

This Notice is for reference purposes, as per the Open Public Meetings Act Requirements, N.J.S.A. 10:4-8 and N.J.S.A. 10:4-18.

AGENDA
SPECIAL COUNCIL MEETING
430 WESTFIELD AVE., CLARK, NJ 07066
March 5, 2018
Municipal Building, Room 30
7:30 pm

ROLL CALL:

Councilwoman Albanese _____	Councilman Mazarella _____
Councilman Barr _____	Councilman O'Connor _____
Councilman Hund _____	Councilman Toal _____
	Council President Smith _____

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 Local Source, and TAP into Clark, by posting such Meeting Agenda on the Bulletin Board in Town Hall reserved for such announcements and the proper filing of said Notice. Formal action may be taken at this meeting.

INTRODUCTION OF PROPOSED ORDINANCES:

1. AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 294 OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED "SMOKING"

Public Hearing March 19th

2. AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 195-134 OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED "COH COMMERCIAL OFFICE, MULTISTORY DISTRICT"

Public Hearing March 19th

RESOLUTIONS:

3. Authorizing Emergency Temporary Appropriations for the Current Fund
4. Authorizing Emergency Temporary Appropriations for the Sewer Utility
5. Appointing Jennifer Kobliska as the Qualified Purchasing Agent for the Township, effective January 1, 2018
6. Appointing Zachary Nitti as a Member of the Clark Volunteer Fire Department
7. Approving a Settlement of Litigation
8. Authorizing the execution of a Right-of-Way Agreement between the Township of Clark and Altice USA to permit the installation, use and maintenance of Telecommunications Facilities within the Public Right-of-Way for purposes of providing Telecommunications Services

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.

MAYOR, COUNCIL AND PROFESSIONAL COMMENTS:

ADJOURNMENT:

INTRO
/

TOWNSHIP OF CLARK
Ordinance No. 18-06
Adopted _____

Introduced: March 5, 2018 Public Hearing: March 19, 2018

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 294
OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED "SMOKING"**

BE IT ORDAINED by the Governing Body of the Township of Clark that Chapter 294, of the Code of the Township of Clark is hereby amended and/or supplemented in the following particulars:

SECTION 1: Section 294-1 entitled "Prohibition" is amended to provide as follows:

The burning of a lighted cigar, cigarette, pipe, electronic smoking device or any other matter or substance which contains tobacco is hereby prohibited in all school buildings, administration buildings, accessory buildings and other properties, improved or unimproved, owned or under the jurisdiction of the Board of Education of the Township of Clark and existing within the Township of Clark.

SECTION 2: Section 294-6 entitled "Prohibited Areas" is amended to provide as follows:

The smoking of cigars, cigarettes, pipes, electronic smoking devices, and other materials is not permitted in the areas designated herein as areas A through E, except in designated smoking areas.

SECTION 3: Section 294-7 entitled "Definitions" is deleted in its entirety and replaced as follows:

ELECTRONIC SMOKING DEVICE – as set forth in N.J.S.A. 26:3D-57, including any electronic device that can be used to deliver nicotine or other substances inhaled from the device, including but not limited to, an electronic cigarette, cigar, cigarillo, or pipe, are also prohibited under the terms of this ordinance.

SMOKING – as set forth in N.J.S.A. 26:3D-57 means the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or any other matter that can be smoked. Smoking includes the inhaling or exhaling of smoke or vapor from electronic cigarettes, vaping devices, personal vaporizers, or any electronic nicotine delivery system, or any device which simulates tobacco smoking.

SECTION 4: Section 294-9 entitled "Enforcement, Violations and Penalties" is supplemented as follows:

INTRO
2

TOWNSHIP OF CLARK
Ordinance No. 18-08
Adopted _____

Introduced: March 5, 2018 Public Hearing: March 19, 2018

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 195-134
OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED
“COH COMMERCIAL OFFICE, MULTISTORY DISTRICT”**

WHEREAS, The Planning Board of the Township of Clark has recommended that the Governing Body consider enacting revisions to the Land Use and Development Code and specifically the COH Commercial Office, Multistory District, Chapter 195-134; and

WHEREAS, the Planning Board at its regularly scheduled meeting on March 1, 2018 held public discussion and received advise from the Township Planner and Township Engineer regarding the changes proposed and reviewed a Report entitled “Planning Report on the COH Commercial Office, Multi Story District Land Use Ordinance Revisions,” prepared by Kevin O’Brien, P.P., AICP, Shamrock Enterprises, Ltd., dated February 27, 2018; and

