

**SPECIAL COUNCIL MEETING, 315 WESTFIELD AVE., CLARK NJ  
July 6, 2015**

**ROLL CALL:**

Present: Council Members Albanese, Barr, Hund, Mazzarella, O'Connor, Toal, Smith

Also Present: John Laezza, Business Administrator; Joseph Triarsi, Township Attorney; Edith Merkel, Township Clerk.

Absent: Mayor Bonaccorso

The Special Meeting of the Municipal Council of the Township of Clark was called to order at 7:30 P.M. by Council President Smith. 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 sending written advanced notice of at least 48 hours to the Union County Local Source, and Star Ledger, by posting such Meeting Agenda 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.

**RESOLUTIONS:**

**Resolution 15-84**

**WHEREAS** it has come to the attention of the Township of Clark that New Jersey Supreme Court issued an opinion *In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing* and

**WHEREAS** the Court decided that it would dissolve the exhaustion-of-administrative-remedies under the Fair Housing Act of 1985 (FHA); and

**WHEREAS** the holding authorizes the courts to hear and decide actions addressing municipal compliance with constitutional *Mount Laurel* obligations by municipalities that sought protections of the FHA through COAH; and

**WHEREAS** the holding permits municipalities file a declaratory judgment action seeking a judicial determination that it's housing plan is presumptively valid because it presents a realistic opportunity for the provision of its fair share of its housing region's present and prospective need for low- and moderate-income housing; and

**WHEREAS** in the event that a municipality does not file a declaratory judgment action, an action solely focused on whether the municipality’s housing plan meets its *Mount Laurel* obligations may be brought by a party against that municipality; and

**WHEREAS** in all declaratory judgment actions brought before the Courts, the trial court may grant temporary periods of immunity prohibiting exclusionary zoning actions from proceeding against the municipality; and

**WHEREAS** in all declaratory judgment actions brought before the Courts, the trial court’s approval of a municipality’s plan may result ultimately in the municipality’s receipt of the judicial equivalent of substantive certification and accompanying protection as provided under the FHA; and

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Township of Clark, authorizes the Township to file a declaratory judgment action for the Court’s evaluation of the Township’s plan as proof of constitutional compliance.

Moved by Councilman O’Connor, seconded by Councilwoman Albanese

Discussion:

Attorney Triarsi: I’ll address this very briefly Mr. President. In March the Supreme Court dissolved the exhaustion of remedies that the Fair Housing Act was authorized to pursue and they turned around and they appointed one Judge from each of the vicinages to act as the housing Judge. So we no longer have COAH in business. Now each Judge in each county is going to make decisions on Affordable Housing. They knew that was going to be chaotic, so what they did was give all municipalities ninety days from the effective date of the order to file a declaratory judgment action to hold their position. Our position right now is we are in for a third round. So we decided that it would be wise to do that to insulate us from builders remedy suits. Tomorrow the complaint, which Edie has on her desk, which is bound in my office, will go to the Court together with a copy of this resolution and be filed. And that will effectively shield us from any builders remedies at least for the next five months during which time hopefully someone with some agency will profound appropriate rules and we’ll be able to proceed further. My guess is that that won’t happen and that five months from now we’ll be doing something else to delay it another five or six months, but that’s where it is and that’s why this resolution is necessary.

Council President Smith directed roll call:

Aye: Albanese, Barr, Hund, Mazzarella, O’Connor, Toal, Smith

\*\*\*\*\*

**Resolution 15-85**

**WHEREAS** the Township of Clark had a verbal understanding of the restricted use of municipally owned vehicles; and

**WHEREAS** the best practice position, as set forth by the State of New Jersey suggested that such policy be set forth in written form; and

**WHEREAS** the position of the Township of Clark is to promote the encouragement of use of municipal vehicles by our supervisory and on-call employees as they are subject to 24 hour call duty or other legitimate business reasons.

