

**REGULAR COUNCIL MEETING, 315 WESTFIELD AVE., CLARK, N.J.
February 21, 2012**

ROLL CALL:

Present: Council Members Albanese, Barr, Kazanowski, O'Connor, Toal, Mazzarella, Whiting

Also Present: Mayor Sal Bonaccorso; Howard Lesnik, Acting Township Attorney; Edith Merkel, Township Clerk; Ed Bogan, Acting Township Engineer.

The Regular Meeting of the Municipal Council of the Township of Clark was called to order at 7:30 P.M. by Council President Whiting. She asked all present to participate in a moment of silence, following the salute to the Flag.

PLEDGE OF ALLEGIANCE TO THE FLAG - MOMENT OF SILENCE

This meeting is in compliance with the Open Public Meetings Act as adequate notice of this meeting has been provided by mailing the Annual Schedule of meetings to the Star Ledger, Union County LocalSource, and NJTODAY.NET, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the filing of said Notice with the Township Clerk of Clark. Formal action may be taken at this meeting.

Motion to Suspend the Regular Order of Business made by Councilman Kazanowski, seconded by Councilwoman Albanese

Council President Whiting directed roll call:

Aye: Albanese, Barr, Kazanowski, Mazzarella, O'Connor, Toal, Whiting

Recognizing the 2011 Clark Pop Warner Pee Wee Football Team

Motion to Resume the Regular Order of Business made by Councilman Kazanowski, seconded by Councilwoman Albanese

Council President Whiting directed roll call:

Aye: Albanese, Barr, Kazanowski, Mazzarella, O'Connor, Toal, Whiting

COMMUNICATIONS FROM THE MAYOR AND REPORTS OF TOWNSHIP OFFICERS:

Mayor Bonaccorso: (Transcript on file in the Office of the Municipal Clerk)

1. Congratulate Captain Scherb on passing his Captain's test
2. Budget: 2 point tax increase this year, it's very moderate
3. Mid-March as soon as the weather breaks: spring lawn and leaf clean-up

Township Clerk: police and fire reports for the month of January as well as the 2011 Annual Health Status Report are filed in the Clerk's office.

REPORT OF COUNCIL COMMITTEES:

Transcript on file in the Office of the Municipal Clerk

Councilwoman Albanese:

Library Report:

1. Tax returns; federal tax forms available at the Library
2. New program for children with special needs ages 3 thru 7 first Saturday of every month; stories, songs and movement
3. Adult computer classes continue; Word, basic internet, intermediate internet held on Mondays, Tuesdays and Thursdays. Coming soon the Library will be offering an excel basics class for local residents
4. Grant that was given by UNICO; Rosetta Stone for Italian 1, 2 and 3

Board of Education Report:

ALJ musical Evita on March 22nd, 23rd and 24th under the direction of Peter Nevargic

Councilman Barr: Fire Safety reminder – if an alarm sounds, fire, carbon monoxide, etc. get out of the house and call the fire department

Councilman Kazanowski: No report

Councilman Mazzarella: Police Liaison; I want to congratulate Al Scherb on the passing of your Captain's test, good job.

Councilman O'Connor: No report

Councilman Toal:

Clark Kiwanis organization; annual spaghetti dinner, Zion Lutheran Church on Raritan Road on March 11th from 12 to 4 call Ron at (732) 574-9182

Council President Whiting:

Recreation: Spring programs are starting, too many to mention, flyers will be going out this week through the school, look in the backpacks, visit Ralph or go on www.ourclark.com.

