The regular September Meeting of Borough Council was conducted on Wednesday, September 7, 2005 at 7:04 P.M. The Meeting was held in Borough Council Chambers, 2nd Floor, 304 South State Street, Borough of Clarks Summit, County of Lackawanna, Commonwealth of Pennsylvania. Council members in attendance were Council President Donald H. Moyer, III, Council Vice President Timothy D. Rowland, Councilman Richard W. Armbrust, Councilperson Gerry Carey, Councilman Roy Davis, Councilperson Margaret (Peg) Jackson. Also attending were Mayor Wesley W. Dunn, Sr., Borough Solicitor, Malcolm L. MacGregor, Officer In Charge Louis Vitale, and Borough Secretary, Barbara Grabfelder. Councilman Patrick Williams was absent due to being in the hospital. There being a quorum present the Meeting was called to order by Council President, followed by a brief period of self-directed mediation and then the Pledge of Allegiance lead by Mayor Dunn.

APPROVAL OF AGENDA:

Motion made by Mrs. Jackson and seconded by Mr. Armbrust to approve agenda. Discussion: None. Motion carried 6 – 0.

APPROVAL OF MINUTES:

Motion made by Mr. Rowland and seconded by Mrs. Jackson to approve the Minutes of the August 3, 2005 Public Hearing and Special Meeting for Dunkin Donuts for Conditional Use in an HC Zone for Fast Food Restaurant. Discussion: None. Motion carried 6 - 0.

Motion made by Mr. Rowland and seconded by Mrs. Jackson to approve the Minutes of the August 3, 2005 – Regular Council Meeting. Discussion: None. Motion carried 6 – 0.

PUBLIC COMMENT & INPUT:

Commonwealth Telephone Company Access to Switching Station from Grandview Street

Mr. Charles Martin, Grandview Street, requested an update on the access agreement. Mr. Rowland gave a brief summary. The Borough currently has four barrels and several signs. Mr. Martin requested a new storm sewer drain at Oakmont and Grandview. Mr. Moyer said a new one has been ordered and will be placed soon. Additional barricades/cones will be placed there.

Mr. Carl Noakes, 516 Grandview Street, requested a stop sign be placed on Grandview at Carnation. Mr. Martin suggested that the No Outlet sign be moved forward so drivers see the sign earlier and that the battery-operated "blinking" lights receive new batteries.

BIDS & QUOTATIONS:

The following bids were sent out on August 9, 2005 and bids were opened on August 17, 2005:

A. Excavation & Installation of storm pipes/inlets on Sunset Street:

Abington Excavating	$16,850
L. J. Milo	$14,125
Starks	$ 9,750

Motion made by Mr. Roy Davis and seconded by Mrs. Carey to accept the bid from Starks at $9,750.00. Discussion: None. Motion carried 6 – 0.

B. Removal & Replacement of Storm Water Piping on Columbia Avenue:

Abington Excavating	$5,100
L. J. Milo	$3,995
Starks	$2,500

Motion made by Mr. Roy Davis and seconded by Mrs. Carey to accept the bid from Starks at $2,500.00. Discussion: None. Motion carried 6 – 0.

C. Motion made by Mr. Roy Davis and seconded by Mrs. Carey to authorize the Borough to put a bid out to enter into an hourly rate for manpower and/or special machines such as a bobcat or truck for use in Borough projects. Discussion: Mr. Moyer said the Borough had the pipeline under Miles' property cameraed where all the flooding took place. That line is blocked. We'll have to remove the blockage somehow. This is a 40" pipe which handles a tremendous amount of water. If our DPW can't handle this with our existing machinery, we may need to rent equipment. Motion carried 6 – 0.

BOROUGH TREASURER'S REPORT

The Borough Treasurer's Report, as of August 31, 2005 was before Council. Motion by Mr. Rowland to approve the Report as presented. Second by Mrs. Jackson. Discussion – None. Motion carried 6 – 0.

COMMITTEE REPORTS:

Resolution 2005-27 – Participation in Multi-municipal Comprehensive Plan

Motion made by Mr. Carey and seconded by Mr. Armbrust to adopt Resolution 2005-27 regarding Clarks Summit Borough participating in the preparation of a multi-municipal comprehensive plan and naming Donald Moyer, Council President, as the Borough's representative. Discussion: Newton and South Abington have made a commitment to participate. By participating we can save money on getting the plan and state money is available for 50% of the cost of the consultant. Many grant applications now give priority to municipalities who have a multi-municipal agreement. Motion carried 6 – 0.