**NOW THEREFORE BE IT RESOLVED** that the use of municipal vehicles is non-taxable if the following conditions are adhered to:

- (a) The employee is required to use the vehicle for legitimate business reasons
- (b) The employee’s personal use of the vehicle is restricted as herein stated, to driving to and from home and work, except for infrequent, de minimus, or emergency occurrences
- (c) The employee complies with the policy
- (d) The employer has some reasonable method to monitor employee compliance
- (e) The vehicle driven by the employee qualifies as a non-personal use vehicle, such as clearly marked police, fire or public safety officer vehicles; and

**BE IT FURTHER RESOLVED** that a written policy will be sent to all such employees.

Moved by Councilman Mazzarella, seconded by Councilman Barr

Discussion:

John Laezza: Basically as you know each year the State decides to give a questionnaire regarding where are we going. We had an employee’s policy with regard to vehicles; we wanted a more finite policy to satisfy that process of use of cars and use of cars for business purposes only. And so this resolution now strengthens our policy.

Council President Smith directed roll call:

Aye: Albanese, Barr, Hund, Mazzarella, O’Connor, Toal, Smith

\*\*\*\*\*

**Resolution 15-86**

**WHEREAS** the Governing Body of the Township of Clark advertised on June 11, 2015 and received one (1) bid for a Three Wheel Street Sweeper with Belt Conveyor on June 25, 2015 at 10:00 am; and

**WHEREAS** the one (1) lowest responsible bidder was W. E. Timmerman Co, Inc., 3554 Route 22 West, Whitehouse, New Jersey in the amount of \$188,427.00 for the Base Bid, \$3,696.00 for the optional Lifeline Hopper Liner and \$2,236.00 for the optional Right Hand Side Broom Tilt with Indicator; and

**WHEREAS** the Base Bid of \$188,427.00 plus the optional Lifeline Hopper Liner in the amount of \$3,696.00 for a total amount of \$192,123.00 meets the needs of the township; and

**WHEREAS** the Business Administrator has reviewed all the documents required by the bid specifications and recommends award of contract to W. E. Timmerman Co, Inc. in the amount of \$192,123.00; and

**WHEREAS** the Chief Financial Officer has ascertained there are available sufficient uncommitted appropriations in the amount not to exceed \$192,123.00 funded by Bond Ordinance 15-04 as attached hereto as a “Certification of Availability of Funds”.

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Township of Clark that it does hereby award a contract to W. E. Timmerman Co, Inc. in the amount of \$192,123.00 subject to review of the bid by the Township Attorney who will draw up the contract.

Moved by Councilman Mazzarella, seconded by Councilman Hund

Discussion:

Councilman Toal: We have how many sweepers right now?

John Laezza: We have two. One is on its last leg.

Councilman Toal: That’s the one we are replacing.

John Laezza: We are replacing that one and the other one...

Councilman Toal: The one that’s running what year is that one?

John Laezza: Probably ten years old.

Councilman Toal: And what’s the life span on these vehicles.

John Laezza: Well the one that we are getting rid of is about thirty years old.

Councilman Toal: That answers my question, thank you sir. Thirty years, that’s an average about another twenty on the one they are driving now and we are adding a new one to the fleet.

Councilman Mazzarella: Plus they are a maintenance nightmare.

Councilman Toal: Yes I’m aware of that and I remember we’ve been tinkering with these things for years at least the one that’s going out.

No further discussion

Council President Smith directed roll call:

Aye: Albanese, Barr, Hund, Mazzarella, O’Connor, Toal, Smith

\*\*\*\*\*

**Resolution 15-87**

**WHEREAS** the Union County Board of Chosen Freeholders is sponsoring the Preserve Union County Grant Program, which makes funding available to local municipalities, to assist them in Historical Preservation; and

**WHEREAS** the Township has funding in the amount of \$40,000 for a preservation plan and submission of the long form for historical eligibility determination for the Dr. William Robinson Plantation located at 593 Madison Hill Road, Clark, NJ, and desires additional funding in the amount of \$40,000 from the Historical Preservation Grant Program; and

