

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
COUNCIL MEETING
315 WESTFIELD AVE., CLARK, NJ 07066
November 18, 2019
7:30 pm**

ROLL CALL:

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

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 mailing the Annual Schedule of meetings to the Star Ledger, Union County Local Source, and TAP into Clark, by posting such Annual Meeting Schedule 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.

Regular Order of Business suspended

David Toma Legion of Honor Gold Medallion Civilian Award

Regular Order of Business resumes

COMMUNICATIONS FROM THE MAYOR AND REPORTS OF TOWNSHIP OFFICERS:

Mayor:

Township Officers: Reports given this evening will be available in the Clerk's office and on the township website www.ourclark.com

REPORT OF COUNCIL COMMITTEES:

ORDINANCES, APPROPRIATIONS AND CLAIMS:

PUBLIC HEARING ON PROPOSED ORDINANCES:

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

- 1. 19-24 CAPITAL ORDINANCE OF THE TOWNSHIP OF CLARK, IN THE COUNTY OF UNION, NEW JERSEY AUTHORIZING THE ACQUISITION OF TURNOUT GEAR, (COATS, PANTS AND HELMETS), AND PAGERS FOR THE FIRE DEPARTMENT AND AN UPGRADE TO THE COMPUTER NETWORK SYSTEM FOR ADMINISTRATION AND ANY ANCILLARY COSTS RELATED THERETO, AND APPROPRIATING THE SUM OF \$73,700.00 AND PROVIDING THAT SUCH SUM SO APPROPRIATED SHALL BE RAISED FROM CAPITAL SURPLUS FUNDS OF THE TOWNSHIP OF CLARK**

**2. 19-25 AN ORDINANCE TO SUPPLEMENT CHAPTER 347 ENTITLED
“VEHICLES AND TRAFFIC” OF THE CODE OF THE TOWNSHIP OF
CLARK**

PAYMENT OF CLAIMS:

Councilman O’Connor, Chairman of Finance Committee will give a report on Current and Capital expenditures received and encumbered through November 14, 2019 in the amount of \$313,630.06

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

The Public may speak on any agenda item that does not have its own public hearing

RESOLUTIONS:

3. Granting consent to Cross River Fiber for non-exclusive use of the Public Rights-of-Way for the operation of a telecommunications system and authorizing the Mayor and Clerk to execute the Rights-of-Way Use Agreement
4. Authorizing the Health Officer and Township Clerk to enter into an agreement between the Township of Clark and the City of Elizabeth, Division of Health, STD Clinic
5. Calling for a Study Commission to review the Open Public Records Act which is in need of comprehensive review and reform
6. Appointing Jesse Minch and Jonathon Miller as Members of the Clark Volunteer Fire Department

CONSENT AGENDA RESOLUTIONS:

7. Authorizing the Chief Financial Officer to apply sewer account balance adjustments as credit in the amount of \$650.00
8. Authorizing the Chief Financial Officer to refund overpayment of 2019 sewer fees in the amount of \$4,353.96

NEW BUSINESS ON THE CALENDAR:

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:

PH 1

TOWNSHIP OF CLARK
Ordinance No. 19-24
Adopted _____

Introduced: November 4, 2019 Public Hearing: November 18, 2019

CAPITAL ORDINANCE OF THE TOWNSHIP OF CLARK, IN THE COUNTY OF UNION, NEW JERSEY AUTHORIZING THE ACQUISITION OF TURNOUT GEAR, (COATS, PANTS AND HELMETS), AND PAGERS FOR THE FIRE DEPARTMENT AND AN UPGRADE TO THE COMPUTER NETWORK SYSTEM FOR ADMINISTRATION AND ANY ANCILLARY COSTS RELATED THERETO, AND APPROPRIATING THE SUM OF \$73,700.00 AND PROVIDING THAT SUCH SUM SO APPROPRIATED SHALL BE RAISED FROM CAPITAL SURPLUS FUNDS OF THE TOWNSHIP OF CLARK

BE IT ORDAINED by the Township Council of the Township of Clark, in the County of Union, New Jersey, as follows:

Section 1. The Township of Clark, in the County of Union, New Jersey, (The Township) is hereby authorized to acquire Turnout Gear, (Coats, Pants and Helmets), plus Pagers for the Fire Department along with an Upgrade to the Computer Network System for Administration, and any ancillary costs related thereto.

