

**REGULAR COUNCIL MEETING, 315 WESTFIELD AVE., CLARK, N.J.
June 20, 2011**

ROLL CALL:

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

Also Present: Mayor Sal Bonaccorso, John Laezza, Business Administrator; Howard Lesnik, filling in for 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.

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

Council President Mazzarella directed roll call:

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

Promotion of Alan Scherb to Captain

Mayor Bonaccorso: 1. Recognized Anna Zak of the Prosecutor's Office 2. Explained the reorganization of the Police Department (Transcript of the Mayor's comments available in the Clerk's office)

Captain Anna Zak: Transcript of Captain Zak's comments available in the Clerk's office

Mayor Bonaccorso: 1. Mayor's Certificate of Achievement presented to Taylor Foster for the 2010-2011 New Jersey Fire Prevention Poster Contest sponsored by the New Jersey Division of Fire Safety and New Jersey Fire Prevention Protection Association: Division #7 group, Ninth through Twelfth grade 2. Arbor Day Calendar Art Contest (Full transcript available in the Clerk's office)

Motion to Resume the Regular Order of Business made by Councilman Kazanowski, seconded by Councilman O'Connor

Council President Mazzarella directed roll call:

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

COMMUNICATIONS FROM THE MAYOR AND REPORTS OF TOWNSHIP OFFICERS: Transcript available in the Clerk’s office

REPORT OF COUNCIL COMMITTEES: Transcript available in the Clerk’s office

ORDINANCES, APPROPRIATIONS AND CLAIMS:

PUBLIC HEARING ON PROPOSED ORDINANCES:

(No objections have been received in connection with the proposed Ordinances)

Ordinance 11-14

AN ORDINANCE TO REPEAL IN ITS ENTIRETY CHAPTER 2, SECTIONS 2-16.1 TO 2-16.14 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF CLARK ENTITLED “DIVISION OF POLICE” AND TO CREATE A NEW SECTION TO BE ENTITLED “DEPARTMENT OF POLICE”

Council President Mazzarella opened the Public Hearing on Ordinance 11-14

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

Council President Mazzarella directed roll call:

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

A motion to adopt Ordinance 11-14 made by Councilman Barr, seconded by Councilwoman Whiting

Discussion: None

Council President Mazzarella directed roll call:

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

Ordinance Adopted

Ordinance 11-15

AN ORDINANCE TO AMEND CHAPTER 2, SECTION 2-15 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF CLARK ENTITLED “DEPARTMENT OF PUBLIC SAFETY”

Council President Mazzarella opened the Public Hearing on Ordinance 11-15

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

Council President Mazzarella directed roll call:

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

A motion to adopt Ordinance 11-15 made by Councilwoman Whiting, seconded by Councilman Barr

Discussion: None

Council President Mazzearella directed roll call:

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

Ordinance Adopted

Ordinance 11-16

AN ORDINANCE TO AMEND ORDINANCE 02-15 ADOPTED AUGUST 19, 2002

Council President Mazzearella opened the Public Hearing on Ordinance 11-16

Seeing no one coming forward Councilwoman Whiting made a motion to close the Public Hearing, seconded by Councilman O'Connor

Council President Mazzearella directed roll call:

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

Discussion: None

A motion to adopt Ordinance 11-16 made by Councilwoman Albanese, seconded by Councilman Kazanowski

Council President Mazzearella directed roll call:

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

Ordinance Adopted

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 \$522,533.19 for the period ending June 17, 2011, seconded by Councilwoman Albanese

Council President Mazzearella directed roll call:

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

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 address to the Council as a body and shall not exceed 10 minutes in duration.

Council President Mazzearella opened the meeting to the public regarding agenda items only

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

Council President Mazzarella directed roll call:

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

RESOLUTIONS:

Resolution 11-84

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 Licenses in the sum of \$2,500.00; Plenary Retail Distribution Licenses in the sum of \$1,440.00; Club Licenses in the sum of \$188.00, be renewed for the Year 2011-2012, effective as of July 1, 2011.

