

REGULAR COUNCIL MEETING, 315 WESTFIELD AVE., CLARK, NJ
July 18, 2011

ROLL CALL:

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

Also Present: John Laezza, Business Administrator/Acting Mayor; Joseph Triarsi, Township Attorney; Edith Merkel, Township Clerk; Richard O'Connor, 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 Mazzarella. He 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.

COMMUNICATIONS FROM THE MAYOR AND REPORTS OF TOWNSHIP

OFFICERS: Full transcript available in the Clerk's office

John Laezza: Submitted the name of Stephanie Mitterhoff as Public Defender to replace Mark Ciarrocca upon his resignation to accept an appointment to the Superior Court

Also discussed:

1. Bulky clean up
2. Branch pick up
3. Fires and Vandalism of playground equipment

Township Clerk: Police and Fire reports for June are open to the public

REPORT OF COUNCIL COMMITTEES:

Councilwoman Albanese:

Library:

1. Various workshops and programs for children and adults including Origami on July 21st, grades 4th through 6th
2. Computer classes throughout the month on Monday and Wednesdays, check the library calendar; funded by a grant

- 3. Summer reading books are on the shelves check the school district’s website - get rewards for every two hours they read
- 4. Movies great line up for July - free popcorn on Tuesday nights.
- 5. Friends of the Library, two meetings on July 28th 10:00 am and 7:00 pm
- 6. Library is celebrating its 50th Anniversary; they are having a fundraising campaign.

Councilman Barr: Third Annual Waterson Dunham Valor Ride All proceeds from the 60-mile charity ride go to Corporal Jason L. Dunham Scholarship Foundation for higher education for those Marines and Corpsmen who wish to pursue a college education at a nationally recognized accredited institution

Councilman Kazanowski: No report

Councilman Toal: Responded to a flyer regarding the Miele property

Councilwoman Whiting:

- 1. Summer Recreation averaging about 600 children a day
- 2. Clark Community Pool still has spots available; prorated fee

Council President Mazzarella:

Bulky waste pick-up

- 1. Areas in the community that have over and above continually bulky waste will be looked at very closely to see if anything is coming from outside of our community
- 2. We don’t have a provision to pick up mattresses - we can’t get rid of them; make arrangements with your carter

PAYMENTS OF CLAIMS:

Councilwoman Albanese, Member of Finance Committee made a motion to approve the payment of claims on current and capital expenditures in the amount of \$404,741.04 for the period ending July 15, 2011, seconded by Councilman Barr

Council President Mazzarella directed roll call:

Aye: Albanese, Barr, Kazanowski, Toal, Whiting, Mazzarella

CITIZEN HEARING ON 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.

Mike Altman, 8 Winters Court: Question regarding the Retro Fitness Developer’s Agreement.

John Laezza: Yes, it is the exact same one, 225 Terminal Avenue. Retro Fitness was turned down by the Planning Board; they appealed it to the Union County Court System and the Union County Court System granting it.

Mike Altman: So it’s going to be built?

John Laezza: Yes.

Mike Altman: Okay thank you.

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

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

RESOLUTIONS:

Resolution 11-95

BE IT RESOLVED by the Governing Body of the Township of Clark that the following licenses are approved for their annual renewal: Plenary Retail Consumption License(s) in the sum of \$2,500.00; Club License(s) in the sum of \$188.00, be renewed for the Year 2011-2012, effective as of July 18, 2011.

2002-33-010-006 Windsor Diner Beverage Corp.
t/a Windsor Diner
1030 Raritan Road, Clark, NJ 07066

2002-31-019-001 Columbian Club of Clark Inc.
27 Westfield Ave., Clark, NJ 07066

Moved by Councilman Barr, seconded by Councilman Kazanowski

Discussion: None

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

Resolution 11-96

BE IT RESOLVED by the Governing Body of the Township of Clark that the following license is approved for annual renewal: Plenary Retail Consumption License in the sum of \$2,500.00 be renewed for the Year 2011-2012, effective as of July 18, 2011.

2002-33-018-009 Bridgman, Harry S.
77 Central Avenue
Clark, NJ 07066

Moved by Councilwoman Whiting, seconded by Councilwoman Albanese

Discussion: None

Council President Mazzarella directed roll call:

Aye: Albanese, Barr, Kazanowski, Toal, Whiting, Mazzarella

Resolution 11-97

WHEREAS an application has been filed for a place to place transfer (expansion of premises) of Plenary Retail Consumption License 2002-33-018-009, for purposes of expanding the premises under license wherein the sale, service and storage of alcoholic beverages are authorized; and

WHEREAS the submitted application form is complete in all respects, the transfer fees have been paid and the license has been properly renewed for the current license term.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Township of Clark does hereby approve, effective July 18, 2011, the expansion of the aforesaid Plenary Retail Consumption licensed premises located at 77 Central Avenue, Clark, New Jersey to place under license the area delineated in the application form and the sketch of the licensed premises attached thereto.