POLICE REPORT

Officer Vitale gave the August 2005 Police Report, and summary of police related activities. Mr. Rowland commended the police department on their quick response time and apprehension of a suspect on behalf of a resident near Sleepy Hollow Road. Mayor Dunn commended the department on behalf of a resident who was pleased at the response to an un-licenses peddler. Mrs. Jackson also received comments from residents who appreciated that the police went door to door to notify people of the upcoming fireman's parade and suggested they make alternate plans for their cars since the road was going to be closed for several hours for the parade.

BILLS TO BE PAID:

Motion by Mr. Rowland and seconded by Mrs. Jackson to approve payments of $49,429.72 from the General Fund, $22,305.00 from Payroll Account for current bills and to approve payments of $192,083.01 from the General Fund, $42,787.13 from the Payroll Account, and $95,129.60 from the Sewer Account for the period of August 1, 2005 to August 31, 2005. Discussion: None. Motion carried 6 – 0.

OLD BUSINESS:

A. **Joseph Quinnan – Maple Avenue speeding problem.** Mr. Quinnan, 305 Maple Ave. addressed Council regarding the letter he sent requesting a speed bump or speed hump and stop signs to slow speeders on Maple Avenue. President Moyer reported that a list of resident's requests for various traffic revisions was generated and

submitted to the police department for review and comment. The police recommended against installing stop signs on Maple. Mr. Moyer recommended sending Maple Street and all other requests to Mr. Karam for review and recommendation and a possible traffic study. We need to keep in mind the liability issue involved in bumps/humps. New signs were suggested such as Vascar in use or Slow Children Playing.

The list of eighteen suggested traffic revisions was reviewed.

B. **Mark Young – Border Realty – Inter-municipal Agreement for Sewer Project.** Mr. Young reviewed the outline of an agreement that would exist between Clarks Summit, South Abington and the Joint Sewer Authority. They would like Council to review the draft agreement and let them know if there are any issues that need to be incorporated in the final agreement. Mr. Moyer had a concern about the bypass fee and indicated that there was a good possibility that the fee would be increased. The agreement should not state a dollar amount; it should state that they agree to pay the bypass fee. The fee may be adjusted at any time. Mr. Young said that they are about two years from actually hooking up any pipe. Mr. Roy Davis stated that he agreed that Clarks Summit will benefit from this project, but he said that we are not CAUSING the problem. He feels we should look to the Sewer Authority and look to South Abington for more relief on this and some financial remuneration that should go with it. Mr. Davis also stated that he strongly encourages that the main pipe project through the center of town be done with 24" pipe rather than the 18" pipe indicated on the drawings. We need to plan now for expansion. It would be foolish not to put in the largest size we can afford.

Mr. Rowland said that our issue is not really with the agreement in principle, but more so we're trying to offset what our costs have been and down the road, will be. Mr. Rowland stated that we really need our Solicitor to look at this agreement.

Mr. MacGregor said that Council is trying to insure that the costs are fairly distributed. There are provisions in the Borough Code that talk about instances where neighboring municipalities are hooking up. You can petition the court and say that we don't feel that this is fairly proportional and the court can look at it and make a determination.

Mr. Moyer questioned Mr. Young about expansion. Supposing South Abington expands further down behind Noble Road and all that will come to your pumping station also. We need your agreement to state that if somebody wanted to increase that pipe or that pump, they need to come to Clarks Summit to say if it can be increased or not.

Mr. Young stated that the pump station and lines would be considered common elements of the Association that will be formed. They will be owned by South Abington but the Association will be sharing in the maintenance, proportionate to the number of hookups. There certainly could be something in the agreement that says any increase in the flow would be **subject to approval of Clarks Summit.** South Abington will be responsible for all the new lines and the pump station that is put in and Clarks Summit will be paid a pass-through fee by the Association that is created for the development.

Mr. Rowland suggested that before the agreement is finalized, a meeting between Clarks Summit and South Abington and the Sewer Authority be held.

