the deed. Mr. Preate clarified what they own in conjunction with Nogi, as the property is a ½ undivided interest. There was discussion of soliciting money to pay insurance on the property etc. Council and Attorney Preate congratulated the Grandview Neighbor's Association on their work.

BIDS & QUOTATIONS: None.

BOROUGH TREASURERS REPORT:

Herman Johnson made a motion to accept the Borough Treasurer's Report. Barbara Evans seconded the motion and it carried 6-0.

COMMITTEE REPORTS:

Pat Williams stated that Mr. Barrasse's office sent over some people to work in the Borough. A list of projects was submitted. There was also discussion of the work completed on Landsdowne Creek, the work these men did and the flushing of the creek. There was discussion of how much money they saved the Borough.

POLICE REPORT:

The Police report for the month of June was presented by Chief Vitale. There was discussion of hours being worked by police and the suggestion of perhaps hiring another full time officer. There was paperwork done to take steps toward the Federal Program for hiring officers. There was also discussion of incorporating a Civil Service process as soon as possible.

BILLS TO BE PAID:

Kathy Drake asked about charges from the EMA account and Code enforcement costs. The charges were explained by Herman Johnson and Virginia Kehoe. Barbara Evans made a motion for the bills to be paid. Kathy Drake seconded the motion and it carried 6-0.

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OLD BUSINESS:

Vote – 2009-04 Nuisance Ordinance – President Carey stated that after last night’s work session Council is ready to vote on this ordinance. Herman Johnson made a motion to accept this ordinance. Barbara Evans seconded the motion and it carried 6-0.

Vote – 2009-09 Teff Liquor License Transfer – President Carey stated that this was also discussed at length at the Work Session meeting. Herman Johnson made a motion to grant the Liquor License Transfer. Mr. Emmett answered questions regarding the license. A Clark Avenue resident expressed concern about increased traffic flow and speeding if this were to be allowed. Attorney Preate discussed such concerns and also addressed Mr. Emmett’s right to operate a business and earn a living. There was discussion of parking situations and accommodations. There was discussion of whether Mr. Emmett could or would ever change the frontage of his property. The motion was seconded by Kathy Drake. The motion carried 4-2 with the understanding that Mr. Emmett does not seek to have this license used to create a full blown restaurant or to sell hard liquor. Pat Williams and Barbara Evans voted nay.

Vote – 2009-02 Resolution re: Police Pension COLA – President Carey explained that the Pension Board Financial Advisor has stated that the Pension Plan is nearly fully funded and that they could provide 100% of the COLA, but the Pension Board has suggested recommending 50% COLA, which would be just under 2% increase. The only individual who would be impacted by this would be Officer Featherman.

Mr. Davis spoke and verified that the Pension Plan is healthy enough to bear this 50% COLA increase. He did express his concern against the establishment of any sort of automatically recurring COLA, in light of potential future economic problems. He wants to be certain that it is up to Council to vote on a COLA each and every year. Mr. Johnson agreed with Mr. Davis’ assertion.

Roy Davis made a motion to accept the Resolution, offering the 1.9% COLA. The motion was seconded by Gerrie Carey, who momentarily stepped down from the Presidency to do so. Vice President Patrick Williams acted temporarily as President. Chief Vitale asked about the dollar impact for the year. That would be approximately \$300 for the year. Chief Vitale commented on the fact that Officer Featherman has lived in the Borough for 30 years and that this would not be a positive thing to deny him this COLA. He commented on the possible opinion of those in the Collective Bargaining agreement and the possibility of them grieving this decision. Herman Johnson and Roy Davis commented on this. The motion did not pass. Herman Johnson, Barbara Evans, Kathy Drake voted nay. Gerrie Carey and Roy Davis voted yea. Patrick Williams abstained.

NEW BUSINESS:

SOLICITOR’S REPORT: Attorney Preate stated that Grandview’s Discovery deadline is next week and that he continues to meet with his experts. He also stated he received a huge amount of materials from South Abington which was extremely useful. He is waiting for information from Penn Dot. He stated the motions need to be filed in August for the September trial.

He stated the Kopicki matter is before the Workman’s Compensation Hearing Officer and they are moving to get it resolved. Nextel has had two meetings continued with the judge. He anticipates a meeting being rescheduled within the next two days, which Virginia and Gerrie should attend.

Vote – 2009-13 – CSSAJSA 537 resolution – DEP accepted the Borough’s corrective action plan and will not fine any previous bypasses if the Borough adopts the CAP as part of its 537 resolution. Mr. Johnson made a motion to approve this resolution. Mrs. Evans seconded the motion and it carried 6-0.

BOROUGH SEWER OFFICE REPORT: Was not available in time for the meeting.

CORRESPONDENCE: None.

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EXECUTIVE SESSIONS:

Prior – June 30th Litigation
During – None
Subsequent – Immediately Following

ADJOURNMENT:

There being no further business before Council, Barbara Evans made a motion to adjourn. The motion was seconded by Kathy Drake and carried 6-0. The meeting adjourned at 9:14 p.m.

Respectfully submitted,

Katie M. Bower
Borough Secretary

Germaine Carey
Council President