

TOWNSHIP OF CLINTON  
REGULAR COUNCIL MEETING  
September 23, 2015

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**CALL TO ORDER:**

Mayor Higgins called the meeting to order at 7:35 PM.

**OPEN PUBLIC MEETINGS ACT STATEMENT:** Mayor Higgins gave the statement of adequate notice. The annual meeting notice is on file in the Office of the Municipal Clerk for public inspection.

**ROLL CALL:**

Councilwoman Switlyk	Present
Councilman Imbriaco	Present
Councilman Marra	Absent
Council President Mullay	Present
Mayor Higgins	Present
Kristina P. Hadinger, Esq.	Present
Marvin Joss, Administrator	Present
Carla Conner, Acting Clerk	Present

**APPROVAL OF MINUTES:**

Regular Session

June 24, 2015

Mayor Higgins introduced the matter.

MOTION was made by Council President Mullay to approve the above-referenced minutes. Seconded by Mayor Higgins. There being no further discussion a voice vote was called. All ayes. Motion carried.

**CONSENT:**

Mayor Higgins introduced the matter and read the items on the consent agenda.

MOTION was offered by Councilman Imbriaco to approve the consent agenda. Seconded by Councilwoman Switlyk. There being no further discussion a voice vote was called. All ayes. Motion carried.

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Consent #1

Resolution #99-15 – Release of Maintenance Bond – Annandale Falls/Clinton Honda

**BE IT RESOLVED** that certain performance guarantees and escrows have been recommended by the Planning Board and Township Engineer to be reduced,

**NOW, THEREFORE BE IT RESOLVED** that the following refunds be issued:

Amount	Block / Lot	Street Address	Applicant	Type of Permit
\$7,426.08	14/11	1511 Rt. 22	Annandale Falls	Perf, Guarantee

**PUBLIC COMMENTS:**

David Pfeffer from Herman Thau Road stated that on the Beaver Brook ravine area which the Township owns as open space, there are a number of no trespassing signs. The land is off David Post Road but mostly fronts on Herman Thau Road. Mr. Pfeffer talked to the Chairperson of Open Space, Cathy Sipe and was told Open Space could not remove the signs without the consent of the Township. Administrator Joss will have Public Works remove the signs if the signs are on Township property.

Sue Dziamara from Westgate Drive introduced herself and stated she is the Director of Planning for Hunterdon County. Ms. Dziamara stated the County Planning Board members will be reaching out to the Council and to the Planning Board to visit and hopefully begin a dialog between the County and the Township to see if there are ways to work together on issues of common concerns.

John Anderson from JCP&L stated that vegetation management work is continuing in the Township. Mr. Anderson stated a portion of the Glen Gardner substation is being worked on as well as the Lebanon substation both of which service Clinton Twp. Mr. Anderson stated that, in an effort to recruit the next generation of lines and substation workers, JCP&L has developed the Power System Institute which is collaboration between RVCC and JCP&L's in-house line school located in Phillipsburg. The open house is Tuesday night, November 17.

**PRESENTATION:** Potential affordable housing development – Beaver Brook Homestead

Peter Wolfson from Porzio Bromberg and Newman introduced Geoffrey Long from Ingerman to provide a brief overview of Ingerman's proposal for an affordable housing development. The development would be a 100% affordable rental project which would include 66 units with a mixture of 13 one bedroom, 36 two bedroom and 17 three bedroom units. The buildings would consist of 2

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1/2 story buildings in which the first floor would be flats with a 3 bedroom townhouse above it. Much of the historic house on the property will be restored as a community center.

MOTION was made by Council President Mullay to adopt a resolution to form a subcommittee to negotiate contracts for the provision of affordable housing and a schedule for the Beaver Brook Homestead project. Seconded by Councilman Imbriaco. There being no further discussion the roll was called. Motion carried.

Roll Call:

Councilwoman Switlyk	Yes
Councilman Imbriaco	Yes
Councilman President Mullay	Yes
Mayor Higgins	Yes

**REPORTS:**

Councilman Switlyk:

No report

Councilman Imbriaco:

No report

Mayor Higgins:

Mayor Higgins reported that Open Space met last night and Mayor Higgins stated once he receives the specific requests from Open Space he will forward the request to Administrator Joss.

Council President Mullay:

Council President Mullay reported the Planning Board approved a two year extension for Dr. Nenna. The Sewerage Authority adopted a base user fee which would set a fee for reservation of about \$278 per unit that is based on the net operational cost.