WHEREAS, the Planning Board in recognition of modern trends in land use, specifically mixed-use projects, and desiring to provide for the efficient use of land and limit impervious cover and sprawl, where possible, recommends the following changes to the COH district to permit shared parking for compatible uses and encourage appropriate mix of uses on properties that are already within the commercial district but may be underutilized with the current land use restrictions; and

WHEREAS, the Planning Board per NJSA 40:55D- 26 et seq., determined the proposed changes to be consistent with the Township’s Master Plan and the Purposes of Zoning for the reasons specified in the February 27, 2018 Planning Report.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, and State of New Jersey that the following Land Use and Development Code changes are accepted as recommended to the Governing Body for action and are determined to be consistent with the Master Plan:

1. The following shall be inserted to the existing Chapter 195-134 of the Code of the Township of Clark:
 - A. The purpose of the COH - commercial office, multi-story district is to encourage business, administrative and professional offices, banks, business schools, funeral homes, hotels and theaters. Well-planned, large-scale commercial developments that are designed in a comprehensive manner that will contribute to the economic welfare of the Township are

also encouraged. Such large-scale development shall provide an attractive and harmonious development within Clark and integrate the needs of pedestrians, employees and vehicles in site design.

- B. Nothing in this section shall be construed to prohibit the construction of two (2) or more principal uses on one piece of property, or composite of lots under single ownership, where such development would form an integrated unit with shared access and parking.
2. The existing Section A shall be renamed Section C.
 3. The existing Section B shall be renamed Section D.
 4. The existing Section C shall be renamed Section E.
 5. Section E (3)a shall be amended to read “Height: 52 feet, except that, for lots greater than three acres in area an additional 13 feet, shall be permitted for each additional acre of lot, up to a maximum of 78 feet.”
 6. Section E (3)d shall be amended to permit a Floor Area Ratio of 0.8
 7. Section F (5) shall be added as follows:
 - F. **Parking.** Notwithstanding the parking requirements set forth in §195-142, if there is more than one principal use on a lot or lots under single ownership, a shared parking arrangement shall be permitted if the uses are complimentary. A shared parking arrangement shall mean that parking spaces can serve both uses on the property provided they have opposite, or complimentary, peak parking demands as determined by nationally recognized standards and/or actual parking data and experience for the proposed uses.

In the event that an applicant requests approval for parking to be shared between two uses, the ordinance requirements for parking may be reduced where it can be demonstrated to the satisfaction of the Board that the reductions are supported by analyses consistent with nationally recognized standards and/or actual parking data and experience for the proposed uses showing that the peak parking demand of the two or more uses do not coincide and the accumulated parking demand at any one time of the two or more uses does not exceed the total capacity of the facility. The applicant shall also be required to provide a legal instrument assuring the continued existence and availability of the shared parking spaces in connection with the uses they serve.

- a. Parking shall be permitted within the setbacks.

TOWNSHIP OF CLARK

Resolution 18-51

March 5, 2018

3

**RESOLUTION REQUESTING APPROVAL FOR AUTHORIZING
AN EMERGENCY TEMPORARY APPROPRIATION
IN ACCORDANCE WITH N.J.S.A. 40A:4-20
CURRENT FUND**

WHEREAS an emergent condition has arisen due to the anticipated delay in the adoption of the 2018 Budget, and adequate provision has not been made in the 2018 Temporary Budget for the appropriations specified on the attached page; and

WHEREAS the total emergency temporary resolutions adopted in fiscal year 2018 pursuant to the provision of Chapter 96, P.L. 1951 (N.J.S. 40A:4-20) including this resolution total \$6,634,192.00.

NOW, THEREFORE, BE, AND IT IS, HEREBY, RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey, (not less than two thirds of all members thereof affirmatively concurring) that in accordance with the provisions of N.J.S.A 40A:4-20:

1. Emergency temporary appropriations be and the same are hereby made as specified on the attached page in the amount of \$6,634,192.00; and
2. That said emergency temporary appropriations will be provided in the 2018 budget under the headings as specified on the attached page.
3. That one certified copy of this resolution be filed with the Director of Local Government Services.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

Res18/3-5BudgetTempEmergCurrent

	Motion	Second	Aye	Nay	Abstain	Absent
Albanese						
Barr						
Hund						
Mazzarella						
O'Connor						
Toal						
Smith						
TOTAL						