- 2002-33-001-003 Brinker New Jersey Inc.
t/a Chili's Grill & Bar
225 Central Ave., Clark, NJ 07066
- 2002-44-002-003 Wine Anthology
77 Central Ave., Clark, NJ 07066
- 2002-33-003-003 Aliperti's Restaurant, Inc.
1189 Raritan Road, Clark, NJ 07066
- 2002-33-005-009 Clark BBQ Inc.
1419 Raritan Road, Clark, NJ 07066
- 2002-36-006-009 Largo Clark SPE LLC
t/a Crowne Plaza Hotel
36 Valley Road, Clark, NJ 07066
- 2002-44-008-005 Rotondo's Oak Ridge Liquors Inc.
t/a Rotondo's Liquors Deli and Fine Foods Inc.
1040 Lake Avenue, Clark, NJ 07066
- 2002-33-009-004 1085 Central Ave. Restaurant Corp.
t/a Molly Maguire's Irish Pub & Restaurant
1085 Central Avenue, Clark, NJ 07066
- 2002-33-011-006 1199 Corp.
t/a Tarantella's Ristorante
1199 Raritan Road, Clark, NJ 07066
- 2002-31-012-001 Clark Post #328 The American Legion
t/a American Legion Clark Post 328
78 Westfield Avenue, Clark, NJ 07066

2002-31-013-002 Deutscher Club Clark Inc.
787 Featherbed Lane, Clark, NJ 07066

2002-31-015-001 Gran Centurions The
440 Madison Hill Road, Clark, NJ 07066

2002-31-017-001 John L. Ruddy Post 7363 VFW
6 Broadway, Clark, NJ 07066

2002-31-020-001 Polish Cultural Foundation Inc.
177 Broadway, Clark, NJ 07066

Moved by Councilman Toal, seconded by Councilman Kazanowski

Discussion: None

Council President Mazzarella directed roll call:

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

Resolution 11-85

BE IT RESOLVED by the Clark Township Swimming Pool Utility that it does hereby authorize the Council Liaison/Chairperson of the said Utility and/or his/her designee, the Director of Building and Maintenance to audit and approve the payment of those claims on behalf of the Utility which are provided for and contained in the annual budget of the Clark Township Swimming Pool Utility.

Moved by Councilwoman Albanese, seconded by Councilman Barr

Discussion: None

Council President Mazzarella directed roll call:

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

Resolution 11-86

Resolution Opposing the Passage of A-3285

WHEREAS, A-3285 would require that certain public contract bid advertisements include certified cost estimates or estimate ranges of projected contract cost and it would amend the grounds for rejection of all bids; and

WHEREAS, advocates for A-3285 argue that the best interests of taxpayers are served by the provisions of A-3285, because it promotes, they claim, openness and broad dissemination of information; and

WHEREAS, we agree that taxpayers are best served by openness and broad dissemination of information, however, A-3285, would, in fact, limit a competitive process that is the foundation of the Local Public Contracts Law and would not best serve the public interest; and

WHEREAS, A-3285 would require a municipality to include in the public advertisement its cost estimates or cost estimate ranges for construction projects in excess of \$500,000; and

WHEREAS, A-3285 also amends the provision to reject all bids; and

WHEREAS, one of the amendments would permit a municipality to reject all bids only if the lowest bid substantially exceeds the municipality’s cost estimates or cost estimate ranges for the goods or services as published and attested; and

WHEREAS, as a result of this amendment, all contracts, including goods and services, over the contracting unit’s bid threshold will now require the public advertisement for bids to include cost estimates or cost estimates ranges; and

WHEREAS, municipal engineers and other design professionals will typically prepare the projects cost estimates based on the current industry cost and bids received for similar projects in different municipalities; and

WHEREAS, these estimates tend to be in the middle of the current industry cost; and

WHEREAS, we are concerned that A-3285 will create the “floor” as opposed to a “ceiling” for bid pricing, removing the incentive for competitiveness and prohibit a municipality from receiving the best possible price for the project; and

WHEREAS, requiring the advertisement of the cost will lead to unfair pricing and increased cost for already strained taxpayers; and

WHEREAS, A-3285 also has the potential to expose municipalities to protracted disputes and litigation.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Township of Clark that it hereby strongly opposes the passage of A-3285 as it will delay construction projects, lead to increased costs, limit the rejection of bids and expose municipalities to protracted disputes and litigation; and

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded to New Jersey Governor Christopher Christie, to Senate President Stephen Sweeney, to Assembly Speaker Sheila Oliver, to our State Senator, to our two Representatives in the General Assembly, and to the New Jersey League of Municipalities.