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Marvin Joss:

Administrator Joss reported the preconstruction meeting for the wash bay was held. The vendor will begin construction within a week or so. Administrator Joss reported the Township received a grant agreement from the Highlands. Administrator Joss reported that an Environmental firm working for the Township and with the DEP is in the process of cleaning Windy Acres up.

**ACTION:**

**INTRODUCTION OF ORDINANCE:**

1073-15 - AN ORDINANCE AUTHORIZING THE RE-CONVEYANCE OF REAL PROPERTY  
DESIGNATED ON THE CLINTON TOWNSHIP MUNICIPAL TAX MAPS  
AS LOT 3.01 IN BLOCK 7, PURSUANT TO N.J.S.A. 40A:12-5

Mayor Higgins introduced the matter.

MOTION was made by Councilman Imbriaco to adopt the ordinance. Seconded by Councilwoman Switlyk. There being no further discussion the roll was called. Motion carried.

Roll Call:

Councilwoman Switlyk	Yes
Councilman Imbriaco	Yes
Councilman President Mullay	Yes
Mayor Higgins	Yes

**WHEREAS**, the Township of Clinton (the "Township") is the owner of certain real property designated on the Clinton Township Municipal Tax Maps as Lot 3.01 in Block 7, consisting of approximately five (5) acres of land (the "Property"); and,

**WHEREAS**, the Property was vested in the Township by Deed from Clinton Hills Corporate Center dated November 3, 1994 and recorded October 23, 1996 in the Office of the Hunterdon County Clerk in Deed Book 1156 at Page 37 (the "1994 Deed"); and,

**WHEREAS**, Clinton Hills Corporate Center was the owner of certain parcels of land designated as Lot 3 and Lot 3Q in Block 7, Clinton Township Municipal Tax Maps, surrounding the Property conveyed to the Township by the 1994 Deed; and,

**WHEREAS**, Clinton Hills Corporate Center subsequently conveyed said parcels of land surrounding the Property to New Village Associates, a New Jersey General Partnership, by Deed dated October 5, 2005 and recorded October 13, 2006 in the Office of the Hunterdon County Clerk in Deed Book 2137 at Page 836, excepting from said conveyance the five (5) acre parcel of land that

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had been conveyed to the Township by the 1994 Deed; and,

**WHEREAS**, New Village Associates, a New Jersey General Partnership, became New Village Associates, LLC, and Lots 3 and 3Q in Block 7 were conveyed by New Village Associates, a New Jersey General Partnership, to New Village Associates, LLC, by Confirmatory Deed dated November 17, 2005 and recorded November 29, 2005 in the Office of the Hunterdon County Clerk in Deed Book 2141 at Page 396, also excepting from said conveyance the five (5) acre parcel of land that had been conveyed to the Township by the 1994 Deed; and,

**WHEREAS**, the 1994 Deed contained a provision restricting the Property for use as a regional sewage treatment facility to be constructed thereon; and further, provided that if such regional sewage treatment facility was not constructed on the Property within twenty (20) years of the date of the said Deed, the Property would revert to the Grantor upon Grantor's return of any consideration actually paid by the Grantee; and,

**WHEREAS**, no consideration was actually paid by the Grantee for the Property; rather, the consideration was a credit against the Grantor's obligations under a Developers Agreement attached to the said Deed as Schedule A; and,

**WHEREAS**, a regional sewage treatment facility has not been constructed on the Property; and,

**WHEREAS**, the Township has determined that the Property that was acquired for a specific purpose can no longer be used for the purpose for which it was acquired, and desires to re-convey the Property back to the successor in title to the original Grantor under the 1994 Deed.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Township Council of the Township of Clinton, County of Hunterdon and State of New Jersey, as follows:

1. Pursuant to N.J.S.A. 40A:12-5, the re-conveyance of the Property to Clinton Hills Corporate Center, a partnership of the State of New Jersey, for the sum of One Dollar (\$1.00) is hereby authorized.
2. The Mayor, Clerk, Township Administrator, Chief Financial Officer, Township Attorney, and other appropriate staff are hereby authorized to proceed with such re-conveyance and to close title thereon; and the Mayor and Clerk are hereby authorized to execute the Deed of Conveyance and any other documents necessary to transfer title to the Property.
3. This Ordinance shall take effect upon passage and publication in accordance with law.