Relay for Life: meeting will be on March 8th in room 30 at 7:00 in the municipal building

ORDINANCES, APPROPRIATIONS AND CLAIMS:

**AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF CLARK,
CHAPTER 325, ARTICLE V THEREOF, ENTITLED LIMOUSINES, TO CHANGE
THE FEES FOR A LICENSE TO OPERATE**

BE IT ORDAINED by the Governing Body of the Township of Clark, as follows:

Section 1. Sections 325-32A and 325-32B of Chapter 325, Taxicabs and Limousines are hereby amended to change the fees of \$60.00 for a limousine license, \$20.00 for a limousine driver’s permit and \$10.00 for an insurance certificate to read as follows:

§ 325-32 Fees

The fee for a Limousine License shall be payable to the Township in accordance with the fees as set forth in N.J.S.A. 48:16-17, as said Statute may be amended from time to time.

Section 2. Effective date

This Ordinance shall take effect immediately upon final passage and publication according to law.

Moved by Councilman O’Connor, seconded by Councilman Mazzarella

Discussion: None

Council President Whiting directed roll call:

Aye: Albanese, Barr, Kazanowski, Mazzarella, O’Connor, Toal, Whiting

PAYMENT OF CLAIMS: Councilman O’Connor, Chairman of Finance Committee made a motion to approve the payment of claims on current and capital expenditures in the amount of \$307,226.50 for the period ending February 16, 2012, seconded by Councilwoman Albanese

Council President Whiting directed roll call:

Aye: Albanese, Barr, Kazanowski, Mazzarella, O’Connor, Toal, Whiting

CITIZEN HEARING ON THE AGENDA:

Each person addressing the Council shall first give his/her name and address to the Clerk. All remarks shall be addressed to the Council as a body and shall not exceed 10 minutes in duration.

Council President Whiting opened the Citizen Hearing on the Agenda

Seeing no one coming forward Councilman Kazanowski made a motion to close the Citizen Hearing on the Agenda, seconded by Councilwoman Albanese

Council President Whiting directed roll call:
Aye: Albanese, Barr, Kazanowski, O'Connor, Toal, Mazzarella, Whiting

RESOLUTIONS:

Resolution 12-31

WHEREAS in accordance with the New Jersey Administrative Code, Title 8, Chapter 52 entitled "Public Health Practice Standards of Performance for Local Boards of Health." the Clark Township Health Department hereby submits the 2011 Annual Health Status Report for acceptance and approval by the Governing Body; and

WHEREAS the Governing Body sitting as the Board of Health has reviewed the report and is in agreement with its contents.

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey that it hereby accepts and approves the 2011 Annual Health Status Report for presentation to the residents of Clark in compliance with the New Jersey Administrative Code; and

BE IT FURTHER RESOLVED that copies of said report are available online at www.ourclark.com and in the Clerk's office, at no charge.

Moved by Councilman Kazanowski, seconded by Councilman Barr

Discussion: None

Council President Whiting directed roll call:
Aye: Albanese, Barr, Kazanowski, Mazzarella, O'Connor, Toal, Whiting

Resolution 12-32

BE IT RESOLVED by the Governing Body of the Township of Clark that it hereby authorizes the Mayor and/or Business Administrator to execute a Developer's Agreement with Target Corporation, 1000 Nicollet Mall, TPN 12M, Minneapolis, MN 55403.

Moved by Councilman Mazzarella, seconded by Councilman Barr

Discussion: None

Council President Whiting directed roll call:
Aye: Albanese, Barr, Kazanowski, Mazzarella, O'Connor, Toal, Whiting

Resolution 12-33

RESOLUTION AUTHORIZING EXECUTION OF THE LETTER TO STATE SENATORS, ASSEMBLYMEN AND ASSEMBLYWOMEN IN THE ACTION ENTITLED NJDEP v. OCCIDENTAL CHEMICAL CORPORATION, ET AL.