C. **Clarks Summit Borough Sewer Issues** – A meeting was held with Borough Engineer Bill Karam on August 19, 2005 with Mr. Roy Davis, Mr. Moyer, Mr. Rowland, and Barbara Grabfelder and Bill Karam and Mr. Rowland reported on the meeting. Clarks Summit is looking to renegotiate the bypass or pass-through fees. The pass through fees were originally stipulated to be one-quarter of the Clarks Summit of the sewer fee per resident per year. The fees are now less than they were originally set. We need to ascertain what our reasonable costs have been during the past and what our reasonable costs are going forward. Our Engineer suggested that we simply use the cost of living index and we didn't feel that that method was appropriate. We're also trying to determine exactly how many pass through fees there should be. We have received a map from our engineer that shows every single resident in Clarks Summit, Clarks Green, Glenburn, and South Abington. We're actually doing an inventory to determine how many are on this. Our goal is to meet with the supervisors with South Abington and discuss it with

them. We also want to insure that anyone who adds on to that sewer in the future, that we know about it before a building permit is issued. They would have to come to us first so that we have the address and number of EDU's. At this time there may be some resistance to that idea and it may have to be taken to a Board of View at some point in the future.

Mr. Moyer stated that the fee that is charged to Clarks Summit by the Joint Sewer Authority has increased over the years and therefore we have less money in our fund to repair the Borough's lines. The pass-through fees have definitely not kept pace with the increases charged by the Sewer Authority.

Mr. Moyer said that when the sewer lines were installed they were installed to handle Clarks Summit's quantity of sewerage. Now you've increased the quantity by the addition of South Abington's pass through and it continues to increase each year and those lines might not be able to handle it....who should pay that cost?

D. Nextel – Public Hearing and Special Meeting for Conditional Use Hearing scheduled for 6:30 PM on Tues. September 13, 2005. Legal notices have been placed in newspapers and property will be posted.

NEW BUSINESS:

A. **Appoint Dr. Louis Karaha as EMA Medical Officer for Clarks Summit Borough**

Motion made by Mrs. Carey and seconded by Mr. Roy Davis to appoint Dr. Louis Karaha, Summit Family Care, 211 N. State Street as EMA Medical Officer for the Borough in a non-paid capacity. Discussion: Request was received from Herman Johnson, Clarks Summit Borough Emergency Management Officer to appoint a medical officer who would be in charge of all medical procedures and give direction in case of a disaster situation. Motion carried 6 – 0.

B. **Resolution 2005-28 – Close out PNC Bank Account 90-0201-9195 and transfer to General Fund.**

Motion made by Mrs. Jackson and seconded by Mr. Armbrust to adopt Resolution 2005-28 to close out Account 90-0201-9195 at PNC Bank and transfer remaining balance to the General Fund Account. Discussion: Notice was received from the bank that the account has been inactive since July 2000. Motion carried 6 – 0.

C. **Clarks Summit Borough Non-Uniform Pension Plan Minimum Municipal Obligation (MMO) for 2006.**

Motion made by Mrs. Jackson and seconded by Mrs. Carey to approve the amount of $14,053 as the Clarks Summit Borough Non-Uniform Pension Plan Minimum Municipal Obligation for 2006. Discussion: None. Motion carried 6 – 0.

D. **Clarks Summit Borough Police Pension Plan Minimum Municipal Obligation (MMO) for 2006.**

Motion made by Mrs. Jackson and seconded by Mrs. Carey to approve the amount of $44,847 for Clarks Summit Borough Police Pension Plan Minimum Municipal Obligation (MMO) for 2006. Discussion: None. Motion carried 6 – 0.

E. **1009 Rear West Grove Street – Sewer Billing**

Robert A. Cecchini, attorney for the owners of the property located at 1009 Rear West Grove Street, Clarks Summit contacted the Borough. Although the property has been connected to the sewer line for some years, the current owners have not received a billing. To come to a compromise of potential litigation, Mr. Cecchini offered the amount of $1,000.00 to cover past arrearages. It was discovered by examining the Borough's sewer accounts that there may be additional properties that have not been billed. Mr. Roy Davis expressed his concern that

accepting this offer may set a precedent. Borough Secretary Barbara Grabfelder was directed to send a letter to the attorney and explain that we need to wait at least until the November billing of the PA American Water Company to allow us to fully investigate the situation.

F. **Preliminary Review – Transient Retail Merchant Ordinance (Peddler Permit)**

Solicitor MacGregor distributed a draft of the Peddler Permit that he developed. He requested that Council review the proposed ordinance and make comments/recommendations.

G. **Letter of Resignation – Borough Solicitor Malcolm MacGregor**

Motion made by Mr. Roy Davis with deep, deep regret, and seconded by Mrs. Carey to accept Mr. MacGregor's resignation. Discussion: None. Motion carried 6 – 0.