CLARK TOWNSHIP			
EMERGENCY TEMPORARY BUDGET			
Dept#	DEPARTMENT	SALARIES	TOTAL
20-100	Administration	\$ 62,000.00	\$ 87,000.00
20-110	Mayor's Office	10,000.00	10,000.00
20-111	Municipal Council	13,000.00	21,000.00
20-120	Clerk	47,000.00	47,000.00
20-121	Clerk - Elections	-	-
20-130	Financial Administration	75,000.00	75,000.00
20-145	Revenue Administration	18,000.00	21,000.00
20-150	Tax Assessor	-	-
20-155	Legal Services	-	-
20-165	Engineering Services	-	-
21-180	Planning Board	2,000.00	10,000.00
21-185	Zoning Board	2,000.00	2,000.00
22-195	Code Enforcement	90,000.00	140,000.00
23-210	Ins & Bonding	-	300,000.00
23-220	Health Benefits	-	1,100,000.00
23-222	Life Insurance	-	-
23-223	Disability	-	30,000.00
25-240	Police	1,300,000.00	1,390,000.00
25-250	911	155,000.00	187,000.00
25-252	Emergency Management	3,000.00	9,000.00
25-260	Volunteer Emergency	-	70,000.00
25-265	Public Safety	-	-
25-266	Fire Bureau	24,000.00	64,000.00
25-267	Fire Hydrant	-	75,000.00
25-268	Fire Prevention	25,000.00	40,000.00
26-313	Shade Tree	-	5,000.00
26-290	Streets and Roads	300,000.00	390,000.00
26-305	Grass	-	10,000.00
26-306	Leaves	-	5,000.00
26-307	Recycling	-	20,000.00
26-308	Cleanup	-	25,000.00
26-310	Building and Grounds	52,000.00	72,000.00
26-325	Municipal Services Act	-	20,000.00
27-330	Public Health Services	25,000.00	25,000.00
27-331	Senior Citizens	30,000.00	40,000.00
27-340	Animal Control Services	-	-
27-365	Visiting Nurse	-	5,000.00
28-370	Recreation	45,000.00	55,000.00
29-390	Municipal Library	-	300,000.00

CLARK TOWNSHIP			
EMERGENCY TEMPORARY BUDGET			
Dept#	DEPARTMENT	SALARIES	TOTAL
30-411	LOSAP	-	60,000.00
30-415	Reserve for Comp. Absenses	-	-
30-420	Celebration of Public Events	-	5,000.00
30-430	Utilities	-	75,000.00
31-435	Street Lighting	-	100,000.00
31-440	Utilities - Telephone	-	10,000.00
31-460	Utilities - Gasoline	-	20,000.00
36-471	PERS	-	470,886.00
36-472	Social Security - FICA	-	150,000.00
36-475	PFRS	-	1,011,306.00
36-476	Unemployment Comp.	-	-
36-477	DCRP	-	-
42-102	Interlocal Svc-Bd of Ed	-	15,000.00
43-490	Municipal Court	60,000.00	7,000.00
		\$ 2,338,000.00	\$ 4,296,192.00
			\$ 6,634,192.00

**RESOLUTION REQUESTING APPROVAL FOR AUTHORIZING
AN EMERGENCY TEMPORARY APPROPRIATION
IN ACCORDANCE WITH N.J.S.A. 40A:4-20
SEWER UTILITY**

WHEREAS an emergent condition has arisen due to the anticipated delay in the adoption of the 2018 Budget, and adequate provision has not been made in the 2018 Temporary Budget for the appropriations specified on the attached page; and

WHEREAS the total emergency temporary resolutions adopted in fiscal year 2018 pursuant to the provision of Chapter 96, P.L. 1951 (N.J.S. 40A:4-20) including this resolution total \$2,697,106.00

NOW, THEREFORE, BE, AND IT IS, HEREBY, RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey, (not less than two thirds of all members thereof affirmatively concurring) that in accordance with the provisions of N.J.S.A 40A:4-20:

1. Emergency temporary appropriations be and the same are hereby made: Other Expenses \$1,997,106.00; Capital Outlay \$700,000.00; and
2. That said emergency temporary appropriations will be provided in the 2018 budget under the above headings.
3. That one certified copy of this resolution be filed with the Director of Local Government Services.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

Res18/3-5BudgetTempEmergSewer

	Motion	Second	Aye	Nay	Abstain	Absent
Albanese						
Barr						
Hund						
Mazzarella						
O'Connor						
Toal						
Smith						
TOTAL						

