

**BOROUGH OF CLARKS SUMMIT
AUGUST COUNCIL MEETING
WEDNESDAY, AUGUST 5, 2009
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The August Regular Meeting for Borough Council was conducted on Wednesday, August 5, 2009 at 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 and Solicitor Ernest Preate. Also attending were Borough Manager/Secretary, Virginia Kehoe and Chief Louis Vitale. Mayor Harry Kelly arrived at 7:08PM. 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

APPROVAL OF AGENDA:

Patrick Williams made a motion to approve the agenda as presented. Roy Davis seconded the motion and it carried 7-0.

APPROVAL OF MINUTES:

There are no minutes to vote on tonight. Virginia just received them today.

PUBLIC COMMENT AND INPUT:

Ray Davis, a Clarks Summit Resident, said he read in the paper that South Abington Township was performing sewer inspections. He wants to know when Clarks Summit Borough is going to perform inspections. Mr. Ray Davis asked if Virginia could contact South Abington Township regarding the No Turn On Red sign at the traffic light for Weis Markets. He called Penn Dot who sent him to South Abington. He contacted South Abington and he has not heard back from them in about four months. He also asked Virginia to speak to the Web Master to add Ordinance 2001-08 to the site. He also wanted to speak about the Police Report. Mr. Davis said the Mayor, on paper, runs the police department. Council sets the budget, the Mayor doesn't hire or fire either. He asked Council to look over the police reporting system that Clarks Green, Newton Ransom and South Abington uses. He says there is a lot to get done in the Borough and he pays a lot of taxes and wants to know what the police are doing. They may be doing a great job and this reporting system would tell you that. You have no idea how the police are being used.

John Appleton, an attorney for Highland Associates, spoke to Council about the decision on the parking lot. This is a land locked property. Someone would have to drive through the other property in order to get to the parking lot. He read the section of the ordinance regarding public parking. He says where it says "or for customers or clients" is where the opinion of Mr. Appleton and Mr. Kranick differ. It's the word "or" that is exclusionary not additional. He's asking when it comes down to Council looking at this, he appreciates Council looking in to how the ordinance is written and the use of the word "or". Virginia said the Planning Commission sent a recommendation to Council with some contingencies. One was the approval of the variances including this accessory use. The Zoning Hearing Board decided that this was not an accessory use by their standards but a conditional use. If this is deemed an accessory use, we can vote on this tonight because we have the recommendation. If it is a conditional use, they need to apply to the Planning Commission. We would then get their recommendation, we'd have a hearing and then vote on it. Mr. Preate said because it is not on the agenda, he doesn't know how we can take action. Herman Johnson said as the EMA director, he still has some issues on Stormwater. Mr. Preate said Council needs to speak with Zoning and Planning because it may be that both parties are involved. Will Ziesemer said we have a timetable on the land development. He will meet with Virginia tomorrow. Mr. Preate said he'd like

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to get this resolved this week. Virginia will send a fax to Mr. Appleton to sign off on and specifically say the time limit is waived until September 2, 2009.

Victor Alfano wanted to thank council, in particular, Herman Johnson, Patrick Williams and Virginia Kehoe for having Lansdowne creek cleaned. He is very thankful.

Matthew Swientisky read a letter to Council. He wanted to clear up some rumors. He said he has offered for Council to walk through the property on Grove Street to prove the building was built as a residence. He never had intentions on living there. He currently owns four properties in Clarks Summit. He says he is a tax payer in the Borough and is concerned about the town. He thinks Council is does a wonderful job. He says Council is very responsible and devote a lot of time. Mr. Preate thanks Mr. Swientisky for being a good resident. He publically commends Mr. Swientisky for reading through a mistake on the survey. Mr. Preate says there remains a bill for all the time the engineers, staff, and he had to spend in regard to that. Council has received complaints from the public about the fact that those expenses should have been paid. We have given extensions of time. Mr. Preate sent a letter to Boyd Hughes, Mr. Swientisky's Lawyer, last week asking for at least half of the payment. Another rumor is that there is litigation pending regarding the property. Mr. Swientisky was never served with any papers regarding the suit. He was informed by his attorney that it is not a valid lawsuit unless he is served. He is in agreement with the survey lines of his neighbors. He built the Grove Street residence on the layout of a registered surveyor. Unfortunately, his layout was not correct and he is forced to ask for two variances which do not affect any neighboring properties. He's also requested a conditional use of the property as provided in the zoning ordinance. He is asking Council's assistance in bringing this to a close, one way or another. Herman Johnson said he questions who owns the road. Mr. Johnson said he thinks that litigation is to see who owns the road. He has a concern for the taxpayers for the amount of money that is due to the Borough. Mr. Preate said it was the intention of the Borough to have a portion of the road dedicated to the public. Mr. Swientisky said in 1936, Clarks Summit put the sewer lines in. Mr. Preate said the Borough Council at that time believed it was a public road. The litigation that Mr. Swientisky is referring to is by the Ryans against Mr. Swientisky. It was not served on him. It was for adverse possession and also seeking to claim that the road was there too by adverse possession. Unfortunately, adverse possession law says it doesn't run against the municipality. Mr. Preate said he asked Mr. Neyhart to either serve the lawsuit or withdraw it. Mr. Preate said he will follow that up. Patrick Williams said he feels as though Mr. Swientisky owes us that money. We should get paid for the engineers, attorneys, etc. for a situation he created, not us. He doesn't think he should ask us to move forward when he hasn't paid us the fees he owes us. We spent a lot of time on this. Virginia did say we received a payment for a sewer issue. Mr. Ray Davis said he has never seen a survey that was signed by an engineer. He has been requesting to see that. He also suggested having an electronic version of the zoning ordinance online.