Mr. Robert Bennett commended Mr. MacGregor for the work he has done on behalf of the Borough and stated that he was sorry to see him go. All members of Council concurred and offered their thanks and best wishes.

H. Appointment of Frank J. Bolock, Jr. as Borough Solicitor

Motion made by Mr. Rowland and seconded by Mrs. Jackson to appoint Frank J. Bolock, Jr. of Rosenn, Jenkins & Greenwald L. L. P., 120 Wyoming Avenue, Scranton, PA as Borough Solicitor at the rate of $130.00 per hour for a trial period until December 31, 2005. Discussion: This will be the last official meeting for Malcolm and he will meet with the new solicitor to bring him up to speed and assure a smooth transition. A Roll Call vote was taken: Mr. Armbrust – Yes, Mr. Rowland – Yes, Mr. Moyer – Yes, Mrs. Carey – Yes because it is on a trial or temporary basis. Mr. Davis – Yes, Mrs. Jackson – Yes. Mr. Williams was absent.

I. **Separation Agreement and Release – Dee Ann Stephens**

Motion made by Mr. Rowland and seconded by Mrs. Jackson to accept the Separation Agreement and Release for Dee Ann Stephens. Discussion: Mr. MacGregor stated that this agreement memorializes what took place with the separation. There were certain benefits such as vacation and sick days, health care, etc. that needed to be paid when the Sewer Billing Office position was eliminated. Motion carried 6 – 0.

J. **Hire Part-Time Treasurer for Clarks Summit Borough**

Motion made by Mr. Roy Davis and seconded by Mrs. Jackson to hire Alice Kohn for twenty (20) hours per week at $12.00 per hour with no paid benefits and appoint her as Clarks Summit Treasurer. Discussion: Barbara Grabfelder has resigned the Treasurer's position effective September 7, 2005 and Alice Kohn replaces her as of that date. Motion carried 6 – 0.

K. **Grievances from Police Department and the Non-Uniform Association regarding Dental Plan**

Motion made by Mr. Rowland and seconded by Mr. Armbrust to drop United Concordia Dental Plan and move to the Met Life Dental Plan effective as soon as possible but making sure that there is no gap in coverage and to authorize payment of $312.20 to members of the unions for "out of pocket" expenses incurred under the United Concordia Dental Plan. Also, a statement is to be obtained from each union and incorporated into their respective labor contracts as a "letter of understanding" that the dental benefits offered by the Borough through United Concordia in 2003-2004 shall be considered to be the "base" benefits for the duration of each contract. Discussion: None. Motion carried 6 – 0.

L. Policy and Procedures for Police Department

Motion made by Mr. Roy Davis and seconded by Mrs. Carey to accept and adopt the following procedures for the Clarks Summit Police Department: Searches and Seizures; Warrant Service; Stopping and Approaching Vehicles; Medical Treatment; Handling Intoxicated People; Custodial Interrogation/Detention; Transportation of Prisoners. Discussion: None. Motion carried 6 – 0.

BOROUGH SEWER OFFICE REPORT:

The August 2005 Sewer Office Report was before Council. Motion by Mrs. Jackson to approve the Report as presented. Second by Mr. Armbrust. Discussion – None. Motion carried 6 – 0.

SOLICITOR'S REPORT:

Post Adelphia Bankruptcy Legal Services

Motion made by Mrs. Jackson and seconded by Mr. Armbrust to retain attorney Dan Cohen of Cohen Telecommunications Law Group, 1000 Gamma Dr., Suite 305, Pittsburgh, PA 15238 to represent Clarks Summit Borough's interests in conjunction with other COG members in the post Adelphia bankruptcy cable franchise matters. Discussion: None. Motion carried 6 – 0.

CORRESPONDENCE:

Thank You Letter – VNA Hospice in memory of Mrs. Dianne Miller, mother of Jay Miller.

EXECUTIVE SESSIONS:

President Moyer reported that one Executive Session had been held prior on August 3, 2005 to discuss Police Chief, Litigation, and Personnel Issues; one session was held August 31, 2005 to discuss Personnel – Borough Solicitor; and one session was held immediately prior to the regular Council meeting at 6:00 PM on September 7, 2005 to discuss the Police Chief, Litigation, and Personnel, and none were to be held subsequent.

The meeting was recessed at approximately 10:15 PM to be reconvened on Tuesday, September 13, 2005 following the Public Hearing and Special Meeting for Conditional Use for Nextel.