Moved by Councilman Kazanowski, seconded by Councilwoman Albanese

Discussion: None

Council President Mazzarella directed roll call:

Aye: Albanese, Barr, Kazanowski, Toal, Whiting, Mazzarella

Resolution 11-98

WHEREAS the Governing Body of the Township of Clark has advertised for bids on June 30, 2011 for the 2011 NJDOT Roadway Improvement Program; and

WHEREAS two (2) bid proposals were received on July 13, 2011 at 10:00 am in accordance with specifications prepared by the Township Engineer; and

WHEREAS the two (2) lowest responsible bidders were Z Brothers in the amount of \$139,909.81 and Fischer Contracting, Inc. in the amount of \$151,078.00; and

WHEREAS Z Brothers, 304 Jernee Mill Road, Sayreville, NJ submitted the lowest proposal in the amount of \$139,909.81 which meets the needs of the Township as specified by the Township Engineer; and

WHEREAS the Chief Financial Officer has ascertained there are available sufficient uncommitted appropriations in Bond Ordinance 11-12 as attached hereto as a “Certification of Availability of Funds”; and

WHEREAS the Township Engineer has presented written approval for the award of the bid to Z Brothers.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark that it hereby awards a contract to Z Brothers in the amount of \$139,909.81; and

BE IT FURTHER RESOLVED by the Governing Body that award of bid is subject to review of bid and documents by the Township Attorney who will prepare the contract.

Moved by Councilwoman Whiting, seconded by Councilwoman Albanese

Discussion: None

Council President Mazzarella directed roll call:

Aye: Albanese, Barr, Kazanowski, Toal, Whiting, Mazzarella

Resolution 11-99

WHEREAS the Governing Body of the Township of Clark believes that every child should have equal resources of state aid distributed by the legislature for an education in the State of New Jersey by utilizing a fair school funding mechanism; and

WHEREAS the current distribution of state aid for education to the schools has not been distributed in a fair and equitable manner to provide property tax relief to all the citizens of the State of New Jersey; and

WHEREAS Article III, Paragraph I, of the New Jersey State Constitution states, “The powers of government shall be divided among three distinct branches, the legislative, executive, and judicial. No person or persons belonging to or constituting one branch shall exercise any of the powers properly belonging to either of the others, except as expressly provided in this Constitution;” and

WHEREAS Article VIII, Section IV, Paragraph I, of the New Jersey State Constitution states, “the Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children in the State between the ages of five and eighteen years;” and

WHEREAS Article VIII, Section IV, Paragraph 2, of the New Jersey State Constitution states, “the fund for the support of free public schools...shall be annually appropriated to the support of free public schools, and for the equal benefit of all the people of this State;” and

WHEREAS Article VIII, Section I, Paragraph 7.a. of the New Jersey State Constitution states, the income tax is to be “annually appropriated exclusively for the purpose of reducing or offsetting property taxes;” and

WHEREAS this body can no longer bear the burden of the continued diversion of its fair share of state school aid for the students between the ages of five and eighteen years of age who reside within this jurisdiction.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Township of Clark does hereby call upon the Legislature of the State of New Jersey to fulfill its constitutionally assigned duty to distribute the state aid for education to the school districts in this state in a fair manner that is for the equal benefit of all the people of the state and not by means that are prejudiced by the actions of special interests that may have been presented before the Court or other venue.

BE IT FURTHER RESOLVED that the Clerk of this entity is hereby directed to forward a copy of this resolution to Governor Chris Christie, Senate President Stephen Sweeney, Senate Minority Leader Thomas Kean Jr., Assembly Speaker Sheila Oliver and Assembly Minority Leader Alex DeCroce.

Moved and Seconded by the Entire Council

Discussion:

Council President Mazzarella: I have just one comment for the residents. I thank Councilwoman Whiting to bring this piece of legislation to my attention... that it is moved and seconded by the entire council. This is a good piece of legislation for our community. If it is passed, we are urging the State to pass this, to pass a bill that would lessen the tax burden on our residents by making the fair share on the distributing of those monies fairly through all of the communities, and we are getting a small piece of it and some other communities are getting a large piece of it. So we are urging the State to pass a resolution to lessen the burden to you, our residents.