BIDS & QUOTATIONS:

Sewer Repair Bid – Virginia said the bids were opened on Monday. There were eight bidders. The bids were all over the place. At the Engineer's request, she faxed the two lowest bids for review. Everything has been submitted that is needed. On the Engineer's recommendation Virginia suggested a motion to accept the bid from Stark Enterprises for \$44, 468.00 for sewer repairs prior to the taping. This is spot repairs. Mr. Preate verified that these were all timely bids from qualified bidders. Barbara Evans made a motion to accept the bid. Herman Johnson seconded the motion and it carried 7-0.

BOROUGH TREASURERS REPORT:

Virginia said there is no Treasurer's Report because Christine was on vacation all week. We will have the Treasurer's Report for July and August at next month's meeting.

COMMITTEE REPORTS:

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Virginia said on September 2nd at 7:00PM Bo Hoban will be doing his presentation on the neighborhood initiative and then per our work session we'll award Judge Barrasse with a plaque thanking him for this wonderful initiative that has really benefitted our residents and our Borough.
Pat Williams said the bridge is in place on Midway for handicap access to the front of the house.

POLICE REPORT:

Chief Louis Vitale went over the July 2009 Police Report. The Chief did say they received a letter about a concern on Lansdowne Avenue. The letter suggests prohibiting a left hand turn. Another letter received was a complimentary letter on a mental health case that three officers handled. The officers brought the gentleman to the hospital for evaluation without incident. Herman Johnson asked about the amount of overtime. Chief Vitale said it was because of vacation time. Chief Vitale said he will check on the letter sent by Council to Officer Orzalek regarding the theft ring. Mr. Johnson asked if the Chief thought there were more accidents because of the traffic being diverted off of Interstate 81. The Chief said last weekend Interstate 81 was completely shut down. All the traffic was coming through town last Friday. Chief Vitale passed out a letter regarding some issues Mr. Williams brought up regarding staffing. This is in response to some things we talked about at the last meeting. Virginia said she called all three members of the Civil Service Commission and told them we needed them activated. Mr. Johnson asked Virginia if we have any idea when they will meet. Virginia said she would follow up with them. Herman Johnson said he was shocked to see that there was no police department in Northeastern Pennsylvania that received any of that COP money to hire any police officers.

BILLS TO BE PAID:

Barbara Evans made a motion to pay the bills. Kathy Drake seconded the motion and it carried 6-1 with Herman Johnson voting nay. Mr. Johnson said he didn't have time to review the bills to be paid. He thinks Council should get a list of bills to be paid at least a couple days ahead of time. Mr. Roy Davis said in order to expedite the actual procedure, he thinks we have to vote on things but always follow up on them. Virginia said she will have a copy of the bills to be paid emailed and/or a hard copy in Council's mailboxes the Monday before a meeting.

OLD BUSINESS:

Polednak – Virginia said this is the vacant property at the end of Knapp Road. Another inspection was performed since the last Work Session on July 31, 2009. Will, Virginia, Herman Johnson, and Bob Naegele the Engineer were all present. Bob Naegele stands by his initial letter. Will gave Council a summary of all the reports, the appropriate ordinance sections from the 2006 BOCA Codes that we are governed by and a copy of the nuisance ordinance. He offered a quick summary of the findings and a list of the deficiencies. There were four exterior property violations, thirteen structural exterior deficiencies, and nine structural interior deficiencies. They represent to the International BOCA Codes. There are four unsafe structure and equipments, eighteen exterior code violations and twenty four interior structural code violations. As to the Public Nuisance Ordinance, there are three code violations. Will said on this second site visit there was further water damage due to a recent storm. In the basement garage, they found a vintage Nova car in pristine shape. In summary, Will finds this property to be a public nuisance according to the ordinance. Will said he will write up a letter of violation and have Mr. Preate review it before it is sent. Alex Behr, a resident of Clarks Summit who has many years experience in zoning, gave Virginia a sample letter he used in California that we may reference. Virginia said when the Borough went to the property a couple years ago and forced them to board it up, the only item of value they found was a beautiful leather bound Bible with gold gilding on the pages and colored illustrations. It's from the 1800's. Virginia notified the owner and has that in the safe.