Section 2. The sum of \$73,700.00 is hereby appropriated for the Capital Purposes and ancillary costs related thereto, as described in Section 1 hereof (hereinafter referred to as "capital purpose"). Said appropriation shall be funded from the Capital Surplus Fund of the Township of Clark for the payment of the cost of said "capital purpose".

Section 3. Said purpose is a lawful capital purpose of the Township having a period of usefulness of at least five (5) years.

Section 4. The capital budget is hereby amended to conform with the provisions of this capital ordinance to the extent of any inconsistency therewith and the resolution promulgated by the Local Finance Board showing full detail of the amended capital budget and the capital program as approved by the Director, Division of Local Government Services.

Section 5. This Ordinance shall take effect at the time and in the manner provided by law.

Effective Date: December 11, 2019

TOWNSHIP OF CLARK
Resolution 19-144
November 18, 2019

RESOLUTION APPROVING RIGHT-OF-WAY USE TO CROSS RIVER FIBER

WHEREAS, Cross River Fiber LLC ("Cross River Fiber"), seeks to place its telecommunication facilities aerially on existing utility poles or in an underground conduit in the Public Rights-of-Way within the Township of Clark for the purpose of owning, constructing, installing, operating, repairing and maintaining a telecommunications system; and

WHEREAS, Cross River Fiber was approved by the New Jersey Board of Public Utilities to provide local exchange and interexchange telecommunications services throughout the State; and

WHEREAS, N.J.S.A. 48:3-19 requires Cross River Fiber to obtain the consent of the Township of Clark for the joint use of any existing utility poles; and

WHEREAS, N.J.S.A. 54:30A-124(a) provides that a municipality may not impose any fees, taxes, levies or assessments in the nature of a local franchise, right of way, or gross receipts fee, tax, levy or assessment against telecommunications companies but that a municipality may impose reasonable fees for actual services made by any municipal, regional or county governmental agency; and

WHEREAS, it is in the best interests of the Township of Clark and its citizens to grant consent to Cross River Fiber; and

WHEREAS, the consent granted is for the non-exclusive use of the Public Rights-of-Ways for the purpose of owning, constructing, installing, operating, repairing and maintaining a telecommunications system subject to the terms and conditions of the attached Use Agreement with Cross River Fiber.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the Township of Clark, that the Township of Clark is hereby authorized to grant Cross River Fiber non-exclusive use of the Public Rights-of-Ways for the purpose of owning, constructing, installing, operating repairing and maintaining a telecommunications system; and

BE IT FURTHER RESOLVED, that the Mayor and Clerk are hereby authorized to execute any and all documents necessary to effectuate this Resolution.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

BRIAN P. TOAL
Council President

Res19/11-18RightofWayCrossRiverFiber

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

TOWNSHIP OF CLARK
Resolution 19-145
November 18, 2019

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BE IT RESOLVED by the Governing Body of the Township of Clark that the Health Officer and Township Clerk are hereby authorized to enter into an agreement between the Township of Clark and the City of Elizabeth, Department of Health and Human Services, Division of Health; Sexually Transmitted Disease (STD) Clinic for the period commencing January 1, 2020 and shall remain valid through December 31, 2020.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

BRIAN P. TOAL
Council President

Res19/11-18STD Agreement

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

TOWNSHIP OF CLARK
Resolution 19-146
November 18, 2019

Resolution Calling for A Study Commission to Review the Open Public Records Act

WHEREAS, the Township of Clark strongly believes in and supports open transparent government, and that citizens and residents have the right to be informed about the workings of government in order to best participate in a democracy; and

WHEREAS, on January 8, 2002 then Acting Governor DiFrancesco signed into law the Open Public Records Act (OPRA) which mandates that government records shall be available, with limited exceptions, for public access and simplifying the procedures for requesting such specific records; and

WHEREAS, the intent of the law was to provide the public with easy access to government records with an uncomplicated process for obtaining the records and eliminating bureaucratic red tape; and