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

CONSENT AGENDA RESOLUTIONS:

Resolution 11-100

A RESOLUTION AMENDING RESOLUTION 11-88 TO INCLUDE AN ADDITIONAL ASSISTANT TO THE WARD COMMISSION

WHEREAS the Governing Body of the Township of Clark authorized the Creation of a Ward Commission and set compensation for same by Resolution 11-88 adopted June 20, 2011; and

WHEREAS the name of the Union County Board of Elections Deputy Administrator, Joanne Arena was inadvertently omitted from the Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark that it does hereby amend Resolution 11-88 to include Joanne Arena, 271 N. Broad St., Elizabeth, NJ 07207 as an Assistant with compensation set at \$350.00.

Resolution 11-101

A RESOLUTION REQUESTING PERMISSION FOR THE DEDICATION BY RIDER FOR LIBRARY CAPITAL CONTRIBUTIONS

WHEREAS permission is required of the Director of the Division of Local Government Services for approval as a dedication by rider of revenues received by a municipality when the revenue is not subject to reasonably accurate estimates in advance; and

WHEREAS N.J.S.A. 40A:4-39 provides that the Director of the Division of Local Government Services may approve expenditures of monies by dedication by rider.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, New Jersey as follows:

1. The Township Council does hereby request permission of the Director of the Division of Local Government Services to pay expenditures under the provisions of N.J.S.A. 40A:4-39, as amended by P. L. 1999, c. 292 for Library Capital Contributions; and
2. The Municipal Clerk is hereby directed to forward two certified copies of this Resolution to the Director of the Division of Local Government Services.

Resolution 11-102

WHEREAS N.J.S.A. 40A:5-4 requires the Governing Body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS The Annual Report of Audit for the year 2010 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the Governing Body; and

WHEREAS The Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34; and

WHEREAS The Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the

State of New Jersey that all members of the Governing Body have reviewed, as a minimum, the sections of the annual audit entitled:

General Comments
Recommendations

and

WHEREAS the members of the Governing Body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

General Comments
Recommendations

as evidenced by the group affidavit form of the Governing Body; and

WHEREAS Such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, as per the regulations of the Local Finance Board; and

WHEREAS All members of the Governing Body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS Failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S.52:27BB-52 - to wit:

R.S.52:27BB-52 - "A local officer or member of a local Governing Body who, after a date fixed for compliance, fails or refuses to obey an order of the Director of Local Government Services, under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.) or imprisoned for not more than one year, or both, in addition shall forfeit his office."

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Township of Clark, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Resolution 11-103

WHEREAS an agreement is proposed between the Township of Clark having offices at 430 Westfield Avenue, Clark, New Jersey, hereinafter referred to as the “Landlord” and Union County Educational Services Commission, a Commission of the State of New Jersey having its office at 45 Cardinal Drive, Westfield, New Jersey, hereinafter referred to as the “Tenant”; and

WHEREAS premises to be let is the Oliver B. Resch Gymnasium, containing a stage, to be made available Monday through Friday, 8:30 a.m. through 2:30 p.m. commencing on September 1, 2011 and concluding on June 30, 2012 together with the second gymnasium, the Walter A. Bakum Gymnasium, to be made available on an “as needed” basis with usage, to be approved upon the request of Union County Educational Services Committee by the Business Administrator of the Township of Clark during the same term.

NOW, THEREFORE, BE IT RESOLVED the Governing Body of the Township of Clark, County of Union, State of New Jersey does hereby authorize the Mayor to enter into a lease agreement (attached hereto) on behalf of the Township with the Union County Educational Services Commission, located at 45 Cardinal Drive, Westfield, New Jersey.

Resolution 11-104

WHEREAS the Treasurer/CFO has certified that sewer utility accounts require balance adjustments; and

WHEREAS the Business Administrator has reviewed the attached list and approved the sewer fee adjustments.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Clark, County of Union, State of New Jersey, that the Treasurer/CFO be authorized to apply the sewer account balance adjustments according to the attached schedule:

Resolution 11-105

WHEREAS the Treasurer/CFO has certified that various Senior Citizens have provided documentation that they qualify for PTR reimbursement and therefore will receive reimbursement of 2010 Sewer Fees from the Township in accordance with the fees set forth in Ordinance 10-05; and

WHEREAS the Business Administrator has reviewed and approved the adjustments.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey, that the Treasurer/CFO be authorized to issue the refunds in accordance with the attached schedule.

**CLARK TOWNSHIP
PTR REIMBURSEMENT ADJUSTMENTS
2010 REFUNDS**

Num	Account	Last Name	First Name	Address	Billed	Payable	Credit
10-175	4715-0	Greshko	Rita	1109 Maurice Ave	125.00	125.00	125.00

Resolution 11-106

WHEREAS in accordance with a request from the Treasurer/CFO for authorization to refund overpayment of 2011 sewer fees; 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 Treasurer/CFO is hereby authorized and directed to make the following refunds as per the attached schedule.

