

**SPECIAL COUNCIL MEETING, 430 WESTFIELD AVE., CLARK NJ  
May 2, 2022**

**ROLL CALL:**

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

Also Present: Mayor Sal Bonaccorso; Mark Dugan, Township Attorney; Edith Merkel, Township Clerk;

The Special Meeting of the Municipal Council of the Township of Clark was called to order at 7:30 pm by Council President Minniti. 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 (Chapter 231, P.L.1975) as adequate notice of this meeting has been provided by sending out written advanced notice of at least 48 hours to the Star Ledger, Union County Hawk, Union County Local Source, and TAP into Clark, by posting such Meeting Agenda on the Bulletin Board in Town Hall reserved for such announcements, as well as the Official Website of the Township and the proper filing of said Notice. Formal action may be taken at this meeting.

**ORDINANCE, APPROPRIATIONS AND CLAIMS:**  
**PUBLIC HEARING ON PROPOSED ORDINANCE:**

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

**Ordinance 22-05**

**BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS AND THE ACQUISITION OF NEW AUTOMOTIVE VEHICLES, INCLUDING ORIGINAL APPARATUS AND EQUIPMENT, IN, BY AND FOR THE TOWNSHIP OF CLARK, IN THE COUNTY OF UNION, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$1,870,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS AND TO AMEND BOND ORDINANCE NO. 21-24 ADOPTED ON OCTOBER 18, 2021**

Council President Minniti opened the Public Hearing on Ordinance 22-05

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

Council President Minniti directed roll call:  
Aye: Albanese, Mazzarella, O'Connor, Smith, Toal, Minniti

Motion to adopt Ordinance 22-05 was made by Councilman Smith, seconded by Councilwoman Albanese

Discussion: none

Council President Minniti directed roll call:  
Aye: Albanese, Mazzarella, O’Connor, Smith, Toal, Minniti

**RESOLUTIONS:**

**Resolution 22-80**

**AUTHORIZING THE TOWNSHIP PLANNING BOARD TO UNDERTAKE A PRELIMINARY INVESTIGATION TO DETERMINE WHETHER THE PROPOSED STUDY AREA, WHICH INCLUDES LOTS 8.01, 10.01, 36 AND 37 IN BLOCK 91 (A/K/A IN THE AREA OF 27 TO 33 WESTFIELD AVENUE, AND FROM 22 TO 26 WASHINGTON STREET) QUALIFIES AS AN AREA IN NEED OF REDEVELOPMENT PURSUANT TO N.J.S.A. 40A:12A-5.**

**WHEREAS**, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, *et seq.* (the "Act"), authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment in accordance with the Act, including Section 5 thereof; and

**WHEREAS**, on April 18, 2022, the Township of Clark Council adopted Resolution 22-63 authorizing the Planning Board to undertake a Preliminary Investigation to determine whether the Study Area described in that Resolution qualifies as an Area in Need of Non-Condernnation Redevelopment; and

**WHEREAS**, Resolution 22-63 referred to Block and Lot designations for the Study Area which have been replaced with new designations; and

**WHEREAS**, it is the purpose of this Resolution to clarify the Block and Lot designations of the Study Area and to avoid any confusion by readopting the text of Resolution 22-63 with the correct Block and Lot designations; and

**WHEREAS**, the Township wishes to utilize the Planning Board's knowledge and expertise in exploring whether the parcels with frontage on Westfield Avenue and Washington Street identified on the official tax map of the Township as Block 91, Lots 8.01, 10.01, 36 and 37 (a/k/a in the area of 27 to 33 Westfield Avenue, and from 22 to 26 Washington Street, the "Study Area") meet the criteria established by the Act; and

**WHEREAS**, pursuant to the required redevelopment procedures, specifically set forth in N.J.S.A. 40A:12A-6, no area of a municipality shall be determined a redevelopment area unless the Governing Body of the municipality shall, by resolution, authorize the Planning Board to undertake a preliminary investigation to determine whether a proposed area is a redevelopment area meeting the criteria set forth in N.J.S.A. 40A:12A-5; and

**WHEREAS**, the New Jersey Legislature adopted, and the Governor signed P.L. 2013, Chapter 159, which amended the Redevelopment Law, including the procedural requirements of N.J.S.A. 40A:12A-5 and N.J.S.A. 40A:12A-6; and

