

**SPECIAL COUNCIL MEETING, 430 WESTFIELD AVE., CLARK NJ
July 5, 2022**

ROLL CALL:

Present: Council Members Albanese, Hund, Mazzarella, Toal, Minniti

Absent: O'Connor, Smith

Also Present: Mayor Sal Bonaccorso; James Ulrich, Business Administrator; Mark Dugan, Township Attorney; Attorney Marc Sposato, 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 as adequate notice of this meeting has been provided by sending 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.

PRIVATE MEETING:

Discussion will be limited to pending litigation venued in the Superior Court of NJ captioned *Monika Solarska-Gnat, et al. v. Township of Clark et al.* as well as the settlement of the dispute concerning the Shared Services Agreement with the Plainfield Municipal Utilities Authority (PMUA)

Motion to go into private session was made at 7:32 pm during the Special Meeting, by Councilman Mazzarella, seconded by Councilwoman Albanese

Council President Minniti directed roll call:

Aye: Albanese, Hund, Mazzarella, Toal, Minniti

Resolution 22-110

RESOLUTION FOR CLOSED EXECUTIVE SESSION

WHEREAS, the Township of Clark (the "Township") is a party to certain pending litigation venued in the Superior Court of New Jersey, Law Division, Union County, bearing Docket No. UNN-L-003547-20, captioned *Monika Solarska-Gnat, et al. v. Township of Clark, et al.* (collectively the "Litigation"); and

WHEREAS, the Township is embroiled in a dispute with the Plainfield Municipal Utilities Authority (“PMUA”) concerning PMUA’s failure to perform services required under a certain Shared Services Agreement for the Provision of Collection and Recycling Services for Recyclable Materials, dated July 16, 2018, between the Township of Clark and the Plainfield Municipal Utilities Authority, as the same may have been amended, extended and renewed, and PMUA’s claim that the Township must reimburse the cost to PMUA of, or return, recycling containers provided by PMUA to the Township (the “PMUA Dispute”); and

WHEREAS, legal counsel defending the Township in the Litigation and the PMUA Dispute is to report to the Township Council thereon, and such communication falls within the attorney-client privilege; and

WHEREAS, in accordance with N.J.S.A. 10:4-12 (b) (7), the Council may exclude the public from its meeting with such legal counsel to preserve the attorney-client privilege and such exclusion also further is required in order for the attorney to exercise his ethical duties as a lawyer.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey, that such Township Council meet in private with such legal counsel excluding the public from such meeting in accordance with N.J.S.A. 10:4-12 (b) (7) to discuss the Litigation and the PMUA Dispute; and

BE IT FURTHER RESOLVED that the discussion conducted in such closed executive session of the Township Council with such legal counsel may be disclosed to the public after the Litigation and the PMUA Dispute have been fully resolved by settlement (subject, however, to the terms thereof) or adjudication by the Court.

Motion to adjourn private meeting and resume the Regular Order of Business made at 7:48 pm by Councilman Toal, seconded by Councilman Hund

Council President Minniti directed roll call:
Aye: Albanese, Hund, Mazarella, Toal, Minniti

ORDINANCE, APPROPRIATIONS AND CLAIMS:
PUBLIC HEARING ON PROPOSED ORDINANCE:
(No objections have been received in connection with the proposed Ordinance)

Ordinance 22-07

AN ORDINANCE TO AMEND ARTICLE I, CHAPTER 145, SECTION 3 OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED “POLICE DEPARTMENT”

Council President Minniti opened the Public Hearing on Ordinance 22-07

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

Council President Minniti directed roll call:
Aye: Albanese, Hund, Mazzarella, Toal, Minniti

Motion to adopt Ordinance 22-07 was made by Councilman Mazzarella, seconded by Councilman Hund

Discussion: none

Council President Minniti directed roll call:
Aye: Albanese, Hund, Mazzarella, Toal, Minniti

RESOLUTIONS:

Resolution 22-111

BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey, that the settlement of certain pending litigation entitled Monika Solarska-Gnat, et al. v. Township of Clark, et al., bearing Docket No. UNN-L-003547-20, in consideration of payment to Plaintiffs of the amount of Five Hundred Thousand Dollars (\$500,000.00) (Two-Hundred Fifty Thousand Dollars (\$250,000.00) for Monika Solarska-Gnat and Two-Hundred Fifty Thousand Dollars (\$250,000.00) for Slawomir Maciej-Gnat), be and hereby is approved, ratified and confirmed.

Moved by Councilman Hund, seconded by Councilwoman Albanese

Discussion:

Attorney Dugan:

- Council is being asked to adopt a Resolution authorizing settlement of a lawsuit from a husband and wife who were injured in an automobile accident when a car that our police department was chasing, hit their vehicle and caused them both pretty serious injuries, the husband in particular
- Will have more details about the lawsuit once all the papers have been signed and the stipulation dismiss with prejudice has been filed

- The case is still open and we are not going to discuss any details of it until after it's fully and finally settled and that would be represented by the filing of the stipulation and the exchange of the release of the money.