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**RESOLUTIONS:**

**Action Item #1**

Resolution #100-15 – Appointment of Lawrence Anthes as Deputy Coordinator for the Office of Emergency Management

Mayor Higgins introduced the matter. MOTION was offered by Councilman Imbriaco to approve the resolution. Seconded by Council President Mullay. There being no further discussion the roll was called. Motion carried.

Roll Call:

Councilwoman Switlyk	Yes
Councilman Imbriaco	Yes
Councilman President Mullay	Yes
Mayor Higgins	Yes

**WHEREAS**, N.J.S.A. App. A:9-40.1 requires the appointment of a Municipal Emergency Management Coordinator and allows for the appointment of up to two Deputy Coordinators who shall serve for a term of three (3) years; and

**WHEREAS**, Patrolman Lawrence Anthes has served in this capacity and is recommended for reappointment by Marc Strauss, OEM Coordinator, and is qualified and willing to assume this role.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Township of Clinton, in the County of Hunterdon, in the State of New Jersey hereby appoint Patrolman Lawrence Anthes as a Deputy OEM Coordinator.

**BE IT FURTHER RESOLVED**, that the term of office for the aforementioned position shall commence on September 23, 2015 and expires on September 22, 2018.

**Action Item #2**

Resolution #101-15 – Entering into a amendment to shared services defense agreement related to affordable housing declaratory judgment action.

Attorney Hadinger introduced the matter. MOTION was offered by Mayor Higgins to approve the resolution. Seconded by Council President Mullay. There being no further discussion the roll was called. Motion carried.

Roll Call:

Councilwoman Switlyk	Yes
Councilman Marra	Yes

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Councilman President Mullaney	Yes
Mayor Higgins	Yes

**WHEREAS**, the Township Mayor and Council of the Township of Clinton entered into the Municipal Shared Services Defense Agreement (“MSSDA”) for the purpose as set forth therein, which included retaining a common expert in the Declaratory Judgment action (“Litigation”) that was filed in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Decision”); and

**WHEREAS**, the MSSDA identified Dr. Robert Burchell, a distinguished professor at Rutgers University, as the expert to be retained; and

**WHEREAS**, Dr. Burchell became ill and has been unable to complete the obligations under the Research Agreement as set forth in the MSSDA; and

**WHEREAS**, as a result, Rutgers University has exercised its right to terminate the Research Agreement as permitted under its terms; and

**WHEREAS**, the MSSDA requires modification to allow the members to retain one or more alternative experts, consultants and/or other professionals for the Litigation; and

**WHEREAS**, an Amendment to the MSSDA (“Amendment”) has been prepared to effectuate the modification; and

**WHEREAS**, the Township Mayor and Council of the Township of Clinton recognizes that the Litigation requires immediate action and may require further expedited actions by its counsel determined to be necessary and appropriate; and

**WHEREAS**, the Township Mayor and Council of the Township of Clinton has determined that it is in the best interests of the citizens of the Township of Clinton to approve the Amendment, and/or to affirm and ratify the Amendment, and to authorize their designated counsel to take actions on behalf of the municipality with regard to the multiplicity of issues raised and associated with the continued implementation of the MSSDA;

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

1. The terms and conditions of the Amendment to MSSDA hereto are hereby approved, and/or ratified and confirmed.
2. The Mayor and Township Acting Clerk, be and are hereby authorized to execute the aforesaid Amendment.

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3. The Township Mayor and Council of the Township of Clinton hereby authorizes Jeffrey R. Surenian, Esq., to execute an agreement on behalf of the Township of Clinton with Econsult Solutions, Inc.

The Township Mayor and Council of the Township of Clinton hereby authorizes Jeffrey R. Surenian, Esq., to execute on behalf of the Township of Clinton with the approval of the Township of Clinton's designated counsel such other agreement(s) as are advisable to effectuate the purposes of the MSSDA as amended.

4. The Township Mayor and Council of the Township of Clinton further authorizes its designated counsel to approve such other changes to the MSSDA as may be necessary to effectuate its purposes, and to take action on behalf of the municipality with regard to the multiplicity of issues raised and associated with the implementation of the MSSDA provided that the action will not require the municipality to appropriate and commit any additional funding for the MSSDA.

In the event such changes and actions require the municipality to appropriate and commit any additional funding for the MSSDA, Township of Clinton shall only be responsible for such funding if it authorizes same.

5. If additional monies are needed to effectuate the intent and purpose of the MSSDA, no such services shall be authorized by designated counsel without further action from the Township.
6. This Resolution shall take effect immediately.