**WHEREAS** the Mayor and the Township Council believe that it is in the Township’s best interest to submit an application to the Historical Preservation Grant Program for funding consideration in the amount of \$40,000 towards the purchase of said study.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Township Council of the Township of Clark as follows:

1. The Township Business Administrator is hereby authorized to submit a grant application to the Preserve Union County Grant Program.
2. The Governing Body intends to match the \$40,000 with the Township Capital Account.
3. The Township Clerk is hereby directed to forward certified copies of this resolution to the Business Administrator, Victoria Durbin Drake, Preserve Union County Grant Program Trust Fund Administrator, and to James Pellettiere, Clerk of the Board of Chosen Freeholders for distribution to all County Freeholders.

Moved and seconded by Entire Council

Discussion:

Councilman Toal: What exactly is Scott looking to do on the building now? Is there a specification of what he’s looking to put the money towards?

John Laezza: He’s trying to basically maintain the driveways, take care of the drainage and things of that nature.

No further discussion

Council President Smith directed roll call:

Aye: Albanese, Barr, Hund, Mazarella, O’Connor, Toal, Smith

\*\*\*\*\*

**Resolution 15-88**

**Council as ABC Board**

**BE IT RESOLVED** by the Governing Body of the Township of Clark, County of Union, State of New Jersey 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 \$1,728.00; Club Licenses in the sum of \$188.00, be renewed for the Year 2015-2016, effective as of July 1, 2015.

- 2002-44-002-004      Clark Circle Liquors & Lounge Inc.  
t/a Wine Anthology  
77 Central Ave., Clark, NJ 07066
  
- 2002-33-003-004      Whole Foods Market Group Inc.  
Mailing address: 550 Bowie Street, Austin, TX 78703
  
- 2002-33-004-007      Garry's Catering LLC  
440 Madison Hill Road, Clark, NJ 07066
  
- 2002-33-005-009      Clark BBQ Inc.  
1419 Raritan Road, Clark, NJ 07066
  
- 2002-33-007-007      Apple Food Service  
1255 Raritan 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
  
- 2002-33-010-007      CLKDIN LLC  
t/a Manny's Diner  
1030 Raritan Road, Clark, NJ 07066
  
- 2002-33-011-007      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      The Gran Centurions  
440 Madison Hill Road, Clark, NJ 07066
- 2002-31-017-001      John L. Ruddy Post 7363 VFW  
8 Broadway, Clark, NJ 07066
- 2002-33-018-012      Paragon Restaurant Group LLC  
77 Central Avenue, Clark, NJ 07066
- 2002-31-019-001      Columbian Club of Clark Inc.  
27 Westfield Ave., Clark, NJ 07066
- 2002-31-020-001      Polish Cultural Foundation Inc.  
177 Broadway, Clark, NJ 07066

Moved by Councilman Barr, seconded by Councilman Hund

Discussion:

Township Clerk: Last month you approved the application for Chili’s. They were the first ones to comply with everything and there was no reason to make them wait. Everyone else complied except the Hotel. Because they sold the Hotel, they paid their fees (municipal and state fees) which they had to do or they would have already been shut down. They have applied but they don’t have tax clearance. Meaning; the new people have not yet obtained the liquor license. So the old people are still controlling the sale of alcohol in the Hotel. The old people are dragging their feet because. But we’ve been back and forth and I can’t tell you how many conversations. They are trying to get tax clearance; they were late on a quarterly report or something. So ordinarily they would be shut down right now or they would be paying the state additional fees. However, because of this new process there was an order written by the Director, he has now amended that order twice because he doesn’t want to shut down all the people who don’t have tax clearance. So they have an extension until September 18<sup>th</sup> to get tax clearance which has never happened (prior to the amended order).

Councilman Mazarella: But you have added the VFW today.

Township Clerk: I did add the VFW today because they complied. I was trying to be nice, I gave them a deadline of June 30<sup>th</sup> but they complied today. So everybody is good except the Hotel, but they will still be able to serve.