Moved by Councilman Barr, seconded by Councilwoman Whiting

Discussion: None

Council President Mazzarella directed roll call:

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

Resolution 11-87

Resolution Urging the Swift Passage of S-2762/A-4084

WHEREAS, Senator Buono and Assemblyman Coutinho have introduced S-2762 and A-4084, respectively, which permits a municipality to pay commercial and industrial property tax refunds for tax year 2010 and 2011 over subsequent three local budget years; and

WHEREAS, municipalities do rely and encourage business development in their community for economic growth; and

WHEREAS, unlike residential tax appeals, commercial and industrial property owners must submit an income statement when filing their appeal as net income generated by property has a direct bearing on the ability to market the property and therefore its value; and

WHEREAS, successful tax appeals shift the burden of the appeal to the rest of the taxpayers within the community; and

WHEREAS, S-2762 and A-4084 will provide municipalities with a temporary tool to assist in planning and controlling their financial budgets during this influx of appeals; and

WHEREAS, the governing body of the Township of Clark supports the need for the legislation to address property tax refunds for commercial and industrial properties and firmly believes that by allowing phased refunds on successful commercial and industrial property appeals, these bills will provide substantial relief for many residential taxpayers; and

WHEREAS, the League of Municipalities recently conducted a survey that measured the extent to which property owners filed and won tax appeals in 2010, in which 150 municipalities, representing a cross section of the state, participated; and

WHEREAS, those participating in the survey reported property value declines of more than \$87,900,000, which resulted from 19,788 tax appeals filed in 2010; and

WHEREAS, those responding to the survey indicated that 13,760 appeals were filed in 2009, compared to 19,788 in 2010, representing an increase of 43.7%; and

WHEREAS, while a municipality will often experience an increase in tax appeals because they have conducted a revaluation, only 5 of the 150 municipalities, which participated in our survey, indicated that their 2010 appeals resulted from revaluations compared to the 23 of the participating municipalities conducted revaluations in 2009, when fewer tax appeals were presented to the County Tax Boards; and

WHEREAS, the 2010 spike in appeals should be attributed to the economic down-turn, which lowered property values and placed increased stress on the income of property owners, all around our Garden State; and

WHEREAS, although the survey was a snapshot picture in time, it can be used to project what might follow in 2011 and beyond, since the reductions, which were granted by the County Tax Boards will have a multiplier effect; and

WHEREAS, while New Jersey and this nation struggle to recover from one of the worst economic crisis since the Great Depression, municipalities must be given the tools to prevent increasing property taxes on already strained tax payers; and

WHEREAS, successful tax appeals impact fund balances and place additional pressures on the local budget;

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Township of Clark urge for the swift passage of S-2762 and A-4084 to provide municipalities with an additional tool to prevent increasing property taxes on already strained taxpayers; and

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded to New Jersey Governor Christopher Christie, to Senate President Stephen Sweeney, to Assembly Speaker Sheila Oliver, to our State Senator, to our two Representatives in the General Assembly, and to the New Jersey League of Municipalities.

Moved by Councilman O’Connor, seconded by Councilwoman Albanese

Discussion: None

Council President Mazzarella directed roll call:

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

Resolution 11-88

A RESOLUTION AUTHORIZING THE CREATION OF A WARD COMMISSION

WHEREAS, the Township of Clark is governed by a charter providing that the Municipality shall be divided into Wards and Districts; and

WHEREAS, as per N.J.S.A 10:44-13(c) within three months following official promulgation by the Governor of a Federal Census Count a Ward Commission is to be established consisting of the four (4) members of the County Board of Elections and the Township Clerk; and

WHEREAS, the names and addresses of the Ward Commissioners are as follows:

Edith L. Merkel, Township Clerk
430 Westfield Avenue, Clark, NJ 07066

John DeSimone, Chairperson
Mary Ellen Harris
Marie Oakie
Clara T. Harelik, Esq.
271 N. Broad St., Elizabeth, NJ 07207

Assistant: Dennis Scott Kobitz, 271 N. Broad St., Elizabeth, NJ 07207

WHEREAS, the Ward Commissioners are entitled to compensation set by the Township Clerk.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Township of Clark does hereby authorize the creation of a Ward Commission and set compensation for same at \$450.00 for the Chairperson and \$350.00 for each Commissioner and Assistant needed.

Moved by Councilwoman Whiting, seconded by Councilwoman Albanese

Discussion: None

Council President Mazzarella directed roll call:

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

CONSENT AGENDA RESOLUTIONS:

Resolution 11-89

WHEREAS the Tax Collector does hereby request authorization to cancel 2011 taxes and refund taxes paid for the first half of 2011 to Felix Frank Hadam of 18 Coldevin Road (Block 196 Lot 7) due to a Disabled Veteran's Exemption as certified by the U. S. Department of Veterans Affairs as of October 6, 2010 and reviewed and authorized by Michael Ross, Tax Assessor.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark, that the Chief Financial Officer is hereby authorized to cancel 2011 taxes and refund the first half of 2011 taxes in the amount of \$2,846.60 and to make the proper adjustments to exempt this property for the 2012 tax year.