Action Item #3

Resolution #102-15 – Approving a contract to Glen – Hale, Inc., for road construction of Uptom Pine Road, Highfields Road, Hemlock Road, Spruce Road and Redwood Drive

Mayor Higgins introduced the matter. MOTION was offered by Council President Mullaay to approve the resolution. Seconded by Councilman Imbriaco. There being no further discussion the roll was called. Motion carried.

Roll Call:

Councilwoman Switlyk	Yes
Councilman Imbriaco	Yes
Councilman President Mullaay	Yes
Mayor Higgins	Yes

**WHEREAS**, on behalf of the Township, formal bid specifications were prepared by Hatch Matt MacDonald for various roadway improvements, and

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**WHEREAS**, as a result of advertising those specifications, three companies submitted formal bids, and

**WHEREAS**, the lowest responsible bidder was Glen G. Hale, Inc with a price of \$907,117.40, and

**WHEREAS**, the Engineer and Township Attorney have reviewed Glen G. Hale's bid and find in acceptable, and

**WHEREAS**, the Chief Financial Officer has certified that sufficient funds are available in the capital improvement fund for this purpose.

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

1. The above preamble is incorporated herein as if set forth at length.
2. The Mayor and Clerk are hereby authorized and directed to execute an agreement with Glen G. Hale, Inc. 356, Route 31, Flemington, NJ for the Road improvements listed above in the title of this resolution, in the total contract amount of **\$907,117.40**. The Mayor, Clerk and members of staff are authorized and directed to undertake such action as may be necessary to effectuate the contract set forth herein.
3. A copy of this Resolution, and the executed Agreement shall be placed on file in the office of the Township Clerk.

**VOUCHERS:**

Mayor Higgins introduced the matter.

MOTION was offered by Councilman Imbriaco to approve the check control registers dated September 23, 2015 totaling \$5,047,281.77. Seconded by Council President Mullaney. There being no further discussion the roll was called. Motion carried.

Roll Call:

Councilwoman Switlyk	Yes
Councilman Imbriaco	Yes
Councilman President Mullaney	Yes
Mayor Higgins	Yes

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**PUBLIC COMMENT:**

Catherine Riihimaki from West Street stated she wanted an assurance from the Council that the Beaver Brook Homestead redevelopment plan has no impact on the redevelopment plan on the old municipal building. Council President Mullay stated the two are separate plans and will proceed independent of each other. Ms. Riihimaki stated there are growing concerns about traffic issues in Annandale. Ms. Riihimaki would like to see sidewalks on Beaver Avenue.

**EXECUTIVE SESSION:**

Resolution #103-15

MOTION was made by Council President Mullay to go into executive session. Seconded by Mayor Higgins. There being no further discussion a voice vote was called. All ayes. Motion carried.

**WHEREAS**, Section 8 of the Open Public Meetings Act (NJSA 10:4-12 (b) (1-9) permits the exclusion of the public from a meeting in certain circumstances; and,

**WHEREAS**, the Township Council is of the opinion that circumstances exist, and

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Clinton, County of Hunterdon, and State of New Jersey as follows:

1. The Township Council will now convene in closed session which will be limited only to consideration of items from which the public may be excluded pursuant to Section 7B of the Open Public Meetings Act.
2. The general nature of the subject matter to be discussed is as follows:
  - Advice of Counsel with respect to affordable housing matters, pending affordable housing litigation and litigation strategy.
3. It is unknown precisely when, if ever, the matters discussed in this closed session may be released to the public.
4. No action shall be taken in closed session.
5. Upon the conclusion of any trial or settlement of that litigation the matter may be disclosed to the public.

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**RETURN FROM EXECUTIVE SESSION:**

MOTION was made by Council President Mullay to return from executive session. Seconded by Mayor Higgins. There being no further discussion a voice vote was called. All ayes. Motion carried.

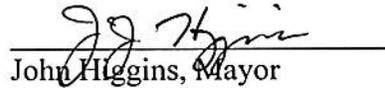
**MOTION TO ADJOURN:**

MOTION was offered by Mayor Higgins to adjourn at 9:17p.m. Seconded by Councilman Imbriaco. There being no further discussion a voice vote was called. All ayes. Motion carried.

**ATTEST:**



Carla Conner, Acting Township Clerk



John Higgins, Mayor

Adopted: December 9, 2015