5

TOWNSHIP OF CLARK
Resolution 18-53
March 5, 2018

WHEREAS N.J.A.C. 5:34-5 et seq. establishes the criteria for qualifying as a Qualified Purchasing Agent; and

WHEREAS Jennifer Kobliska possesses the designation of Qualified Purchasing Agent as issued by the Director of the Division of Local Government Services in accordance with N.J.A.C. 5:34-5 et seq.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Township of Clark, in the County of Union, State of New Jersey hereby appoints Jennifer Kobliska as the Qualified Purchasing Agent effective January 1, 2018 to exercise the duties of a purchasing agent pursuant to N.J.S.A. 40A:11-2(30), with specific relevance to the authority, responsibility, and accountability of the purchasing activity of the contracting unit.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

Res18/3-5Appoint QPA Kobliska

	Motion	Second	Aye	Nay	Abstain	Absent
Albanese						
Barr						
Hund						
Mazzarella						
O'Connor						
Toal						
Smith						
TOTAL						

6

TOWNSHIP OF CLARK
Resolution 18-54
March 5, 2018

BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey that the following individual is hereby appointed as a Member of the Clark Volunteer Fire Department effective this 5th day of March 2018.

Zachary Nitti
528 Boulevard
Westfield, NJ 07090

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

Res18/2-20AppointFirefighter-Nitti

	Motion	Second	Aye	Nay	Abstain	Absent
Albanese						
Barr						
Hund						
Mazzarella						
O'Connor						
Toal						
Smith						
TOTAL						

TOWNSHIP OF CLARK
Resolution 18-55
March 5, 2018

BE IT RESOLVED by the Governing Body of the Township of Clark that a certain pending litigation entitled, "D.C., a minor by and through her parent and Guardian, R.C. v. Township of Clark and Clark Recreation Department," is hereby settled in consideration of a payment by the Township of Clark to the infant plaintiff in the amount of \$10,000.00.

The plaintiff, prior to receiving the settlement funds, shall appear for a Friendly hearing and execute a full Release of the Township of Clark, its servants, agents, and/or employees, releasing and extinguishing any liability of the defendants in connection with the events of July 22, 2015 and/or July 23, 2015.

Said Release shall contain a provision wherein the defendants shall not admit any wrongdoing or liability; shall contain a provision requiring the plaintiff to be responsible for any and all Federal and State taxes which may accrue as a consequence thereof; and shall contain a non-disclosure provision respecting the future publication by the plaintiff of the matters contained therein.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

WILLIAM F. SMITH
Council President

Res18/3-5ApprovingCourtSettlement

	Motion	Second	Aye	Nay	Abstain	Absent
Albanese						
Barr						
Hund						
Mazzarella						
O'Connor						
Toal						
Smith						
TOTAL						

TOWNSHIP OF CLARK
Resolution 18-56
March 5, 2018

8

**AUTHORIZE EXECUTION OF RIGHT-OF-WAY AGREEMENT
BETWEEN THE TOWNSHIP OF CLARK AND ALTICE USA
TO PERMIT THE INSTALLATION, USE AND MAINTENANCE OF
TELECOMMUNICATIONS FACILITIES WITHIN PUBLIC RIGHTS-OF-WAY
FOR PURPOSES OF PROVIDING TELECOMMUNICATIONS SERVICES**

WHEREAS, Altice USA (“Altice”), a telecommunications service provider, with offices located at 494 Broad Street, 9th Floor, Newark, New Jersey 07102, is authorized by the New Jersey Board of Public Utilities to do business as a competitive local exchange company in the State of New Jersey; and

WHEREAS, Altice has requested the consent of the Municipality to occupy public rights-of-way within the Municipality in accordance with N.J.S.A. 48:17-10 et. seq. to install fiber optic cable on existing utility poles and within existing underground conduit located within the public right-of-way along Raritan Road, Westfield Avenue, Mildred Terrace, and Valley Road pursuant to the Routing Plan attached hereto; and

WHEREAS, it is deemed to be in the best interest of the Municipality and its citizenry, for the Municipality to grant municipal consent to Altice to occupy the public rights-of-way within the Municipality for this purpose; and

WHEREAS, the granting of such consent is and shall be conditional upon Altice’s continued compliance with all existing and future ordinances of the Municipality and its entering into a written agreement with the Municipality to, inter alia, indemnify and hold the Municipality harmless as to all claims and liability resulting from any injury or damage which may arise from the construction, installation, operation, repair, maintenance, disconnect, replacement and removal

of its telecommunications system within certain public rights-of-way and provide liability insurance coverage for personal injury and property damage.

