

July 7, 2009, Council Meeting
Minutes

A regular meeting of Clarion Borough Council was held on Tuesday, July 7, 2009. President Wilshire called the meeting to order at 7:00 p.m. All Council members were present. Also present were: Chief Hall, Mr. Ragon, Officer Scheckler, and Mss. LaVan and Freenock.

Minutes of the June 2, 2009, Council Meeting were approved by a vote of six yea following a motion by Ms. Leonard and a second by Ms. Moore. Mr. Herman abstained from voting as he was absent from that meeting.

Minutes of the June 29, 2009, Public Hearing were approved by a vote of six yea following a motion by Mr. Zerfoss and a second by Mr. Herman. Mr. Hopkins abstained from voting as he was absent from that meeting.

Minutes of the June 29, 2009, Council Meeting were approved by a vote of six yea following a motion by Ms. Vavrek and a second by Mr. Herman. Mr. Hopkins abstained from voting as he was absent from that meeting.

CITIZEN COMMENTS

Attorney John Marshall, representing the American Legion, asked Council to grant a Conditional Use for as long as the Legion owns the property at 508 Main Street for that property to be used as a commercial parking lot.

Ms. Freenock noted that the Legion must file an application, a public hearing must be held, and the matter must go before the Borough Planning Commission before approval can be granted.

Attorney Marshall indicated that he was told that by Mr. Zerfoss that he only needed to come before Council and request the conditional use. Mr. Zerfoss stated that was all that was needed per an e-mail prepared by Ms. Freenock.

Ms. Freenock commented that the e-mail related only to the amendment of the Zoning Ordinance, which would allow commercial parking lots as a conditional use in the downtown commercial district. The process for granting the conditional use must still be followed.

Mr. Zerfoss stated that there was too much government and that Council has the authority to allow use of the lot. Ms. Freenock stated that Mr. Zerfoss is correct. Only Council has the authority to allow such a conditional use however, the law requires a public hearing and the matter must go before the Planning Commission.

Mr. Johnston of the Legion asked if the lot would have to remain closed during this process. Ms. Vavrek stated that Council did not close the lot nor has the Borough levied any fines. A meeting was held with the former commander of the post, and the Borough

was under the impression that the matter would be addressed appropriately. This whole problem was created by the former commander. Ms. Vavrek sees no reason why the Legion will not be granted the requested conditional use however; the process must be followed.

Mr. Zerfoss then made a motion, which was seconded by Mr. Herman, to grant the Legion a conditional use to use the Legion's lot as a commercial parking lot for as long as the Legion owns the property.

Mr. Herman noted that he felt that this matter was handled improperly. If Ms. Freenock knew why Attorney Marshall was attending the meeting then she should have told him that there was a process to follow. Ms. Freenock responded that she was told only to put Attorney Marshall on the agenda and that the Legion wished to present the application to Council as it believed that Mr. Ragon would not accept it. Ms. Freenock also stated that Mr. Ragon cannot refuse to accept a legitimate application. Ms. Freenock noted that Attorney Marshall, as the solicitor for a number of municipalities should have been aware of the process.

Mr. Marshall stated that he had read neither the amendment nor the Borough's Zoning Ordinance. Mr. Marshall stated that he would like a letter from the Borough Solicitor outlining the procedure to be followed to obtain the conditional use. Ms. Freenock asked if the hearing scheduled for July 15 would be continued. Mr. Marshall will discuss that with Attorneys Bogash and French.

Ms. Freenock asked Mr. Marshall to please make any future requests for information through her as she is not always privy to information related by Council members. Both Ms. Leonard and Ms. Vavrek noted that they did not know that Mr. Marshall planned to attend this meeting until they received the meeting agenda nor were that aware what Mr. Marshall hoped to accomplish until he addressed Council this evening.

Mr. Hopkins stated that the granting of this conditional use may cause problems in the future as commercial parking lots on Main Street are not a good idea. Mr. Hopkins also stated that the reason that the Zoning Ordinance was amended was to allow the Legion to operate its lot. President Wilshire stated that was not the reason. Conditional uses are granted on a case-by-case basis. Mr. Zerfoss concurred; he feels that parking lots on Main Street are a good idea.

Mr. Hopkins went onto state that Council appreciates the work of the Legion and that it is a service organization that does much good for the region. He asked for patience while the necessary steps are taken to grant the conditional use.

Ms. Zerfoss asked Ms. Vavrek if she would vote in favor of the conditional use; Ms. Vavrek responded yes, as long as the process was followed.

Mr. Zerfoss then asked Mr. Ragon if any other conditions needed to be met (after the filing of the application, payment of the fee, the public hearing and the Planning Commission hearing). Mr. Ragon responded no.

President Wilshire stated that the MPC uses the word “may” as in Council may require a public hearing. Mr. Ragon stated that the “may” refers to the fact that Council may permit conditional uses to be included in the Zoning Ordinance.