Resolution 11-90

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 refunds:

CLARK TOWNSHIP							
TAX REFUNDS - 2011							
BLOCK	LOT	QUAL	NAME	#	ADDRESS		REFUND
25	12		VENEZIO, MARTIN	102	HILLCREST DRIVE		110.79
63	36		WELLS FARGO	1	HOME CAMPUS		1,430.16
					MAC X2302-04D		
					DES MOINES, IA50328		
196	27		WELLS FARGO		SAME AS ABOVE		268.05
196	14		THERESA JENNINGS	32	COLDEVIN ROAD		1,565.12
					CLARK		
			TOTAL REFUND AMOUNT				3,374.12

Resolution 11-91

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 11-92

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.

Resolution 11-93

A RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO EXECUTE A COOPERATION AGREEMENT WITH THE COUNTY OF UNION FOR CONDUCTING CERTAIN COMMUNITY DEVELOPMENT ACTIVITIES

WHEREAS, the Interlocal Services Act, N.J.S.A. 40:8A-1 et seq., provides a mechanism through which counties and municipalities may enter into agreements for the provision of joint services; and

WHEREAS, Title I of the Housing and Community Development Act of 1974 provides for substantial federal funds being made to certain urban counties for use therein through the Community Development Block Grant (“CDBG”) Entitlement Program, and

WHEREAS, a Cooperative Agreement between the County of Union and the Municipality of Clark shall be utilized to establish a legal mechanism through which the County government may apply for, receive and disburse federal funds from federal fiscal year 2012, 2013 and 2014 appropriations; and

WHEREAS, it is the desire of the Municipality of Clark to enter into Cooperative Agreements with the County of Union for successive three year periods.

NOW THEREFORE BE IT RESOLVED that the Municipality of Clark is hereby authorized to enter into and execute said Cooperative Agreements. Said Cooperative Agreements are to be substantially in the form of Agreement attached hereto and made a part hereof; and

BE IT FUTHER RESOLVED, that a copy of the Resolution shall be forwarded to the County of Union.

Resolution 11-94

A RESOLUTION AUTHORIZING THE MAYOR AND MUNICIPAL CLERK OF THE MUNICIPALITY OF CLARK TO EXECUTE AN AGREEMENT WITH THE COUNTY OF UNION TO MODIFY THE INTERLOCAL SERVICES AGREEMENT DATED JUNE 2011

WHEREAS, certain Federal funds are potentially available to the County of Union under Title I of the Housing and Community Development Block Grant Act of 1974, as amended, commonly known as the Community Development Block Grant Program; and

WHEREAS, certain Federal funds are potentially available to the County of Union under Title II of the National Affordable Housing Act of 1990, commonly known as the HOME Investment Partnership program; and

WHEREAS, the Emergency Shelter Grants program (“ESG”) provided through Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act permits for substantial federal funds

allocated to prevent homelessness and to enable homeless individuals and families to move toward independent living; and

WHEREAS, it is necessary to amend an existing Interlocal Services Agreement for the County of Union and its people to benefit from this program; and

WHEREAS, it is in the best interest of the Municipality of Clark and the County of Union in cooperation with each other to enter into a modification of the Interlocal Services Agreement pursuant to N.J.S.A. 40:8A-1;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Governing Body of the Municipality of Clark that the agreement entitled “**COOPERATIVE AGREEMENT BETWEEN THE COUNTY OF UNION AND CERTAIN MUNICIPALITIES FOR CONDUCTING CERTAIN COMMUNITY DEVELOPMENT ACTIVITIES,**” dated June 2011, for the Purpose of Inserting a Description of Activities for Fiscal Year 2011-2012 of the Union County Community Development Block Grant program, the HOME Investment Partnership program, and the Emergency Shelter Grant program (ESG), a copy of which is attached hereto; be executed by the Mayor and Municipal Clerk in accordance with the provisions of law;

BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon its adoption.

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

Council President Mazzarella directed roll call:
Aye: Albanese, Barr, Kazanowski, O’Connor, 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 Mazzarella opened the meeting to the public

Joe Pubchara: 1. Congratulated Captain Scherb and Taylor Foster 2. Comments regarding branch pick up 3. Senior citizen complex

Doug Ritter: Question re paving on Westfield Avenue between Raritan and Featherbed Lane

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

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

MAYOR, COUNCIL AND PROFESSIONAL COMMENTS:

Transcript available in the Clerk's office

ADOURNMENT:

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

Council President Mazzarella directed roll call:

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