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 the Mayor or Business Administrator to enter into an agreement with Altice USA for the installation of fiber optic cable within the public right-of-way of the Township of Clark.

ATTEST:

APPROVED:

 EDITH L. MERKEL, RMC
 Township Clerk

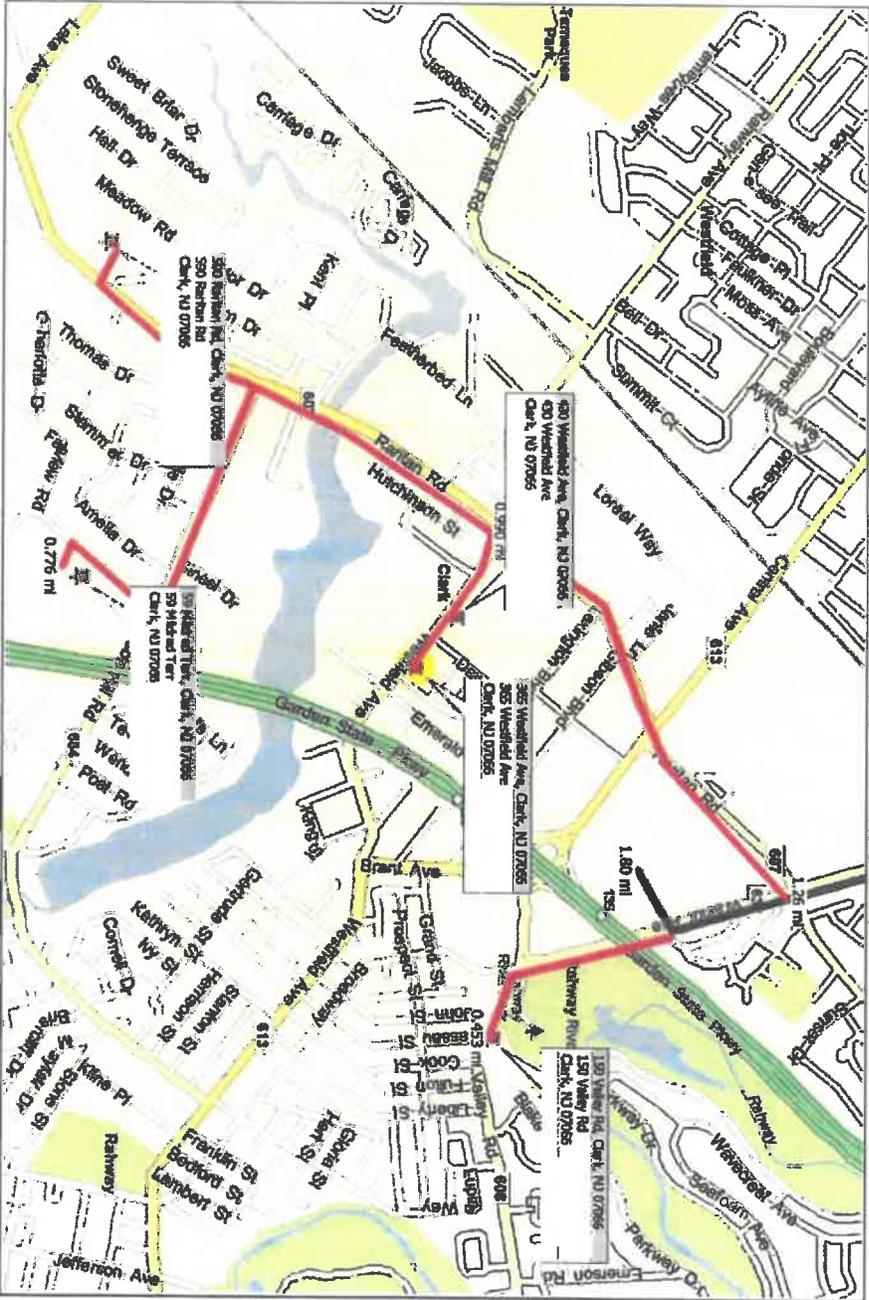
 WILLIAM F. SMITH
 Council President

Res18/3-5AuthAlticeRight-of-Way Agreement

	Motion	Second	Aye	Nay	Abstain	Absent
Albanese						
Barr						
Hund						
Mazzarella						
O'Connor						
Toal						
Smith						
TOTAL						

EXHIBIT A

LSP06090 Clark Schools Rev 1 add 430 Westfield



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