<u>REF#</u>	<u>Account#</u>	<u>Name</u>	<u>Address</u>	<u>Reason</u>	<u>Refund</u>
11R	16 1954-0	Bryan Healy	433 Westfield Ave.	overpayment	\$31.69
11R	17 1881-0	Jack Young	86 Post Circle	overpayment	\$87.50
					\$119.19

Resolution 11-107

WHEREAS in accordance with a request from the Tax Collector for authorization to refund overpayment of 2011 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 refund:

CLARK TOWNSHIP							
TAX REFUNDS - 2011							
BLOCK	LOT	QUAL.	NAME	#	ADDRESS		REFUND
28	3.03		Chase Home Lending		6 Hollander Hill Ct.		5,005.39
					Chase Home Lending		
					Attn: Tax Dept.		
					CC# 13602		
					OH4-7326		
					Columbus OH 43224		

Resolution 11-108

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 F.W.F. Fitness, LLC d/b/a/ Retro Fitness, 225 Terminal Avenue, Clark, New Jersey 07066.

Motion to adopt Consent Agenda made by Councilman Toal, seconded by Councilwoman Albanese

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

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 opens the public portion of the meeting
(Complete transcript available in the Clerk’s office)

Russell Kelner, 38 Georgia St., Cranford: Commented on the noisy music coming from Senioritas Restaurant several nights a weeks until late at night and requested action to diminish the noise.

Council President Mazzarella: Have you explored the possibility of going to the Hyatt Hills Golf Commission? Because they are the body that governs the operations of that whole complex and I do believe that you do have representation from Cranford on that commission as well.

Discussion continued for several minutes

Delia Collins, 72 Georgia Street: Resident behind Hyatt Hills and Senioritas; commented on the noise

Attorney Triarsi: If you get no relief at Hyatt and the Township Council is disposed to change the ordinance that limits the hours of operation, it has that within its power, I'm not prepared to recommend that to them at this point in time. I think you should go to Hyatt first and see if an accommodation can be reached, they have control over the operation and you may be able to do something short of coming and having Council to ask them to change the law, it's a serious thing to change the law, if things really get out of control in terms of noise, we have a noise ordinance in town and you call the police on that as well.

Discussion continued for several minutes

Mike Altman, 8 Winter's Court: Further questions regarding Retro Fitness were answered by the Business Administrator

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

Council President Mazzarella directed roll call:

Aye: Albanese, Barr, Kazanowski, Toal, Whiting, Mazzarella

MAYOR, COUNCIL AND PROFESSIONAL COMMENTS:

(Complete transcript is available in the Clerk's office

John Laezza/Acting Mayor: No comments.

Councilwoman Whiting:

- 1. Cleared up residency questions; move is unrelated to the Miele property
- 2. Flyer has incorrect information regarding the Miele property. Accurate information can be obtained by calling The Mayor or Council members and/or attending the Planning Board meeting

Councilman Toal:

- 1. Application for Miele's is still to be heard and your thoughts and opinions are important. Go to the Planning Board meeting
- 2. Wonderful 4th of July fireworks show; accolades to Clark Police, Clark Fire Department Clark PBA 125 annual memorial service for Billy Waterson
- 3. Check on Senior Citizens in extreme heat

Councilman Kazanowski:

- 1. Congratulated the Fire Department, Police Department, the Administration for the 4th of July fireworks
- 2. Encouraged people to join the pool

3. Apologized to the people of the Third Ward, misprint in calendar regarding recycling
Councilman Barr:

1. Miele property-don't listen to rumors
2. Kudos to the Fire Department on their handling of a multi-car accident on the Parkway
3. Welcomed the Kelners to a Clark Council meeting.

Councilwoman Albanese: No comment

Councilman Toal:

Residents who have passed away; Frank DeMille, a veteran of the Korean War and a longtime Clark resident. Josephine Kane from Clark Historical Society and St. Agnes and Mr. Richard LeDuc, and Joe Urban

Council President Mazzarella:

1. Miele property listening to rumors and misinformation is the worst thing, if you are really concerned come to the meeting and voice your concerns.
2. It's very hot out there; hydrate yourself and try to be as safe as possible
3. Drive safely
4. Recycle

John Laezza: Miele property; the location of the Planning Board meeting has not yet been finalized

Attorney Triarsi: No report.

Township Clerk: No comments

Chief Andy Beach: No comments

Council President Mazzarella: Thanked the residents from Cranford that were here

A motion to adjourn was made by Councilman Kazanowski, seconded by Councilwoman Albanese

Council President Mazzarella directed roll call:

Aye: Albanese, Barr, Kazanowski, Toal, Whiting, Mazzarella

MEETING ADJOURNED