**WHEREAS**, pursuant to P.L. 2013, Chapter 159, the resolution authorizing the planning board to undertake a preliminary investigation shall state whether the redevelopment area determination shall authorize the municipality to use all those powers provided by the Legislature for use in a redevelopment area other than the use of eminent domain (hereinafter referred to as a "Non-Condensation Redevelopment Area"); and

**WHEREAS**, the Township Mayor and Council finds it to be in the best interest of the Township and its residents to authorize the Township's Planning Board to undertake such preliminary investigation of the study area, Block 91, Lots 8.01, 10.01, 36 and 37, as a Redevelopment Area.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Clark, in the County of Union, State of New Jersey, as follows:

**I. INVESTIGATION OF STUDY AREA AUTHORIZED**

The Planning Board is hereby authorized and directed to conduct an investigation pursuant to N.J. S.A.40A:12A-6 to determine whether all or a portion of the Study Area satisfies the criteria set forth in the Act, including N.J.S.A.40A:12A-5, to be designated as a Redevelopment Area.

**II. MAP TO BE PREPARED**

As part of its investigation, the Planning Board shall prepare a map showing the boundaries of the proposed redevelopment area and the location of the various parcels contained therein.

**III. PUBLIC HEARING REQUIRED**

The Planning Board shall conduct a public hearing, after giving due notice of the proposed boundaries of the Study Area and the date of the hearing to any persons who are interested in or would be affected by a determination that all or a portion of the Study Area is a Redevelopment Area.

At the hearing, the Planning Board shall hear from all persons who are interested in or would be affected by a determination that all or a portion of the Study Area is a Redevelopment Area. All objections to a determination that all or a portion of the Study Area is an area in need of redevelopment and evidence in support of those objections shall be received and considered by the Planning Board and made part of the public record.

**IV. PLANNING BOARD TO MAKE RECOMMENDATIONS**

After conducting its investigation, preparing a map of the proposed Redevelopment Area, and conducting a public hearing at which all objections to the designation are received and considered, the Planning Board shall make a recommendation to the Township Council in the form of a resolution as to whether the Township should designate the Study Area as a Redevelopment Area. Such recommendation shall be submitted to the Township Council by June 2022.

**V. SEVERABILITY**

If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.

**VI. AVAILABILITY OF THE RESOLUTION**

A copy of this Resolution shall be available for public inspection at the offices of the Township Clerk.

**BE IT FURTHER RESOLVED** that, pursuant to New Jersey P.L.2013, Chapter 159, the redevelopment area determination shall authorize the Township to use all those powers provided by the Legislature for use in a Non-Condensation Redevelopment Area; and

**BE IT FURTHER RESOLVED** that a certified copy of this Resolution is to be forwarded to the Planning Board of the Township of Clark.

**BE IT FURTHER RESOLVED** that this Resolution shall take effect immediately. Adopted by the Township Council on May 2, 2022.

Moved by Councilman Smith, seconded by Councilman O'Connor

Discussion: none

Council President Minniti directed roll call:

Aye: Albanese, Mazzaella, O'Connor, Smith, Toal, Minniti

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**Resolution 22-81**

**RESOLUTION OF THE TOWNSHIP OF CLARK AUTHORIZING THE HIRING OF SPECIAL COUNSEL IN THE DEPARTMENT OF LAW FOR THE TOWNSHIP OF CLARK PURSUANT TO §3-27C OF THE TOWNSHIP OF CLARK MUNICIPAL CODE**

**WHEREAS**, Section 3-27(C) of the Municipal Code for the Township of Clark authorizes the Township Council to employ special counsel to aid in the trial and argument of such causes and proceedings of importance in which the Township of Clark may be a party or be interested.

**NOW, THEREFORE, BE IT RESOLVED BY THE** Township Council of the Township of Clark, in the County of Union, State of New Jersey, that it hereby ratifies and affirms the Township of Clark's Qualified Purchasing Agent's hiring of Robert Varady, Esquire, from the Law Firm of LaCorte, Bundy, Varady, & Kinsella, as Special Counsel in the Township of Clark's Department of Law on the recommendation of the Director.

<u>Name</u>	<u>Position</u>	<u>Hourly Rate</u>	<u>Effective Date</u>
Robert Varady, Esq. LaCorte, Bundy Varady, & Kinsella	Special Counsel	\$300.00	April 26, 2022

**BE IT FURTHER RESOLVED**, that the appointment of hiring of the Special Counsel shall be retroactive and deemed "*Nunc Pro Tunc*" to the start date of April 26, 2022.