No further discussion

Council President Smith directed roll call:

Aye: Albanese, Barr, Hund, Mazarella, O’Connor, Toal, Smith

**INTRODUCTION OF PROPOSED ORDINANCE:**

**AN ORDINANCE TO SUPPLEMENT CHAPTER 347 SECTION 45  
OF THE CODE OF THE TOWNSHIP OF CLARK  
ENTITLED TRAFFIC CONTROL SIGNALS**

**BE IT ORDAINED** by the Governing Body of the Township of Clark, County of Union, State of New Jersey as follows:

**SECTION 1.** That the following Traffic Control Signal Installation shall be installed and operated at the following mentioned intersection and as per the designated plan:

<b><u>LOCATION</u></b>	<b><u>DESIGNATED PLAN/DATE</u></b>	<b><u>REVISED TIMING DIRECTIVE DATE</u></b>
Raritan Road (CR607) at Driveway for Hyatt Hills Golf Course and Clark Commons Shopping Center	As-built 07/06/15	07/06/15

**SECTION 2.** That the Traffic Control Signal installed shall be in accordance with the provisions of the Manual on Uniform Traffic Control devices and Title 39 of the Revised Statutes; shall conform to the design and shall be maintained and operation, as authorized by the NJ Department of Transportation.

**SECTION 3.** That all prior ordinances or resolutions or portions thereof of the Township of Clark inconsistent herewith be and they are hereby repealed.

**SECTION 4.** That this ordinance shall become effective upon adoption and publication as required by law and upon the approval of the Commissioner of the Department of Transportation.

**SECTION 5.** That if any clause, section or provision of this ordinance is declared invalid by a Court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision and shall not effect the validity of the remaining portion hereof.

**SECTION 6.** When the Ordinance is finally adopted, the Township Clerk is to send a certified copy to Thomas O. Mineo, P.E., Union County Engineer, 2325 South Avenue, Scotch Plains, NJ 07076 and to Chris Barretts, Manager, Bureau of Traffic Engineering and Safety Programs, NJ Department of Transportation, 1035 Parkway Avenue, Trenton, NJ 08625

**SECTION 7.** This ordinance shall take effect upon adoption and upon publication according to law.

Motion to introduce made by Councilman O’Connor, seconded by Councilman Barr

Discussion:

John Laezza: Basically this is the new light for the Clark Commons (shopping center) as you know is finally blinking now at the protocol from the county. So we get commuters and people over the weekend it will be blinking so that everybody knows that there’s a light there before they put it into motion. We have to give commuters two days of blinking and the weekend it’s two days of blinking.

Councilman O’Connor: Again I’m sure the answer is yes but I’m sure it’s going to be synchronized with all the lights.

John Laezza: Yes it will.

No further discussion

Council President Smith directed roll call:

Aye: Albanese, Barr, Hund, Mazzarella, O’Connor, Toal, Smith

Public Hearing July 20, 2015

**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 Smith opened the meeting to the public

Seeing no one coming forward Councilman O’Connor made a motion to close the public portion of the meeting, seconded by Councilman Hund

Council President Smith directed roll call:

Aye: Albanese, Barr, Hund, Mazzarella, O’Connor, Toal, Smith

**MAYOR, COUNCIL AND PROFESSIONAL COMMENTS:**

Councilwoman Albanese: No comments.

Councilman Barr: No comments.

Councilman Hund: No comments.

Councilman Mazzarella: No comments.

Councilman O’Connor: No comments.

Councilman Toal: No comments.

Council President Smith: No comments.

John Laezza: No comments.

Attorney Triarsi: No comments.

**ADJOURNMENT:**

Motion to adjourn was made by Councilwoman Albanese, seconded by Councilman O'Connor

Council President Smith directed roll call:

Aye: Albanese, Barr, Hund, Mazzarella, O'Connor, Toal, Smith

APPROVED

\_\_\_\_\_  
WILLIAM F. SMITH  
Council President

ATTEST:

\_\_\_\_\_  
EDITH L. MERKEL, RMC  
Township Clerk