WHEREAS certain claims have been asserted against the Township of Clark in the action entitled NJDEP v. Occidental Chemical Corporation, et al., Docket No. ESX-L-9868-05 pending in the Superior Court of New Jersey, Essex County (the “Litigation”) regarding alleged environmental contamination at the lower 17 miles of the Passaic River, Newark Bay, the lower reaches of the Hackensack River, the Arthur Kill, the Kill Van Kull, and into adjacent waters and sediments (the “Newark Bay Complex”); and

WHEREAS the New Jersey Department of Environmental Protection, the Commissioner of the New Jersey Department of Environmental Protection and the Administrator of the New Jersey Spill Compensation Fund (hereinafter referred to collectively as the “State of New Jersey”) commenced the present litigation on or around December 13, 2005, suing defendants, Occidental Chemical Corporation, Tierra Solutions, Inc., Maxus Energy Corporation, Repsol YPF, S.A., YPF Holdings, Inc. and CLH Holding (hereinafter referred to collectively as the “Tierra-Maxus Defendants”); and

WHEREAS the State of New Jersey’s Complaint seeks to recover from the Tierra-Maxus Defendants past and future cleanup and removal costs, as well as unspecified economic damages, punitive damages, damages for alleged “unjust enrichment,” penalties and a variety of other forms of relief purportedly arising from the alleged discharges into the Passaic River of 2,3,7,8-tetrachlorodibenzo-p-dioxin (a form of dioxin referred to as “TCDD”) and other unspecified “hazardous substances” from a plant that operated at 80 Lister Avenue in Newark, New Jersey for approximately twenty years before the plant was closed in 1969; and

WHEREAS in its Complaint, the State has alleged that as a direct result of the Tierra-Maxus Defendants’ intentional releases and discharges into the Passaic River, and the Tierra-Maxus Defendants’ subsequent practice of obfuscation and delay for another twenty-plus years, TCDD has migrated throughout Newark Bay Complex; and

WHEREAS on or around February 4, 2009, defendants, Maxus Energy Corporation and Tierra Solutions, Inc. filed a third-party complaint against approximately eighty-five (85) municipalities and public entities including the Township of Clark for contribution towards the cleanup and removal costs that Maxus and Tierra have incurred or will incur in the future relating to the Newark Bay Complex; and

WHEREAS certain Third-Party Defendant municipalities and public entities including the Township of Clark, are members of a group known as the Municipal Group in the Litigation; and

WHEREAS the Township has incurred and continues to incur significant legal and transactional fees in connection with this Litigation.

NOW, THEREFORE, BE IT RESOLVED by the Township of Clark as follows:

1. The Township is hereby authorized and directed to sign the signature pages of the Letter to its State Senator, Assemblymen and Assemblywomen, which will be adopted in substantially the form contained in the draft copy on file, and thereafter immediately transmit the said signature pages to Peter J. King, Esq. Liaison Counsel for the Municipal Group.

2. The resolution shall take effect immediately.

Moved and seconded by the Entire Council

Discussion: (Transcript on file in the Office of the Municipal Clerk)

Resolution 12-34

**RESOLUTION REQUESTING APPROVAL FOR AUTHORIZING
AN EMERGENCY TEMPORARY APPROPRIATION
IN ACCORDANCE WITH N.J.S.A. 40A:4-20
CURRENT FUND**

WHEREAS an emergent condition has arisen due to the anticipated delay in the adoption of the 2012 Budget, and adequate provision has not been made in the 2012 Temporary Budget for the appropriations specified on the attached page; and

WHEREAS the total emergency temporary resolutions adopted in fiscal year 2012 pursuant to the provision of Chapter 96, P.L. 1951 (N.J.S. 40A:4-20) including this resolution total \$5,154,562.00.

NOW, THEREFORE, BE, AND IT IS, HEREBY, RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey, (not less than two thirds of all members thereof affirmatively concurring) that in accordance with the provisions of N.J.S.A 40A:4-20:

1. Emergency temporary appropriations be and the same are hereby made as specified on the attached page in the amount of \$5,154,562.00; and
2. That said emergency temporary appropriations will be provided in the 2012 budget under the headings as specified on the attached page.

- 3. That one certified copy of this resolution be filed with the Director of Local Government Services.