Council President Minniti directed roll call:

Aye: Albanese, Hund, Mazzarella, Toal, Minniti

Resolution 22-112

BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey, that the settlement of dispute concerning a certain Shared Services Agreement for the Provision of Collection and Recycling Services for Recyclable Materials, dated July 16, 2018, between the Township of Clark and the Plainfield Municipal Utilities Authority (“PMUA”) (the “Agreement”), PMUA’s performance thereunder, and PMUA’s claim that the Township of Clark owes PMUA the sum of One-Hundred Fourteen-Thousand Seven-Hundred Seventy-Five Dollars (\$114,775.00) for recycling containers that PMUA provided to the Township of Clark under the Agreement, in consideration of payment by the Township of Clark to PMUA of the discounted amount of Sixty-Thousand Dollars (\$60,000.00), as opposed to the aforesaid amount of PMUA’s claim, in exchange for a Release by PMUA to and in favor of the Township of Clark, be and hereby is approved, ratified and confirmed.

Moved by Councilman Mazzarella, seconded by Councilman Toal

Discussion:

Attorney Dugan:

- Council is being asked to adopt a Resolution authorizing the resolution of a dispute between the Township and the Plainfield Municipal Utilities Authority (PMUA) of their shared services agreement, they were handling our Recycling Collection and Disposal
- There was a significant breakdown in the services, PMUA went for a period of time when they did not pick up the recyclables for several weeks
- Through terminating the agreement in writing, we ended with a negotiation with them to terminate
- As part of that, PMUA had given everyone in the township containers to use for recycling, we paid for them over time pursuant to the contract, we do not intend to pay them due to the breakdown of service

- PMUA had a claim for about \$150,000.00 in terms of the cost of the containers, we resolved that part of the case, we are going to pay them \$60,000.00 and they will give us a release
- We proved those damages, we probably would have paid something less but when you take into account of the cost of litigation, it would have been far more

Council President Minniti directed roll call:

Aye: Albanese, Hund, Mazarella, Toal, Minniti

Resolution 22-113

WHEREAS the Governing Body of the Township of Clark has advertised for bids on June 9, 2022 for the 2022 NJDOT Road Improvement Program – Mildred Terrace and Brentwood Road; and

WHEREAS four (4) bid proposals were received on June 21, 2022 in accordance with specifications prepared by the Township Engineer; and

WHEREAS the three (3) lowest responsible bidders were DLS Contracting, Inc. of Fairfield, NJ with a bid in the amount of \$487,388.15, S. Brothers, Inc. of South River/Manalapan, NJ with a bid in the amount of \$487,937.52, and Black Rock Enterprises, of Old Bridge, NJ with a bid in the amount of \$509,312.87, and;

WHEREAS the Township Engineer has reviewed the documentation provided, and despite the fact that DLS Contracting was the apparent lowest bidder, their bid indicates the value of work to be performed by sub-contractors is 55.6% exceeding the 40% allowable outlined in the Bid Specifications which the engineer believes to be a material deviation from the specifications and is disqualifying; and

WHEREAS the Township Engineer recommends that a contract be awarded to the next lowest bidder, S. Brothers, Inc., 16 Sobechko Road, Manalapan, New Jersey, 07726; and

WHEREAS S. Brothers, Inc., submitted the lowest responsible bid in the amount of Four Hundred Eighty-Seven Thousand, Nine Hundred Thirty-Seven Dollars and Fifty-Two Cents (\$487,937.52) 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 Capital Account C-04-22-005-001 as attached hereto as a “Certification of Availability of Funds”; and

WHEREAS the Township Engineer has presented written approval for the award of the contract to S. Brothers, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark that it hereby awards a contract to S. Brothers, Inc. in the amount of \$487,937.52; and

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

Moved by Councilman Toal, seconded by Councilwoman Albanese

Discussion:

Councilman Toal:

- Summarized the work that will be taking place regarding paving, asked a question regarding curbing
- BA Ulrich responded just the road is being done

Council President Minniti directed roll call:

Aye: Albanese, Hund, Mazzarella, Toal, Minniti

PUBLIC COMMENTS:

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.

Council President Minniti opened the public portion of the meeting

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

Council President Minniti directed roll call:

Aye: Albanese, Hund, Mazzarella, Toal, Minniti

MAYOR, COUNCIL AND PROFESSIONAL COMMENTS:

Mayor Bonaccorso: No comment.

Councilwoman Albanese: No comment.

Councilman Hund: No comment at this time.

Councilman Mazzarella: No comment

Councilman Toal: No comment.

Jim Ulrich: No comment.

Attorney Dugan: No comment

Township Clerk: No comment.

Council President Minniti: No comment.

ADJOURNMENT:

Motion to adjourn was made by Councilman Toal, seconded by Councilwoman Albanese

Council President Minniti directed roll call:

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

APPROVED

JAMES MINNITI
Council President

ATTEST:

EDITH L. MERKEL, RMC
Township Clerk