WHEREAS, over the course of 18 years OPRA has been a positive light, but it has also been fraught with abuse and misuse, and has become an unanticipated financial cost to the taxpayers of New Jersey; and

WHEREAS, Township of Clark has labored under a well-intended law that has spiraled out of control, due to the volume and nature of requests, the cost to taxpayers in responding to the requests, and the potential liability in having to pay disproportionate prevailing party attorney's fees should the requests turn into litigated matters, as well as the liability in determining which documents shall be released, with or without redaction, while attempting to maintain individual privacy; and

WHEREAS, it is not only the volume of OPRA requests that challenge our resources, but it is also the cost associated with reviewing, retrieving, and processing the OPRA request(s) by public entity personnel and counsel and possibly defending our action(s) before the Government Records Council or in Superior Court; and

WHEREAS, in addition to OPRA requests received and responded to by the Clark Police Department, the Municipal Clerk of the Township of Clark received and responded to 338 OPRA requests in 2017, 349 OPRA requests in 2018, and 2019 to date has received and responded to 425 OPRA requests as of September 1, 2019; and

WHEREAS, Clark Township municipal staff has spent approximately four (4) hours each day responding to OPRA requests received in 2019 to date, and an average of approximately 1,460 hours each year since 2017; and

WHEREAS, with limited exceptions OPRA has not been amended to address the clear and apparent advancement in technology that has changed the way government records are created, stored, and/or transmitted; the various interpretive decisions; privacy concerns; abuse for commercial gain; and/or the ever-increasing cost to taxpayers; and

WHEREAS, as the current law approaches its twentieth (20th) anniversary it has outgrown its original intended use and has become ripe for comprehensive review and reform.

NOW, THEREFORE BE IT RESOLVED that the governing body of the Township of Clark appeals to the legislature to form a Commission comprised of Mayors, Municipal Clerks, Municipal Managers, Attorneys, Police Chiefs, open government advocates, privacy experts, members of the media, citizens and other appropriate stakeholders, to review and examine the effects of OPRA on local government and the needs to be fulfilled by the law, and use the Commission’s findings to perform a comprehensive reform of OPRA; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to Assemblywoman Linda Carter, Assemblyman James Kennedy, Senator Nicholas Scutari, Assembly Speaker Craig Coughlin, Senate President Stephen Sweeney, Senator Weinberg, Executive Director of the Government Records Council, the Governor of the State of New Jersey, the Municipal Clerks Association of New Jersey and New Jersey State League of Municipalities.

ATTEST:

APPROVED:

 EDITH L. MERKEL, RMC
 Township Clerk

 BRIAN P. TOAL
 Council President

Res19/11-18OPRA

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

TOWNSHIP OF CLARK
Resolution 19-147
November 18, 2019

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BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey that Jesse Minch and Jonathon Miller are hereby appointed as Members of the Clark Volunteer Fire Department effective this 18th day of November 2019.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

BRIAN P. TOAL
Council President

Res19/11-18AppointFirefighters-MillerMinch

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

TOWNSHIP OF CLARK
 Resolution 19-148
 November 18, 2019

CA 7

WHEREAS the Treasurer/CFO has certified that sewer utility account(s) require balance adjustments; and

WHEREAS the Business Administrator has reviewed and approved the sewer fee adjustment(s).

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:

ATTEST:

APPROVED:

 EDITH L. MERKEL
 Township Clerk

 BRIAN P. TOAL
 Council President

Res19/11-18SewerAdj

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

TOWNSHIP OF CLARK
Resolution 19-149
November 18, 2019

CA 8

WHEREAS in accordance with a request from the Treasurer/CFO for authorization to refund overpayment of 2019 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 refund(s) as per the following schedule.

REF		Acct #	Name	#	Address	Reason	Refund
19	16R	470-0	Joyce Morway Trust	19	Acken Drive	leak	\$ 4,334.95
19	17R	4124-0	Chaudhry, Tom & Tina	298	Westfield Ave	overpayment	\$ 19.01
					Total Refunds		\$ 4,353.96

ATTEST:

APPROVED:

EDITH L. MERKEL
Township Clerk

BRIAN P. TOAL
Council President

Res19/11-18SewerRefund(s)

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