Mission Statement - Virginia said Mike Filarsky drafted this for us. This is the third draft. Patrick Williams and Herman Johnson were assigned to continue work on this. Virginia said when the final draft is complete to let her know so it can be put on the agenda.

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NEW BUSINESS:

2009-11 No Parking Ordinance Draft – Virginia gave a summary. A resident had a concern about vehicles parking on the bottom of Crestwood where it comes to North State Street that is makes the turn to narrow. We discussed to possibility of banning parking so far into the intersection. Virginia found in her research that by law, you have to park thirty feet in from an intersection. Anything beyond that would be up to Council. A traffic study is not needed for this we can just adopt it by Ordinance. Virginia made up a sample ordinance. Virginia said we can add other streets and when Council is ready, she will advertise it for a vote. Herman Johnson suggested the Safety Committee should review this also. Virginia asked for Chief Vitale's recommendations of streets. When she receives that, she forward that to the Safety Committee.

NEPA 7th Annual John J. Luciani Award – Herman Johnson made a recommendation that we put in a request to nominate Denise Prowell and Lee Jamison for this award. He thinks if you go back and look at what they have done for SAPA and the Abington area and the time they spent away from their families getting this together, he thinks it would be our honor. Virginia said you recommend a project. Ernie Preate said it would have to be SAPA itself. Mr. Preate suggested we also nominate a second organization. He thought of the Community Garden which is a combination of multiple municipalities in this area and it is absolutely unique. Our own Barbara Grabfelder started it all. Mr. Preate feels as though other communities could nominate SAPA. The project can't be completed before January 1, 2008. Projects currently under way are eligible. Virginia said the deadline is August 24, 2009. Mr. Johnson said we need a committee and get Barbara Grabfelder involved because she has the history of it. Gerry Carey and Barbara Evans would like to be on the committee.

BOROUGH SEWER OFFICE REPORT:

June 2009 – Herman Johnson made a motion to accept the June Sewer Report. Kathy Drake seconded the motion and it carried 7-0.

July 2009 – Barbara Evans made a motion to accept the July Sewer Report. Herman Johnson seconded the motion and it carried 7-0.

Patrick Williams asked why the delinquent number is so high. Virginia said because people are not paying their bills on time. Virginia said this is the first time she has ever seen it that high and it does concern her. She will pursue it.

SOLICITOR'S REPORT:

Mr. Preate said we have arbitration coming up with regard to the COLA. There is a hearing coming up.

CORRESPONDENCE:

Dale and Diane Vietz – Virginia said we received a donation for the Jr. Council Memorial along with a letter with a thank you and good luck. The Vietz family live in Clarks Green.

Christine Spangler – Virginia reminded Council about the letter asking for use of the bay areas on the first floor of the Borough Building. She is in the process of obtaining insurance for liability. Mr. Preate said we need that along with a release. A portion of the fee would be given to the Borough as a fee. Patrick Williams said the Planning Committee should meet and give a recommendation to Council. Herman Johnson said we can vote at that point.

Thank you from O'Dells – Virginia said Council received a thank you card in response to the expression of sympathy. Roy Davis said he was disappointed that no one notified him of the passing of Mrs. O'Dell.

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Mr. Preate said he would have liked to have been notified also. Virginia apologizes. She sent an email to Council in addition to printing that email and putting it in everyone's mailboxes. Roy Davis said he'll stop by and see him personally and apologize.

Thank you from the Rotary – We received a thank you from the Rotary for the donation for the fireworks. There was discussion that James Vones' name was on the letter.

Leslie and Dale Smith – Virginia said we discussed this earlier.

Heath Goldstein – Virginia said she contacted our representative at Don Wilkinson. She received a two page response from them this afternoon. Heath Goldstein also called and said he spoke with a representative from Wilkinson and they found part of the money and they hope to have it resolved within thirty days. The money was sent to Fell Township and Waverly. Mr. Goldstein is satisfied.

EXECUTIVE SESSIONS:

Prior – July 28, 2009 - Litigation
During –
Subsequent – Immediately Following

ADJOURNMENT:

There being no further business before Council, Roy Davis made a motion to adjourn. The motion was seconded by Barbara Evans and carried 7-0. The meeting adjourned at 9:10 p.m.

Respectfully submitted,

**Lori Harris
Borough Secretary**

**Germaine Carey
Council President**