Moved by Councilman O'Connor, seconded by Councilwoman Albanese

Discussion: None

Council President Whiting directed roll call:

Aye: Albanese, Barr, Kazanowski, Mazzarella, O'Connor, Toal, Whiting

Resolution 12-35

**RESOLUTION REQUESTING APPROVAL FOR AUTHORIZING
AN EMERGENCY TEMPORARY APPROPRIATION
IN ACCORDANCE WITH N.J.S.A. 40A:4-20
SEWER UTILITY**

WHEREAS an emergent condition has arisen due to the anticipated delay in the Adoption of the 2012 Budget, and adequate provision has not been made in the 2012 Temporary Budget for the appropriations specified on the attached page; and

WHEREAS the total emergency temporary resolutions adopted in fiscal year 2012 pursuant to the provision of Chapter 96, P.L. 1951 (N.J.S. 40A:4-20) including this resolution total \$2,742,353.00.

NOW, THEREFORE, BE, AND IT IS, HEREBY, RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey, (not less than two thirds of all members thereof affirmatively concurring) that in accordance with the provisions of N.J.S.A 40A:4-20:

- 1. Emergency temporary appropriations be and the same are hereby made as specified on the attached page in the amount of \$2,742,353.00; and
- 2. That said emergency temporary appropriations will be provided in the 2012 budget under the headings as specified on the attached page.
- 3. That one certified copy of this resolution be filed with the Director of Local Government Services.

Moved by Councilman Mazzarella, seconded by Councilman O'Connor

Discussion: None

Council President Whiting directed roll call:

Aye: Albanese, Barr, Kazanowski, Mazzarella, O'Connor, Toal, Whiting

Resolution 12-36

**RESOLUTION REQUESTING APPROVAL FOR AUTHORIZING
AN EMERGENCY TEMPORARY APPROPRIATION
IN ACCORDANCE WITH N.J.S.A. 40A:4-20
SWIM POOL UTILITY**

WHEREAS an emergent condition has arisen due to the anticipated delay in the Adoption of the 2012 Budget, and adequate provision has not been made in the 2012 Temporary Budget for the appropriations specified on the attached page; and

WHEREAS the total emergency temporary resolutions adopted in fiscal year 2012 pursuant to the provision of Chapter 96, P.L. 1951 (N.J.S. 40A:4-20) including this resolution total \$20,000.00.

NOW, THEREFORE, BE, AND IT IS, HEREBY, RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey, (not less than two thirds of all members thereof affirmatively concurring) that in accordance with the provisions of N.J.S.A 40A:4-20:

1. Emergency temporary appropriations be and the same are hereby made as specified on the attached page in the amount of \$20,000.00; and
2. That said emergency temporary appropriations will be provided in the 2012 budget under the headings as specified on the attached page.
3. That one certified copy of this resolution be filed with the Director of Local Government Services.

Moved by Councilman Kazanowski, seconded by Councilman O'Connor

Discussion: None

Council President Whiting directed roll call:

Aye: Albanese, Barr, Kazanowski, Mazzarella, O'Connor, Toal, Whiting

CONSENT AGENDA RESOLUTIONS:

Resolution 12-37

WHEREAS in accordance with a request from the Tax Collector for authorization to refund overpayment of 2010, 2011 and 2012 taxes; the Mayor has recommended to Council that such authorization be granted.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark, that the Chief Financial Officer is hereby authorized and directed to make the following refunds:

BLOCK	LOT	QUAL	NAME	#	ADDRESS	REFUND	YEAR
11	8		Meek, Larry G.	20	Locust Grove Drive	2865.97	2011
60	39		Sandra Pereira	26	Janie Lane	1253.36	2010
63	22		Mr. & Mrs. Corcoran	41	Dawn Drive	1747.69	2011
80	4		Mr. & Mrs. Piazza	103	Richard Street	278.24	2011
84	14		Mr. & Mrs. DeOliveira	56	Kathryn Street	1950.06	2010
96	2		Mr. & Mrs. Parisi	10	Gloria Street	125.00	2011
165	29.03		Michael & Jean Leone	39	Emerson Road	224.12	2011
180	21		Mr. & Mrs. Origliato	114	Delia Terrace	1679.44	2010
196	1		Genevieve Stives	6	Coldevin Road	30.00	2011
152	10		Patricia Cornacchia	45	Florence Drive	87.56	2010
85	20		Joseph Paiva	96	Ivy Street	619.17	2012
126	18		Mary Carlin	128	Nassau Street	189.71	2011
33.11	8		Tony D Amico	64	White Place	2,753.37	2011
48.01	14		Barbara Arnold	1178	Lake Ave Unit 5	235.40	2011
TOTAL REFUNDS						\$14,039.09	

Resolution 12-38

WHEREAS the Governing Body recognizes that copies of certain chapters of the Code of the Township of Clark are desired for purchase by members of the general public; and

WHEREAS the Governing Body wishes to make copies of Chapter 195 entitled Land Use and Development, of the Code of the Township of Clark available to members of the general public for sale in pamphlet form; and

WHEREAS the Governing Body wishes to establish a price for the sale of copies of such pamphlet.

NOW, THEREFORE, BE IT RESOLVED that said pamphlet copies of Chapter 195 of the Code of the Township of Clark shall be available for sale to members of the general public at the price of One Hundred Dollars (\$100.00) per pamphlet.

Resolution 12-39

**A RESOLUTION OF CLARK, NJ TO SUPPORT IN CONCEPT
THE SUSTAINABLE RARITAN RIVER INITIATIVE**

WHEREAS the Raritan River is an asset to the region and to Clark and it would benefit the community to increase awareness and use of the River via local access points and trails; and

WHEREAS upgrades to current river access points are desirable and the need for ongoing plans for development of future recreational uses are of value to Clark; and

WHEREAS protection and preservation of habitat and biodiversity in our river ecosystem will provide recreational and natural assets to Clark; and

WHEREAS the goals of restoration, rehabilitation and regeneration of compromised area of lands in public ownership will benefit present and future residents; and

WHEREAS best management practices for habitat enhancement in the maintenance and management of open space are available and when applied would benefit various departments of Clark government, and the quality of life to all Clark residents; and

WHEREAS properties that are deemed brownfields because they are contaminated, abandoned or underutilized, detract from the economic vitality of active businesses, and need attention to be remediated and returned to valued uses; and

WHEREAS practices to prevent future pollution are known and could be applied for the benefit of Clark management operations, and the residents of the county; and

WHEREAS stormwater runoff is a significant contribution to flooding, solid waste and streets in Clark, and further damages the Raritan River, and the Raritan River Action Plan (Reclaiming the Raritan: a Restoration and Sustainable Reuse Plan) encourages improvement in this area; and

WHEREAS the overall restoration and protection of the watershed area that provides water to the Clark residents and the Raritan River should be promoted; and

WHEREAS redevelopment needs to provide economic benefits without further damaging, and ideally restoring, the ecology of the Raritan River and Clark.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey that it hereby supports in concept the Sustainable Raritan River Initiative, and work as an active member of the Raritan River Collaborative to promote efforts to restore and protect the River in accordance with the goals as outlined in the Sustainable Raritan River Action Plan.

Motion to adopt Consent Agenda made by Councilman Toal, seconded by Councilman Barr

Council President Whiting directed roll call:

Aye: Albanese, Barr, Kazanowski, Mazzarella, O’Connor, Toal, Whiting

NEW BUSINESS ON THE CALENDAR: None

PUBLIC COMMENTS:

Each person addressing the Council shall first give his/her name and address to the Clerk. All remarks shall be addressed to the Council as a body and shall not exceed 10 minutes in duration.