Ms. Moore stated that she is a neighbor of the Legion and that she did not learn of this matter until someone mentioned it at church.

Mr. Hopkins asked if the motion could be voted upon conditioned upon legal review. Messrs. Zerfoss and Herman agreed to the modification and asked for a restatement of the motion.

Ms Freenock restated the motion as follows: Mr. Zerfoss moves to grant a conditional use to the American Legion to utilize its property at 508 Main Street as a commercial parking lot, for as long as it owns the lot, pending review of the legality of the vote by the Borough Solicitor. Mr. Herman seconded the motion. President Wilshire and Mr. Herman asked for a roll call vote, with the results as follows: Mr. Zerfoss: yes; Mr. Herman: yes; Ms. Leonard: abstained, and when questioned said it was because of questions if procedure for requesting a conditional use were being followed; Ms. Vavrek: yes, pending legal review; Ms. Moore: yes; Mr. Hopkins: yes; and, President Wilshire: yes.

Chief Hall and Mr. Herman then presented a commendation medal from the State to Officer Scheckler noting his exemplary participation in the 2008 Aggressive Driving Program.

ADMINISTRATION

President Wilshire presented the appropriations for the month of July. Ms. Vavrek made a motion, seconded by Mr. Herman to approve the appropriations. The motion carried by a vote of six yea with Mr. Zerfoss voting no due to the bills presented for Pope & Bogush and Campbell Beatty.

Mr. Herman made a motion, seconded by Ms. Vavrek to approve a policy concerning removal of Borough property and/or personnel from the Borough. Mr. Herman explained that the policy would create a written record of such event and would be useful in case of an accident. There is no such procedure currently in place. The motion carried unanimously.

Mr. Herman made a motion to permit Ms. LaVan to attend the PLGSA Conference in Malvern August 19th-22nd at a cost of \$641.76. Ms. LaVan noted that she serves on the board of PLGSA. The motion was seconded by Mr. Hopkins and was unanimously approved.

Ms. Freenock stated that the Borough received a request to send a letter to Representative Oberlander to move House Bill 1682 to the floor for a vote. The bill would allow the county to add a 1% sales tax to the 6% currently charged by the State. Of the 1%, 60% would be distributed to the municipality for tax relief. The formula takes into account tax exempt properties. Ms. Leonard stated that it is essentially a consumer tax. Mr. Herman stated that those paying the tax would be the same ones getting the tax relief. Mr. Herman also stated that the lack of a State budget is an embarrassment, and he will not vote to support this bill until the State takes action to pass a balanced budget. No action was taken on the request from PSAB.

DOWNTOWN COMMITTEE

Ms. Moore reported that Faller's will be celebrating Christmas in July on the 25th, and is hoping that other merchants will participate.

PUBLIC WORKS

Ms. Vavrek noted that the paving project is underway and that those affected were notified. The newly paved roads must remain closed for 4-6 hours after paving to allow the asphalt to cool.

Ms. Vavrek also reminded property owners that if brush is overhanging the road or any traffic signs, it is the owners' responsibility to trim it; if the Borough must trim it, the property owner will be billed for the work.

Finally, Ms. Vavrek stated that sidewalk letters have been sent; more will follow.

Mr. Zerfoss commended Mr. Stutzman for all of the work that is being done in the Borough from the paving project to the storm sewer repairs.

PUBLIC SAFETY

Mr. Herman made a motion to bag five parking meters for Clarion County Family Net's special event to be held on July 24th. The meters to be bagged will be in the gazebo area. Chief Hall reported that originally the request was to bag 20 meters but that amount was decreased because the 24th is a business day and the Borough did not wish to greatly restrict parking. The motion was seconded by Mr. Zerfoss and carried unanimously.

Mr. Herman commended the Borough Police and University's Public Safety Department for directing traffic through town while I-80 was closed due to an accident.

Mr. Herman then made a motion to allow Chief Hall to attend the Annual Chief's Conference in Lancaster from July 26th-30th. Costs are to approximate \$1000. Chief Hall noted that he serves on the board of the PA Chiefs and the Western PA Chiefs Associations and has been active in promoting the radar bill. The motion was seconded by Mr. Hopkins and was unanimously approved.

RECREATION

Ms. Leonard stated that the Study Committee for the Recreation, Park and Open Space Plan had a fruitful meeting. RFP's will hopefully go out in the next month.

OLD BUSINESS

Ms Leonard asked if anything had been done regarding her request to poll Council about changing the day of the second meeting of the month. Ms. LaVan responded no; President Wilshire stated that request would be reviewed by the Administration Committee.

At 8 p.m., President Wilshire then called an Executive Session for the potential sale of property and stated that it was unknown if any action would follow. The meeting reconvened at 8:29 p.m., and President Wilshire stated that no action was or would be taken.

There being no further business to come before the meeting, upon a motion by Mr. Herman with a second by Mr. Hopkins, the meeting adjourned at 8:30 p.m.

Respectfully submitted,

Nancy K. Freenock
Borough Secretary