Moved by Councilman O'Connor, seconded by Councilwoman Albanese

Discussion: none

Council President Minniti directed roll call:

Aye: Albanese, Mazzarella, O'Connor, Smith, Toal, Minniti

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**Resolution 22-82**

**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR THE APPOINTMENT OF SPECIAL COUNSEL**

**WHEREAS**, the Township of Clark has a need to employ Special Counsel pursuant to Section 3-27(c) of the Township of Clark Municipal Code as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and,

**WHEREAS**, the Qualified Purchasing Agent and the Director of the Department of Law have determined and certified in writing that the value of the acquisition will exceed \$44,000; and,

**WHEREAS**, the anticipated term of this contract is one (1) year and may be extended two (2) times for the like one (1) year term as approved by the Township of Clark Governing Body; and

**WHEREAS**, La Corte, Bundy, Varady & Kinsella has submitted a proposal dated April 25, 2022, indicating they will provide legal services as Special Counsel in connection with and replying to certain OPRA demands and defend the Township in lawsuits filed against the Township of Clark for the legal fee of \$300.00 per hour; and

**WHEREAS**, La Corte, Bundy, Varady & Kinsella has completed and submitted a Business Entity Disclosure Certification which certifies that La Corte, Bundy, Varady & Kinsella has not made any reportable contributions to any political or candidate committee for any members of the Governing Body for the Township of Clark, in the previous one (1) year and that the contract will prohibit the Law Firm of La Corte, Bundy, Varady & Kinsella from making any reportable contributions through the term of the contract; and

**WHEREAS**, the Chief Financial Officer certifies, pursuant to N.J.A.C. 5:30-5.4 that there are adequate funds for this contract. Funds have been certified to be available in account number(s) 2-01-20-155-201, from Law Special Services, April 27, 2022; and

**NOW THEREFORE, BE IT RESOLVED** Township Council of the Township of Clark, in the County of Union, State of New Jersey, that it hereby authorizes the Business Administrator to enter into a contract with La Corte, Bundy, Varady & Kinsella as described herein; and,

**BE IT FURTHER RESOLVED** that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution.

Moved by Councilman Mazzarella, seconded by Councilwoman Albanese

Discussion: none

Council President Minniti directed roll call:

Aye: Albanese, Mazzarella, O’Connor, Smith, Toal, Minniti

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**Resolution 22-83**

**WHEREAS** the Township of Clark desires to become a member of the North Jersey Wastewater Cooperative Pricing System, NJWCPS, effective May 2, 2022 and that such membership shall be for the period ending November 24, 2024, and each renewal, thereafter of the system, unless the Township elects to formally withdraw from the system.

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Township of Clark, County of Union, State of New Jersey that it hereby authorizes participation in the aforementioned Cooperative Pricing System and authorizes the Mayor and/or Business Administrator and Municipal Clerk to execute the attached agreement for such membership.

Moved by Councilman Mazzarella, seconded by Councilwoman Albanese

Discussion:

Township Clerk: This is for the Department of Public Works to get a better price on needed equipment for the pumping station.

Council President Minniti directed roll call:

Aye: Albanese, Mazzarella, O’Connor, Smith, Toal, Minniti

**PUBLIC COMMENTS: (Summary)**

Each person addressing the Council shall first give their 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.

Daniel Fuchs, 333 Carolina St.:

- Questioned the purpose of the Special Counsel
- Mayor Bonaccorso responded
- Mr. Fuchs asked don't we have the attorney for the Township
- Mayor responded

Rob Pettenato, 48 Ivy St.:

- Stated the town has been on the media a lot due to racial and other things
- Inquired if the Special Counsel has anything to do with any pending lawsuits or litigation against the town specific to what's going on currently with the Mayor
- Attorney Dugan responded there's a law that's called the Open Public Records Act. The Business Administrator and myself decided that the township is devoting too much of its resources and answering what is an increase in OPRA Requests, so we brought in somebody to help us. There are two lawsuits that were filed against the township with respect to OPRA responses, he will likely defend those two lawsuits.
- Questioned what's an OPRA response
- Attorney Dugan responded it's a response to an Open Public Records Act request. Anyone can make a request for public documents and we have to make certain that we produce everything that we are required to produce, on the other hand there are certain things we cannot produce.
- Asked if there are any lawsuits pending
- Attorney Dugan responded yes, there are two filed
- Questioned if the increase is due to what the Mayor said and what the allegations are as far as not hiring African Americans and not hiring women in the police department
- Attorney Dugan responded that the circumstance has generated the increase in requests
- Questioned if the Counsel that has been appointed will be used for that
- Attorney Dugan responded that they will help with respect to defending the two lawsuits and if we continued to get more requests
- Wanted to know if it protects the Mayor as an individual or the town
- Attorney Dugan responded it protects the town. The town will get sued because of a request response that the requestor didn't believe complied with the law. The Clerk gets sued actually because the Clerk is the custodian of records, so the two lawsuits that were filed were against the Clerk and the town.
- Mayor Bonaccorso responded saying Open Public Records is for anything in the town, it could be for construction, it could be for anything, you can be sued for anything
- Attorney Dugan responded by saying there's a seven-business day time period when the response must be completed
- Questioned when was the last time Special Counsel was required
- Attorney Dugan responded he doesn't know due to being the Township Attorney for the last 2 years
- Anyone here would know, meaning Council, they are voting on it
- Mayor Bonaccorso responded by saying he doesn't think so
- Asked if it's safe to assume that if it hasn't happened in a while, the increases of OPRA requests are really due to all of the allegations

- Mayor Bonaccorso responded by saying he hopes people start to OPRA other towns and the County to see what kind of lawsuits are settled in those towns, added some towns have hired employees full time to work on OPRA because of the increase
- Knows the Mayor has said there's a lot of allegations in other towns, doesn't recall hearing one with recordings
- Mayor Bonaccorso responded he's not getting into that; he made a statement regarding OPRA and hopes he agrees and if he doesn't, he thanked Mr. Pettenato for his time

Michael Shulman, 382 Carolina St.:

- Wants to know how many OPRA requests have been requested in the last thirty days
- Attorney Dugan responded he didn't count them
- You mentioned two lawsuits, I'm assuming if they are OPRA requests, are they federal or state lawsuits
- Attorney Dugan responded they are state lawsuits
- Wants to know who is suing the town
- Attorney Dugan responded the first one he can't remember the name of the organization, the second one was a gentleman by the name of John Paff who files them frequently against many towns
- Mentioned he knows Mr. Paff's name well
- It was said the town was going to be defending both of them (the lawsuits), "I imagine what that really means is there is certain information that's being requested the town doesn't want to turn over, is that correct?"
- Attorney Dugan responded that the town turned over information that it thought it was required to turn over. We worked in collaborations with the Union County Prosecutor's Office and provided that information. That is one of the lawsuits. The other lawsuit the person seemed to be more or less impatient, they didn't provide clarification that was asked, so they filed a lawsuit.
- Asked Mr. Dugan what was requested that the township felt it did not need to disclose
- Attorney Dugan responded the township produced a copy of a settlement agreement with redactions and the gentleman thought it was too broad
- It was a copy of one settlement agreement related to prior lawsuits
- Asked if one the settlement agreements that was discussed in the NJ.com article
- Attorney Dugan responded that he didn't have an opportunity to read that article, asked Mr. Shulman who was named in the settlements
- There was a lawsuit in 2010 regarding a Sgt. Ricci, was the lawsuit involving settlements regarding her?
- Attorney Dugan responded it was not her, that document was produced
- There was a lawsuit involving Officers Francisco, Richter and Venezia, was it a settlement regarding any of those individuals?
- Attorney Dugan responded it was not of those three individuals, he stated the first Ricci lawsuit there were some minor redactions to it but had no problem with that and I don't believe there were any redactions to the Francisco, Richter and Venezia, that settlement also was turned over
- Asked if it was the settlement documents regarding the Manata lawsuit
- Attorney Dugan responded that that was the one



- Asked what information specifically needs to be protected from OPRA requests
- Attorney Dugan responded it's set forth in the Statute, we follow a Statute. There are also executive directives or variety of laws that sort of compliment that
- Stated that the town indicates its plan to retain Special Counsel for the purpose of OPRA requests, asked if the scope of Special Counsel is limited to OPRA requests and related lawsuits
- Dugan responded that there is no anticipation of expanding the scope, he's been engaged to assist with respect to OPRA requests
- Asked if Dugan would agree that as part of his role as Township Counsel is to protect the town and to protect the town officials who are acting in compliance with their official duties (Dugan replied yes) if an individual were acting outside of their official duties, the town whether it's from council or special counsel would have no obligation to protect that person, in fact would have the opposite duty
- Dugan responded he would really need to research that, the township employees are acting always on behalf of the township, when the town gets sued usually they do too and the town has an obligation to indemnify them
- Questioned if the individual that's currently being represented acted outside of the scope of their official compacity, the township should no longer be defending that person
- Dugan replied if its outside the scope of their official capacity outside the town, of course not