Council President Whiting opened the public portion of the meeting

Wayne Brink, 146 Lexington Blvd.: Concern: traffic volume and rate of speed that appears to be exceeding the 25 miles per hour limit on Lexington Blvd. between Emerald and Raritan Road

(Full Transcript of the question and the Mayor’s response is on file in the Clerk’s office)

Joe Pubchara, Kenilworth resident:

Commented on Traffic as well as the court case NJDEP v. Occidental Chemical

(Full Transcript of the questions and the Mayor and Attorney’s response is on file in the Clerk’s office)

Seeing no one else coming forward Councilman Kazanowski made a motion to close the public portion of the meeting, seconded by Councilwoman Albanese

Council President Whiting directed roll call:

Aye: Albanese, Barr, Kazanowski, Mazzarella, O’Connor, Toal, Whiting

MAYOR, COUNCIL AND PROFESSIONAL COMMENTS:

(Full transcript on file in the Clerk’s office)

Mayor Bonaccorso:

1. Thursday night at 6:00, the JV Lady Crusaders will be in Rahway at the Rahway High School Gym playing Roselle Catholic, we are in the final four.
2. Front of Brewer: We are putting in an environmentally friendly parking lot, paid in part by a Grant from the State
3. Thanked John Kristof “Mr. Brewer” for the work he does for the township

Councilman Toal:

1. Captain Scherb congratulations, future Chief we hope
2. Wayne Brink thank you for coming up, I get phone calls about traffic in the town.

3. Those who we have lost in the last month; Gloria Hartong, former First Ward Councilman (1975-1978) John Cullen
4. Pee Wee Football players, continue making history

Council President Whiting: I also want to tell the community that we lost a young boy to cancer, 24 year old Donny LaPena.

Councilman O'Connor:

1. I don't like to repeat,, so congratulations to everyone that Brian congratulated.
2. Reminder: Mr. Mayor bulky pick up starts next month, correct? (yes) An Appointment is required if you need bulky waste picked up

Councilman Mazzarella:

1. Personal condolences on the passing of former First Ward Councilman, John Cullen
2. Branch Pick-up and yard waste is going to start in mid-March.
3. Traffic: a lot of the traffic with the excessive speeding is from our residents
4. Don't forget to recycle; it's important to all of us

Councilman Kazanowski:

1. Congratulated Pee Wee's for an outstanding season
2. Captain congratulation also on the passing of your test and we can look forward to progressing forward instead of going backwards
3. Thanked John Kristof
4. Third Ward: the calendar went out by the US mail bulk rate

Councilman Barr:

1. John Kristof was a Marine and Marines do it all and so does he
2. Commented on DEP lawsuit

Councilwoman Albanese:

1. Computers at the Library for your use as well as classes on how to use them
2. New parking lot also provides safety; there is no parking on Westfield Ave.
3. Traffic: we do need to strictly enforce the speeding that goes on in town
4. Congratulations to the Pee Wee Football team, it's a great tribute to all the coaches and the parents and the kids and it's not the first time so it's a great program, Pop Warner.
5. Thanked John Kristof
6. ALJ production of Evita (April)

Council President Whiting:

1. Pool registration is coming, if you don't have a computer, see Fran or Ralph also there will be a new way of processing the badges. More info to follow

Mayor Bonaccorso:

Thanked Winter Benefit Ball committee for a great job. Thanked the residents who came out to support the effort. The money goes to scholarships and community organizations

Council President Whiting:

The ladies that run the Benefit Ball take a lot of time and a lot of effort and personally each one of them should be thanked.

Township Clerk: No comments

Ed Bogan: No report

Captain Scherb: I just want to say thank you and I'll be looking into all of the traffic situations.

Attorney Triarsi: No comments

ADJOURNMENT:

A motion to adjourn the meeting made by Councilman Kazanowski, seconded by Councilman O'Connor

Council President Whiting directed roll call:

Aye: Albanese, Barr, Kazanowski, Mazarella, O'Connor, Toal, Whiting