Delia Collins, 72 Georgia St.:

- Questioned the investigation by the Planning Board of the properties mentioned in Resolution #2, properties #36 and 37 are private homes on Washington St., how is it determined if they are in an area in need of redevelopment since they are private homes
- Mayor Bonaccorso replied that our Planner does a detailed report on the properties to see if it falls under an area in need of redevelopment and then he will bring his findings to the Planning Board and the Planning Board will make the decision if they agree or not
- Asked once it's investigated by the Planning Board, is it brought back to the town council for approval
- Mayor replied yes it would

Anthony Cortazzo, 56 Conger Way:

- Felt the Mayor's apology fell flat, in his opinion there was no remorse or contrition
- Knows there were four other lawsuits that were settled
- Asked Mr. Dugan if the other four settlements were put to vote and cleared by a resolution
- Attorney Dugan responded that the settlement from 2011 the resolution was found, we did not find the resolution for 2018, also stated there are not four other lawsuits pending
- So, it was three separate lawsuits
- Dugan replied if you read them, they have nothing to do with this
- I guess I'll have to file an OPRA request to read them
- It was said these prior settlements were due to recordings of the Mayor or some of the town leadership

- Dugan replied that he wasn't involved, he does not know the specifics or has no personal knowledge, he stated if you read the complaints, they have nothing to do with recordings
- I did see in the one settlement where it did say any kind of video, audio or photographic evidence be destroyed
- Dugan replied that's kind of a common provision in settlement agreements with the advent of the cell phone, photographs and video and audio taping, it's not uncommon to see them in many settlement agreements,
- Dugan also stated that the only lawsuit with any allegations was the Manata lawsuit, those other ones are from years before and had no indications of any recordings
- Dugan advised Mr. Cortazzo to call his office tomorrow and give an email address, he'll send the other settlements directly to him so he can read them without going through the OPRA process, you'll see they have nothing to do with recordings or the Mayor
- Brought up the amount of \$70,000.00, knows the insurance paid for some of that but the \$70,000.00 came out of town funds of the taxpayers,
- Stated there can't be any kind of redemption here without some accountability, referenced investigation
- Dugan responded Mr. Cortazzo is wrong by saying that anyone here is being investigated, the investigation that's ongoing is of one former and three current Clark police officers, that's the investigation
- That's the investigation from Union County
- Dugan replied he hasn't heard anything nor has anyone else
- Mr. Cortazzo said he's going by news articles saying in town leadership
- Dugan responded by saying there's never been any indications of that from any governmental office
- Again Mr. Cortazzo says some accountability has to be taken and to do the right thing

Clair LaBruno, 20 Post Rd.:

- Questioned #3 and 4 Resolution on the agenda regarding Special Counsel
- Dugan responded that there is also a proposal from Mr. Varady which describes his roll and its limited to OPRA responses and OPRA litigation
- In that contract document does it verify what his rate is and is there any kind of maximum before it's gets reapproved or it's until however it takes until the job is performed
- Dugan replied it's very difficult with litigation to impose a maximum because one does not know what the other party is going to do and part of litigation is reacting to what the other party does
- So, it's unqualifiable at this time
- Dugan replied to an extent, yes

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

Council President Minniti directed roll call:

Aye: Albanese, Mazzarella, O'Connor, Smith, Toal, Minniti

**MAYOR, COUNCIL AND PROFESSIONAL COMMENTS:**

Mayor Bonaccorso: No comment.

Councilwoman Albanese: No comment.

Councilman Mazzarella: No comment.

Councilman O'Connor: No comment.

Councilman Smith: No comment.

Councilman Toal: No comment.

Council President Minniti: No comment.

**ADJOURNMENT:**

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

Council President Minniti directed roll call:

Aye: Albanese, Mazzarella, O'Connor, Smith, Toal, Minniti

APPROVED

  
\_\_\_\_\_  
JAMES MINNITI  
Council President

ATTEST:

  
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EDITH L. MERKEL, RMC  
Township Clerk